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

On August 13, 1996, the Government of Colombia deposited its instrument of accession to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978, with the Secretary-General of UPOV.

The 1978 Act of the Convention entered into force in respect of Colombia on September

13, 1996. On that date, Colombia became the thirty-first member State of UPOV and the twenty-ninth member State bound by the 1978 Act.

According to the notification filed with the Secretary-General together with the instrument of accession, protection is available in respect of all botanical genera and species.

RATIFICATION OR ACCEPTANCE OF THE 1991 ACT OF THE UPOV CONVENTION**NETHERLANDS**

On October 14, 1996, the Government of the Kingdom of the Netherlands deposited its instrument of acceptance of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991, for the Kingdom of Europe, with the Secretary-General of UPOV.

The Netherlands is the third State to ratify

or accept the 1991 Act of the Convention. From the point of view of international treaty law, the 1991 Act will not enter into force in respect of the Netherlands until one month after two additional States have deposited instruments of adherence to the 1991 Act.

From the point of view of national law, the Kingdom of the Netherlands has adapted its legislation to the 1991 Act.

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

By virtue of Decree No. 95-1407 of December 28, 1995 (*Journal officiel* of January 4, 1996), amending the Code of Intellectual Property (Regulation Part) and relating to the field of

application of plant breeder's certificates and to the period and scope of protection, protection was extended to all plant genera and species with effect from January 5, 1996.

FINLAND

By virtue of Decree No. 18/1996 of January 12, 1996, on the Amendment of the Annex of the Decree on Genera and Species of Plants under the Law on Breeder's Rights, protection was extended, with the effect from January 17, 1996, to the following (the Latin,

Finish and Swedish names have been communicated by the Finnish authorities; the English, French, German and Spanish common names have been added, without guarantee of concordance, by the Office of the Union):

Latine	Finnish	Swedish	English	Français	Deutsch	Español
<i>Acanthopanax</i> (Decne. et Planch.) Miq.	Aralehdet	Stickaralia	Acanthopanax	Acanthopanax	Acanthopanax	Acantopanax
<i>Acer</i> L.	Vaahterat	Lönn	Maple	Érable, Sycomore	Ahorn	Arce
<i>Amelanchier</i> Medik.	Tuomipihlajat	Häggmis-pel, blåhägg	Serviceberry, Snowy Mespilus	Amélanchier	Felsenbirne	Guillomo
<i>Arctostaphylos</i> Adans.	Sianpuolukat	Mjölon	Bearberry	Raisin d'ours	Bärentraube	Aguavilla, Gayuba, Uvaduz
<i>Artemisia</i> L.	Marunat	Malört	Mugwort	Armoise	Beifuß	Artemisia
<i>Brassica juncea</i> (L.) Czern. et Coss. in Czern.	Saraptan-sinappi	Sareptase-nap	Brown Mustard	Moutarde brune	Sareptasenf	Mostaza de Sarepta
<i>Brassica nigra</i> (L.) W. Koch	Mustasinappi	Svartsenap	Black Mustard	Moutarde noire	Schwarzer Senf	Mostaza negra
<i>Bromus inermis</i> Leyss.	Idänkattara (Rehukattara)	Foderlosta	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe	Bromo inerme
<i>C. vulgaris</i> (L.) Hull	Kanerva	Ljung	Heather, Ling	Callune	Besenheide	Brezo
<i>Cannabis sativa</i> L.	Hamppu	Hampa	Hemp	Chanvre	Hanf	Cáñamo
<i>Carum carvi</i> L.	Kumina	Kummin	Caraway	Carvi, Cumin des prés	Kümmel	Alcaravera
<i>Catharanthus roseus</i> (L.) G. Don	Punatalvio	Rosensköna	Cape Periwinkle	Pervenche de Madagascar	Jungfernbrume	Vincapervinca Hierba doncella
<i>Chaenomeles</i> Lindl. (<i>Cydonia</i>)	Ruusukvit-tenit	Rosenkvit-ten	Flowering Quince	Cognassier du Japon	Japanische Quitte	Membrillero japonés
<i>Clematis</i> L.	Kärhöt	Klematis	Clematis	Clématite	Waldrebe	Clemátide
<i>Cornus</i> L.	Kanukat	Kornell	Dogwood, Cornel	Cornouiller	Hartriegel	Cornejo, Corno

Latine	Finnish	Swedish	English	Français	Deutsch	Español
<i>Cotoneaster</i> Medik.	Tuhkapensaat	Oxbär	Cotoneaster	Cotoneaster	Cotoneaster, Zwergmispel	Cotoneaster
<i>Crataegus</i> L.	Orapihlajat	Hagtorn	Hawthorn	Aubépine	Weißdorn	Espino, Espinera, Marzoleto, Marjoleto
<i>Diervilla</i> Mill.	Vuohenkuusamat	Getris	Diervilla	Weigela	Weigelia	Diervilla
<i>Drosera</i> L.	Kihokit	Daggört	Sundew, Dew Plant	Drosera	Sonnentau	Drosera
<i>Erica</i> L.	Kellokanervat	Klockljung	Heath	Bruyère	Glockenheide	Brezo
× <i>Festulolium</i>	Rainata	Rajsvingel	Festulolium	Festulolium	Festulolium	Festulolium
<i>Forsythia</i> Vahl	Onnenpensaat	Forsythia, gullbuske	Forsythia, Golden Bell	Forsythia	Forsythie, Goldflieder, Goldglöckchen	Forsitia
<i>Fraxinus</i> L.	Saarnet	Ask	Ash	Frêne	Esche	Fresno
<i>Hippophaë rhamnoides</i> L.	Tyrni	Havtorn	Common Sea Buckthorn	-	-	-
<i>Hydrangea</i> L.	Hortensiat	Hortensia	Hydrangea	Hortensia	Hortensie	Hidrangea, Hortensia
<i>Juniperus</i> L.	Katajat	En	Juniper	Genévrier	Wacholder	Junípero
<i>Larix</i> Mill.	Lehtikuuset	Lärk	Larch	Mélèze	Lärche	Alerce, Lárice
<i>Ligularia</i> Cass.	Nauhukset	Stånds	Golden Ray	Ligulaire	Goldkolben	Ligularia
<i>Lonicera</i> L.	Kuusamat	Kaprifol, Try	Honeysuckle, Lonicera	Lonicéra, Chèvrefeuille	Heckenkirsche, Geißblatt	Madreselva
<i>Lotus</i> L.	Maitteet	Käringtand	Bird's Foot Trefoil	Lotier	Schotenklee	Loto
<i>Medicago</i> L.	Mailaset	Lusern	Alfalfa, Lucerne	Luzerne	Schneckenklee	Alfalfa, Mielga
<i>Mentha</i> L.	Mintut	Mynta	Mint	Menthe	Minze	Menta, Hierbabuena
<i>Myrica gale</i> L.	Suomyrtti	Pors	Sweet Gale, Bog Myrtle	Myrte des marais, Myrte du Brabant	Gagelstrauch	-
<i>Papaver somniferum</i> L.	Oopiumiunnikko	Opiumvallmo	Opium Poppy	Œillette, Pavot	Mohn	Adormidera, Amapola
<i>Parthenocissus inserta</i> (Kerner) Fritsch	Villiviini	Vildvin	Thicket Creeper	-	-	-
<i>Quercus robur</i> L.	Tammi	Ek	Common Oak	Chêne rouvre, Chêne pédonculé	Stieleiche	Roble común

Latine	Finnish	Swedish	English	Français	Deutsch	Español
<i>Sorbaria</i> (Ser. ex DC.) A. Br.	Piha-angervot	Rönnspirea	False Spirea	Sorbaria	Fiederspiere	Sorbaria
<i>Spiraea</i> L.	Pensasangervot	Spirea	Bridal Wreath, Spirea	Spirée	Spierstrauch	Espirea
<i>Syringa</i> L.	Syreenit	Syren	Lilac	Lilas	Flieder	Lila
<i>Tilia</i> L.	Ichmukset	Lind	Lime	Tilleul	Linde	Tilo
<i>Triticum</i> L.	Vegnät	Vete	Wheat	Blé	Weizen	Trigo
<i>Ulmus</i> L.	Jalavat	Alm	Elm	Orme	Ulme	Olmo
<i>Vaccinium</i> L.	Mustikat, Karpalot, Puolukat, Juolukat	Blåbär, Tranbär, Lingon, Odon	Ornamental Vaccinium	Vaccinium ornamental	Ziervaccinium	-
<i>Viburnum</i> L.	Heidet	Olvon	Snowball Tree	Viorne	Schneeball	Viburno, Mundo, Bolo de nieve
<i>Weigela</i> Thunb.	Kotakuusamat	Prakttry	Diervilla	Weigela	Weigelia	Weigela
<i>Zea mays</i> L.	Maissi	Majs	Corn, Maize		Mais	Maíz

Lists of the other taxa protected in Finland are reproduced in Plant Variety Protection No. 71, starting on page 18, and No. 79, starting on page 9.

JAPAN

By virtue of Executive Order No. 209 of July 5, 1996, amending the Implementing Regulations to the Seeds and Seedlings Law (Law No. 115 of October 2, 1947, as Last Amended by Law No. 71 of August 6, 1982), protection was extended, with effect from

July 5, 1996, to the following (the Latin and English names have been communicated by the Japanese authorities; the French, German and Spanish common names have been added, without guarantee of concordance, by the Office of the Union):

Group 1: Agricultural Plants

Latin	English	Français	Deutsch	Español
<i>Amaranthus</i> L.	Amaranth	Amarante	Amarant, Fuchsschwanz	Amaranto
<i>Rosmarinus officinalis</i> L.	Rosemary	Romarin officinal	Rosmarin	Romero, Rosmarino

Group 5: Herbaceous Ornamental Plants

Latin	English	Français	Deutsch	Español
<i>Curcuma</i> L.	Hidden Lily	Curcuma	Safranwurz	Cúrcuma
<i>Gloriosa</i> L.	Gloriosa	Gloriosa	Gloriosa	Gloriosa
<i>Lychnis</i> L.	Campion	Lychnis	Lichtnelke	Licnis, Clarellina, Colleja
<i>Nierembergia</i> Ruiz et Pav.	Nierembergia	Nierembergia	Nierembergia	Nierembergia
<i>Oxypetalum caeruleum</i> (D. Don) Decne.	Oxypetalum	Oxypetalum	Oxypetalum	Oxipetalum
<i>Portulaca</i> L.	Purslane	Pourpier	Portulak	Verdolago
<i>Sanguisorba</i> L.	Burnet	Sanguisorbe, Pimprenelle	Wiesenknopf	Sanguisorba, Pimpinela

Group 6: Woody Ornamental Plants, Forest Trees

Latin	English	Français	Deutsch	Español
<i>Abutilon</i> Mill	Flowering maple	Abutilon	Abutilon	Abutilon
<i>Boronia</i> Sm.	Boronia	Boronia	Korallenraute	Boronia
<i>Campsis</i> Lour.	Trumpet Creeper	Bignonia, Jasmin de Virginie	Trompetenblume, Trompetenwinde	Jazmín trompeta
<i>Machilus</i> Nees	Machilus	Machilus	Machilus	Machilus
<i>Melastoma</i> L.	Melastoma	Melastoma	Melastoma	Melastoma
<i>Sapium sebiferum</i> (L.) Roxb.	Chinese tallow Tree	Arbre à suif	Chinesischer Talgbaum	Árbol del sebo

A list of the other taxa protected in Japan is reproduced in Plant Variety Protection No. 73, starting on page 11.

NORWAY

By virtue of the Regulations Concerning Plant Breeder's Right, laid down by the Royal Ministry of Agriculture on August 6, 1993, pursuant to Act No. 32 of March 12, 1993, relating to the Plants Breeder's Right and the

Royal Decree of May 14, 1993, and amended on February 6, 1995, protection was extended to all plant genera and species with effect from February 6, 1995.

POLAND

By virtue of the Decree of the Minister of Agriculture and Food Economy of April 15, 1996 (Legislatory Journal No. 50 text 216), protection was extended to further genera and species. The consolidated list of taxa covered by plant variety protection is reproduced below as it appeared in the Decree (Latin

and Polish names appear in the Decree, English names have been communicated by the Polish authorities, while French, German and Spanish common names have been added, without guarantee of concordance, by the Office of the Union):

Agricultural Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Avena sativa</i> L.	Owies	Oats	Avoine	Hafer	Avena
<i>Fagopyrum esculentum</i> Moench	Gryka	Buckwheat	Sarrasin, Blé noir	Buchweizen	Alforfón
<i>Hordeum vulgare</i> L.	Jeczmien	Barley	Orge	Gerste	Cebada
<i>Panicum miliaceum</i> L.	Proso	Common Millet	Millet commun, Panic millet, Panic faux millet	Rispenhirse	Mijo común
<i>Secale cereale</i> L. f. <i>nivalis</i>	Zyto ozime	Winter Rye	Seigle d'hiver	Winter-Roggen	Centeno de invierno
<i>Secale cereale</i> L. f. <i>vernal</i>	Zyto jare	Spring Rye	Seigle de printemps	Sommer-Roggen	Centeno de primavera
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	Pszenica zwyczajna	Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen	Trigo blando
<i>Triticum durum</i> Desf.	Pszenica twarda	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen	Trigo duro
x <i>Triticosecale</i> Wittmack	Pszenzyto	Triticale	Triticale	Triticale	Triticale
<i>Zea mays</i> L.	Kukurydza	Corn, Maize	Maïs	Mais	Maíz

Pulses

Latine	Polish	English	Français	Deutsch	Español
<i>Glycine max</i> (L.) Merr.	Soja	Soya Bean, Soybean	Soja	Sojabohne	Soja
<i>Lupinus albus</i> L.	tubin bialy	White Lupin	Lupin blanc	Weißlupine	Altramuz blanco

Latine	Polish	English	Français	Deutsch	Español
<i>Lupinus angustifolius</i> L.	tubin waskolistny	Blue Lupin	Lupin bleu	Blaue Lupine	Altramuz azul
<i>Lupinus luteus</i> L.	tubin zolty	Yellow Lupin	Lupin jaune	Gelbe Lupine	Altramuz amarillo
<i>Pisum sativum</i> L. ssp. <i>sativum</i>	Groch siewny	Pea	Pois	Erbse	Guisante, Arvejo
<i>Vicia sativa</i> L. ssp. <i>sativa</i>	Wyka siewna	Common Vetch	Vesce commune	Saatwicke	Veza común
<i>Vicia villosa</i> Roth	Wyka kosmata	Hairy Vetch	Vesce velue	Zottelwicke	Veza vellosa
<i>Vicia faba</i> L. var. <i>minor</i> Harz	Bobik	Field Bean, Tick Bean	Féverole	Ackerbohne	Haba, Haboncillo

Fodder Legumes

Latine	Polish	English	Français	Deutsch	Español
<i>Galega orientalis</i> Lam.	Rutwica wschodnia	Eastern Goats' Rue	-	-	-
<i>Lotus corniculatus</i> L.	Komonica zwyczajna	Bird's Foot Trefoil	Lotier corniculé	Hornscho-tenklee	Loto de los prados
<i>Lotus uliginosus</i> Schkuhr	Komonica blotna	Major Bird's Foot Trefoil	Lotier velu, Lotier des marais	Sumpfscho-tenklee	Loto de los pantanos
<i>Medicago lupulina</i> L.	Lucerna chmielowa	Black Medick, Yellow Trefoil	Luzerne lupuline, Minette	Gelbklee (Hopfenklee)	Alfalfa lupini-na, Lupinina
<i>Medicago sativa</i> L. ssp. <i>sativa</i>	Lucerna siewna	Lucerne, Alfalfa	Luzerne (cultivée)	Blaue Luzerne	Alfalfa, Mie-gla
<i>Medicago sativa</i> L. ssp. <i>falcata</i> x ssp. <i>sativa</i>	Lucerna mies-zancowa	Lucerne, Alfalfa	Luzerne (cultivée)	Blaue Luzerne	Alfalfa, Mie-gla
<i>Melilotus alba</i> Medik.	Nostrzyk biały	White Sweet Clover	Mélilot blanc	Weißer Steinklee	Trébol de Santa María, Coronilla blanca
<i>Onobrychis viciifolia</i> Scop.	Esparceta	Sainfoin	Sainfoin, Esparcette	Esparsette	Esparceta, Pipirigallo
<i>Ornithopus sativus</i> Brot.	Seradela	Serradella	Serradelle	Serradella	Serradella, Pie de pájaro
<i>Trifolium hybridum</i> L.	Koniczyna szwedzka	Alsike Clover	Trèfle hybride	Schwedenklee	Trébol híbrido

Latine	Polish	English	Français	Deutsch	Español
<i>Trifolium incarnatum</i> L.	Koniczyna krwistoczerwona (inkarnatka)	Crimson Clover	Trèfle incarnat	Inkarnatklec	Trébol encarnado
<i>Trifolium pratense</i> L.	Koniczyna lakowa (czerwona)	Red Clover	Trèfle violet	Rotklec	Trébol violeta
<i>Trifolium repens</i> L.	Koniczyna biala	White Clover	Trèfle blanc	Weißklec	Trébol blanco
<i>Trifolium resupinatum</i> L.	Koniczyna perska	Persian Clover	Trèfle de Perse	Persischer Klec	Trébol de Persia

Fodder and Lawn Grasses

Latine	Polish	English	Français	Deutsch	Español
<i>Agrostis canina</i> L.	Mietlica psia	Velvet Bent	Agrostis des chiens	Hundsstrauchgras	Agróstide canina, Agróstide de perro, Agróstide perruna
<i>Agrostis capillaris</i> L.	Mietlica pospolita	Common Bent	Agrostide vulgare, Agrostide commune	Strauchgras	Agróstide común
<i>Agrostis gigantea</i> Roth	Mietlica bialawa	Red Top (Black Bent)	Agrostide blanche, Agrostide géante	Weißes Strauchgras	Agróstide blanca, Pastoquilla
<i>Agrostis intermedia</i> Veb.	Mietlica posrednia	Intermediate bent	-	-	-
<i>Agrostis stolonifera</i> L.	Mietlica rozlogowa	Creeping Bent	Agrostide blanche, Agrostide stolonifère	Flechtstrauchgras	Agróstide estolonífera
<i>Agrostis stolonifera</i> L. x <i>A. canina</i> L., <i>A. capillaris</i> L. x <i>A. canina</i> L.	Mietlica mieszcowa	Hybrid Bent	Agrostide hybride	Hybrid Strauchgras	Agróstide híbrida
<i>Alopecurus pratensis</i> L.	Wyczyniec łączowy	Meadow Foxtail	Vulpin des prés	Wiesenfuchsschwanz	Alopecuro, Cola de zorra, Vulpino
<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S. et K.B. Presl	Rajgras wyniosły (francuski)	Tall Oatgrass, False Oatgrass	Fromental, Avoine élevée	Glatthafer	Avena alta, Avena elevada, Fromental

Latine	Polish	English	Français	Deutsch	Español
<i>Bromus catharticus</i> Vahl.	Stoklosa unio- lowata	Rescue Grass	Brome de Schrader	Horntrespe	Cebadilla, Triguillo
<i>Bromus inermis</i> Leyss.	Stoklosa be- zostna	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe	Bromo inerme
<i>Dactylis aschersoniana</i> Graebn.	Kupkowka Aschersona	Cocksfoot, Orchard Grass	Dactyle	Knauigras	Dactilo
<i>Dactylis glomerata</i> L.	Kupkowka pospolita	Cocksfoot, Orchard Grass	Dactyle	Knauigras	Dactilo
x <i>Festulolium</i>	Festulolium	Festulolium	Festulolium	Festulolium	Festulolium
<i>Festuca arundinacea</i> Schreb.	Kostrzewa trzciniowa	Tall Fescue	Fétuque éle- vée	Rohrschwin- gel	Cañuela alta, Festuca alta
<i>Festuca heterophylla</i> Lam.	Kostrzewa roznolistna	Shade Fescue	Fétuque hété- rophyllé	Borsten- schwingel, Verschie- denblättriger Schwingel	-
<i>Festuca ovina</i> L. sensu lato	Kostrzewa owcza	Hard Fescue, Sheep's Fes- cue	Fétuque du- rette, Fétuque ovine, Fétuque des moutons, Poil de chien	Schaf- schwingel	Cañuela de oveja, Cañuela ovina, Festuca ovina
<i>Festuca pratensis</i> Huds.	Kostrzewa lakowa	Meadow Fes- cue	Fétuque des prés	Wiesen- schwingel	Cañuela co- mún, Cañuela de los prados, Festuca de los prados
<i>Festuca rubra</i> L. sensu lato	Kostrzewa czerwona	Red Fescue, Creeping Fes- cue	Fétuque rouge	Rotschwingel	Cañuela roja, Festuca roja
<i>Lolium multiflorum</i> Lam. var. <i>westerwoldicum</i> Wittm.	Zycica wielokwia- towa wester- woldzka (rajgras holenderski)	Westerwold Ryegrass	Ray-grass de Westerwold	Welsches Weidelgras	Ballico de Westerwold, Ray grás de Wes- terwold
<i>Lolium multiflorum</i> Lam.	Zycica wielokwia- towa (rajgras włoski)	Italian Rye- grass, Westerwold Ryegrass	Ray-grass d'Italie	Welsches Weidelgras, Italienisches Raygras	Ballico italia- no, Raygrás italiano
<i>Lolium perenne</i> L.	Zycica trwala (rajgras angielski)	Perennial Ryegrass	Ray-grass an- glais	Deutsches Weidelgras	Ballico peren- ne, Raygrás inglés

Latine	Polish	English	Français	Deutsch	Español
<i>Lolium x boucheanum</i> Kunth	Zycica mies-zancowa (rajgras old-enburski)	Hybrid Rye-grass	Ray-grass hybride	Bastardweidelgras, Oldenburgisches Weidelgras	Ballico híbrido, Raygrás híbrido
<i>Phalaris arundinacea</i> L.	Mozga trzcinowata	Reed Canary Grass	Alpiste roseau	Rohrglanzgras	Hierba cinta, Alpiste arundináceo
<i>Phleum bertolonii</i> DC.	Tymotka kolkowata	Timothy	Fléole diploïde, Petite fléole	Zwiebel-lieschgras	Fleo
<i>Phleum pratense</i> L.	Tymotka lakowa	Timothy	Fléole des prés	Wiesen-lieschgras	Fleo de los prados
<i>Poa annua</i> L.	Wiechlina roczna	Annual Meadow grass	Pâturin annuel	Einjähriges Rispengras	Poa anual
<i>Poa compressa</i> L.	Wiechlina splaszczona	Canada Blue-grass, Flattened Meadow grass	Pâturin comprimé	Flaches Rispengras	Poa comprimida
<i>Poa nemoralis</i> L.	Wiechlina gajowa	Wood Meadow grass	Pâturin des bois	Hainrispengras	Poa de los bosques
<i>Poa palustris</i> L.	Wiechlina blotna	Swamp Meadow grass	Pâturin des marais	Sumpfrispengras	Poa de los pantanos
<i>Poa pratensis</i> L.	Wiechlina lakowa	Kentucky Bluegrass, Smooth Stalked Meadow grass	Pâturin des prés	Wiesenrispengras	Poa de los prados

Root and Tuber Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Beta vulgaris</i> L. ssp.vulgaris con-var.vulgaris var.altissima Döll	Burak cukrowy	Sugar Beet	Betterave sucrière	Zuckerrübe	Remolacha azucarera
<i>Beta vulgaris</i> L. ssp.vulgaris con-var.vulgaris var.rapacea K.Koch	Burak pastewny	Fodder Beet	Betterave fourragère	Runkelrübe	Remolacha forrajera
<i>Brassica napus</i> emend. Metzg. ssp.rapifera Metzg.	Brukiew jadalna	Swede	Chou-navet, Rutabaga	Kohlrübe	Colinabo
<i>Brassica rapa</i> L. emend. Metzg. ssp.rapa	Rzepa pastewna	Turnip	Navet	Herbstrübe, Mairübe	Nabo

Latine	Polish	English	Français	Deutsch	Español
<i>Cichorium intybus</i> L. var. <i>sativum</i> DC.	Cykoria korzeniowa	Large-rooted Chicory	Chicorée à café	Wurzel- zichorie	Achicoria de café
<i>Daucus carota</i> L. ssp. <i>sativus</i> (Hoffm.) Schübl. et G. Martens	Marchew jadalna	Carrot	Carotte	Möhre	Zanahoria
<i>Helianthus tuberosus</i> L.	Topinambur	Jerusalem Artichoke	Topinambour	Topinambur	Topinambur, Aguaturma, Patata de caña
<i>Solanum tuberosum</i> L. sensu lato	Ziemniak	Potato	Pomme de terre	Kartoffel	Papa, Patata

Oil Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Brassica juncea</i> (L.) Czern. et Coss. in Czern.	Gorczyca sarepska	Brown Mus- tard	Moutarde brune	Sareptasenf	Mostaza de Sarepta
<i>Brassica napus</i> L. emend. Metzg. ssp. <i>napus</i>	Rzepak	Rapeseed, Swede Rape, incl. Oilseed Rape	Colza	Raps	Colza
<i>Brassica rapa</i> L. emend. Metzg. ssp. <i>oleifera</i> (DC.) Metzg.	Rzepik	Turnip Rape	Navette	Rübsen	Nabina
<i>Helianthus annuus</i> L.	Slonecznik	Common Sunflower	Tournesol, Soleil	Sonnenblume	Girasol
<i>Linum usitatissimum</i> L. convar. <i>medi- terraneum</i> (Vavilov ex Ell.)	Len oleisty	Flax, Linseed	Lin	Lein	Lino
<i>Papaver somniferum</i> L. ssp. <i>somniferum</i>	Mak	Opium Poppy	Œillette, Pavot	Mohn	Adormidera, Amapola
<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.	Rzodkiew oleista	Fodder Radish	Radis oléifère, Radis chinois	Ölrettich	Rábano olea- ginoso
<i>Sinapis alba</i> L. ssp. <i>alba</i>	Gorczyca bi- ata	White Mus- tard	Moutarde blanche	Weißer Senf	Mostaza blan- ca

Fibre Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Cannabis sativa</i> L. ssp. <i>sativa</i>	Konopie	Hemp	Chanvre	Hanf	Cáñamo
<i>Linum usitatissimum</i> L. convar. <i>usitatis-</i> <i>simum</i>	Len włoknisty	Flax, Linseed	Lin	Lein	Lino

Special Industrial Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Humulus lupulus</i> L.	Chmiel	Hop	Houblon	Hopfen	Lúpulo
<i>Nicotiana rustica</i> L.	Machorka	Syrian Tobacco	Nicotiane rustique	Bauerntabak	Tabaco rústico
<i>Nicotiana tabacum</i> L.	Tyton szlachetny	Tobacco (common)	Tabac	Tabak	Tabaco

Miscellaneous Crops

Latine	Polish	English	Français	Deutsch	Español
<i>Amaranthus cruentus</i> L.	Szarłat krwisty	Slim Amaranth	Amarante paniculée	Bastardfuchsschwanz	Achita, Moco de pavo
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>acephala</i> (DC.) Alef. var. <i>viridis</i> et var. <i>medullosa</i> Thell.	Kapusta pastewna	Fodder Kale	Chou fourrager	Futterkohl	Col forrajera
<i>Brassica rapa</i> L. emend. Metzg.	Rzepik (mieszance pastewne)	Turnip Rape	Navette	Rübsen	Nabina
<i>Helianthus annuus</i> L.	Slonecznik pastewny	Common Sunflower	Tournesol, Soleil	Sonnenblume	Girasol
<i>Phacelia tanacetifolia</i> Benth.	Facelia blekitna	Scorpion Weed	Phacélie à feuilles de tannaisie	Phazelia	Phazelia
<i>Phalaris canariensis</i> L.	Kanar	Canary Grass, Canary Seed	Alpiste des Canaries, Phalaris	Kanariengras	Alpiste, Alpistera
<i>Secale cereale</i> L.f. <i>nivalis</i>	Zyto na zielona pasze	Winter Rye	Seigle d'hiver	Winter-Roggen	Centeno de invierno

Medicinal and Seasonal Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Achillea millefolium</i> L.	Krwawnik pospolity	Common Yarrow	Achillée mille-feuille	Schafgarbe	Milenrama
<i>Alcea rosea</i> L. var. <i>nigra</i> hort.	Malwa czarna (prawosław wysoki)	Hollyhock	Rose trémière	Stockmalve, Stockrose	Malvaloca, Malvarrosa
<i>Atropa belladonna</i> L.	Pokrzyk wilcza jagoda	Belladonna	Belladone	Tollkirsche	Belladona
<i>Calendula officinalis</i> L.	Nagietek lekarski	Pot Marigold	Souci des jardins	Gartenringelblume	Caléndula, Maravilla
<i>Capsicum annum</i> L.	Pięprzowiec roczny	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika	Pimiento
<i>Carum carvi</i> L.	Kminek zwyczajny	Caraway	Carvi, Cumin des prés	Kümmel	Alcaravera
<i>Chamaemelum nobilis</i> (L.) All.	Rumianek rzymski	Roman Chamomile, English Chamomile	Anthémis noble, Camomille romaine	Römische Kamille, Edelkamille	Camomila, Manzanilla común
<i>Chamomilla recutita</i> (L.) Rauschert	Rumianek pospolity	German Chamomile, Wild Chamomile	Matricaire Camomille	Echte Kamille	Camomila, Manzanilla
<i>Chelidonium majus</i> L.	Glistnik jaskolcze ziele	Celandine	Chélidoine, Herbe-aux-verrues	Schöllkraut	Celidonia, Hirundinaria, Golondrinea
<i>Cnicus benedictus</i> L.	Drapacz lekarski	Blessed Thistle	Chardon bénit	Kardobenediktenkraut, Bitterdistel	Cardo santo
<i>Coriandrum sativum</i> L.	Kolendra siewna	Coriander	Coriandre	Koriander	Cilantro, Coriandro
<i>Datura innoxia</i> Mill.	Bielun indyjski	Datura, Thorn Apple	Datura	Stechapfel	Datura
<i>Digitalis lanata</i> Ehrh.	Naparstnica welnista	Grecian Foxglove	Digitale laineuse	Wolliger Fingerhut	Digital lanosa
<i>Digitalis purpurea</i> L.	Naparstnica purpurowa	Common Foxglove, Purple Foxglove	Digitale pourpre	Roter Fingerhut	Digital común, Digital purpúrea
<i>Echinacea purpurea</i> (L.) Moench	Jezowka purpurowa	-	-	-	-

Latine	Polish	English	Français	Deutsch	Español
<i>Foeniculum vulgare</i> Mill. ssp. <i>piperitum</i> (Ucria) Cout.	Koper włoski	Fennel	Fenouil	Fenchel	Hinojo
<i>Glaucium flavum</i> Crantz	Siwec żółty	Yellow Horn Poppy	Glaucie jaune	Gelber Hornmohn	-
<i>Hypericum perforatum</i> L.	Dziurawiec zwyczajny	Common Saint John's Wort	Millepertuis perforé	Johanniskraut	Corazoncillo, Hierba de San Juan
<i>Lamium album</i> L.	Josnota biała	White Dead-nettle	Lamier blanc, Ortie blanche	Weisse Taubnessel	Ortiga muerta
<i>Levisticum officinale</i> W. D. J. Koch	Lubczyk ogrodowy	Garden Lovage	Ache des montagnes, Livèche	Maggikraut	Apio de montaña
<i>Melissa officinalis</i> L.	Melisa lekarska	Balm	Mélisse, Citronelle	Zitronenmelisse	Melisa
<i>Mentha x piperita</i> L.	Mieta pieprzowa	Peppermint	Menthe poivrée	Pfefferminze	Piperita, Menta negra, Menta piperia
<i>Nigella sativa</i> L.	Czarnuszka siewna	Black Cumin	Toute-épice	Schwarzkümmel	Arañuela, Todaespecia
<i>Ocimum basilicum</i> L.	Bazylija ogrodowa	Basil	Basilic	Basilikum	Albahaca
<i>Oenothera</i> L.	Wiesiolek	Oenothera, Evening Primrose	Onagre	Nachtkerze	Hierba del asno, Enotera, Onagra
<i>Origanum majorana</i> L.	Majeranek ogrodowy	Sweet Marjoram	Origan	Dost	Almoradux, Orégano, Mejorana
<i>Rheum palmatum</i> L. ssp. <i>palmatum</i>	Rzewień chiński	Sorrel Rhubarb, Chinese Rhubarb	Rhubarbe palmée, Rhubarbe de Chine	Medizinalrhabarber	Ruibarbo de Alejandría, Ruibarbo de la China
<i>Salvia officinalis</i> L.	Szałwia lekarska	Common Sage	Sauge officinale	Echter Salbei	Salvia oficial
<i>Satureja hortensis</i> L.	Czaber ogrodowy	Summer Savory	Sarriette commune	Bohnenkraut, Pfefferkraut, Kölle	Ajedrea común
<i>Silybum marianum</i> (L.) Gaertn.	Ostropest plamisty	Milk Thistle, Saint Mary's Thistle	Chardon-Marie	Mariendistel	Cardo de María
<i>Thymus vulgaris</i> L.	Tymianek pospolity	Common Thyme	Thym ordinaire	Garten-thymian	Tomillo común

Latine	Polish	English	Français	Deutsch	Español
<i>Valeriana officinalis</i> L.	Kozlek lekarski	Common Valerian	Valériane officinale	Gemeiner Baldrian	Valeriana menor, Valeriana oficial

Vegetables

Alliums

Latine	Polish	English	Français	Deutsch	Español
<i>Allium cepa</i> L. var. <i>cepa</i> Helm	Cebula zwyczajna	Onion	Oignon	Zwiebel	Cebolla
<i>Allium cepa</i> L. var. <i>aggregatum</i> G.Don	Cabula kartoflanka	Potato Onion	Oignon patate	Kartoffel-zwiebel	-
<i>Allium porrum</i> L. var. <i>porrum</i>	Por	Leek	Poireau	Porree	Puerro
<i>Allium sativum</i> L. var. <i>sativum</i>	Czosnek pospolity	Garlic	Ail	Knoblauch	Ajo
<i>Allium schoenoprasum</i> L.	Szczypiorek	Chives, Asatsuki	Ciboulette, Civette	Schnittlauch	Cebollino
<i>Allium x proliferum</i> (Moench) Schrad. ex Willd.	Cebula wielopietrowa	-	-	-	-

Cucurbits

Latine	Polish	English	Français	Deutsch	Español
<i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai ssp. <i>vulgaris</i> Fursa var. <i>vulgaris</i>	Kawon	Watermelon	Pastèque	Wassermelone	Sandía
<i>Cucumis melo</i> L.	Melon	Melon	Melon	Melone	Melón
<i>Cucumis sativus</i> L.	Ogórek - odmiany uprawiane w gruncie - odmiany uprawiane pod osłonami	Cucumber, Gherkin - varieties grown outdoors - varieties grown under cover	Concombre, Cornichon - Variétés cultivés en pleine terre - variétés cultivées sous couverture	Gurke - Freilandsorten - Gewächshaussorten	Pepino, Cohombro - variedades cultivadas al aire libre - variedades cultivadas a cubierto
<i>Cucurbita maxima</i> Duch.	Dynia olbrzymia	Pumpkin	Potiron, Gi-raumon	Riesenkürbis	Calabaza

Latine	Polish	English	Français	Deutsch	Español
<i>Cucurbita pepo</i> L.	Dynia zwyczajna	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Cour- gette, Pâtis- son, Citrouille	Gartenkürbis, Ölkürbis, Zucchini	Calabacín

Brassicas

Latine	Polish	English	Français	Deutsch	Español
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>acephala</i> (DC.) Alef. var. <i>sabellica</i> L.	Jarmuz	Curly Kale	Chou frisé	Grünkohl	Col rizada
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>botrytis</i> (L.) Alef. var. <i>italica</i> Plenck	Brokul	Sprouting Broccoli, Calabrese	Brocoli (à jets)	Brokkoli, Spargelkohl, Sprossen- brokkoli	Brócoli
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i> L. f. <i>alba</i> DC.	Kapusta glowiasta bi- ala	White Cab- bage	Chou cabus	Weißkohl	Repollo blan- co
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i> L. f. <i>rubra</i> DC.	Kapusta glowiasta czerwona	Red Cabbage	Chou rouge	Rotkohl	Lombarda
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i> L.	Kapusta włoska	Savoy Cab- bage	Chou de Mi- lan	Wirsing	Col de Milán
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>fruticosa</i> (Metzg.) Alef. var. <i>gemmifera</i> DC.	Kapusta bruk- selska	Brussels Sprouts	Chou de Bruxelles	Rosenkohl	Col de Bruse- las
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	Kalafior	Cauliflower	Chou-fleur	Blumenkohl	Coliflor

Latine	Polish	English	Français	Deutsch	Español
<i>Brassica oleracea</i> L. ssp. <i>oleracea</i> convar. <i>caulocarpa</i> (DC.) Alef. var. <i>gongylodes</i> L.	Kalarepa	Kohlrabi	Chou-rave	Kohlrabi	Colirrábano,
<i>Brassica rapa</i> L. emend. Metzg. ssp. <i>chinensis</i> (L.) Hanelt	Kapusta chin- ska	Chinese Cab- bage, Pakchoi	Chou de Chine	Chinakohl	Col de China
<i>Brassica rapa</i> L. emend. Metzg. ssp. <i>pekinensis</i> (Lour.) Hanelt	Kapusta pe- kinska	Chinese Cab- bage	Chou de Chine, Pétsai	Chinakohl	Col china, Re- pollo chino

Root Vegetables

Latine	Polish	English	Français	Deutsch	Español
<i>Apium graveolens</i> L. var. <i>rapaceum</i> (Mill.) Gaud.	Seler korzen- iowy	Celeriac	Céli-ri-rave	Knollen- sellerie	Apio nabo, Apirrábano
<i>Armoracia rusticana</i> Ph. Gaertn. B. Mey et Schreb.	Chrzan	Horse Radish	Raifort sau- vage	Meerrettich	Rábano salva- je
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> convar. <i>vul- garis</i>	Burak cwik- lowy	Garden Beet, Beetroot	Betterave rouge, Bette- rave potagère	Rote Bete, Rote Rübe	Remolacha roja, Remola- cha de mesa
<i>Daucus carota</i> L. ssp. <i>sativus</i> (Hoffm.) Schübl. et G. Martens	Marchew jadalna	Carrot	Carotte	Möhre	Zanahoria
<i>Petroselinum crispum</i> (Mill.) Nym. ex A.W.Hill con- var. <i>radicosum</i> (Alef.) Danert	Pietruszka korzeniowa	Turnip-rooted Parsley	Persil à grosse racine	Wurzelpeter- silie	Perejil de raíz
<i>Scorzonera hispa- nica</i> L.	Skorzonera	Black Salsify	Scorsonère, Salsifis noir	Schwarz- wurzel	Escorzonera, Salsifi negro

Cruciferous Root Vegetables

Latine	Polish	English	Français	Deutsch	Español
<i>Brassica napus</i> L. emend. Metzg. ssp. <i>rapifera</i> Metzg.	Brukiew jadalna	Swede	Chou-navet, Rutabaga	Kohlrübe	Colinabo

Latine	Polish	English	Français	Deutsch	Español
<i>Brassica rapa</i> L. emend. Metzg. ssp. <i>rapa</i>	Rzepa jadalna	Turnip	Navet	Herbstrübe, Mairübe	Nabo
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Rzodkiewka	Radish	Radis de tous les mois	Radieschen	Rabanito, Ra- banillo
<i>Raphanus sativus</i> L. var. <i>niger</i> (Mill.) S. Kerner	Rzodkiew	Black Radish	Radis d'été, d'automne et d'hiver	Rettich	Rábano de invierno, Rá- bano negro

Leaf Vegetables

Latine	Polish	English	Français	Deutsch	Español
<i>Apium graveolens</i> L. var. <i>dulce</i> (Mill.) Pers.	Seler lisciowy	Celery	Céleri	Bleich-, Stielsellerie	Apio
<i>Cichorium endivia</i> L.	Endywia	Endive	Chicorée fri- sée, Scarole	Winterendivie	Escarola
<i>Cichorium intybus</i> L. var. <i>foliosum</i> Hegi	Cykoria lis- ciowa	[Salad] Chic- ory	Chicorée amère	Salatzichorie	Achicoria amarga
<i>Lactuca sativa</i> L. var. <i>capitata</i> L.	Salata glowia- sta (odmiany mastowe i kruche)	Head Lettuce	Laitue pom- mée	Kopfsalat	Lechuga aco- gollada
<i>Lactuca sativa</i> L. var. <i>longifolia</i> Lam.	Salata rzym- ska	Cos Lettuce	Laitue ro- maine	Römischer Salat, Binde- salat	Lechuga ro- mana, Lechuga larga
<i>Lactuca sativa</i> L. var. <i>angustana</i> hort. ex L. H. Bailey	Salata lody- gowa (szparagowa)	Asparagus Lettuce	-	-	-
<i>Lactuca sativa</i> L. var. <i>crispa</i> L.	Salata lis- ciowa	Leaf lettuce	Laitue à cou- per	Pflücksalat	Lachuga para cortar
<i>Petroselinum crispum</i> (Mill.) Nym. ex A.W. Hill convar. <i>crispum</i>	Pietruszka lisciowa	Parsley	Persil	Petersilie	Perejil
<i>Rheum rhabarba- rum</i> L.	Rabarbar	Rhubarb	Rhubarbe	Krauser Rhabarber	Ruibarbo
<i>Rumex acetosa</i> L.	Szczaw	Garden Sorrel	Oseille	Gartensauer- ampfer	Acedera co- mún
<i>Spinacia oleracea</i> L.	Szpinak	Spinach	Épinard	Spinat	Espinaca

Solanaceae

Latine	Polish	English	Français	Deutsch	Español
<i>Capsicum annuum</i> L.	Papryka	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika	Pimiento
<i>Lycopersicon esculentum</i> Mill. nom. cons. var. <i>cerasiforme</i> (Dun.) A. Gray	Pomidor-odmiany czereśniowa	Cherry Tomato	-	-	-
<i>Lycopersicon esculentum</i> Mill. nom. cons. var. <i>esculentum</i>	Pomidor -odmiany uprawiane w gruncie o czerwonej barwie owoców -inne odmiany	Tomato -varieties grown outdoors with red fruits -varieties grown under cover	Tomate -Variétés cultivés en pleine terre avec des fruits rouges - variétés cultivées sous couverture	Tomate -Freilandsorten mit roten Früchten -Gewächshausorten	Tomate -variedades cultivadas al aire libre con frutas rojas -variedades cultivadas a cubierto
<i>Physalis ixocarpa</i> Brot. ex Hornem.	Miechunka pomidorowa	Husk-tomato	-	Tomatillo	Tomatillo
<i>Solanum melongena</i> L.	Oberzyna	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine	Berenjena

Edible Pulses

Latine	Polish	English	Français	Deutsch	Español
<i>Lathyrus sativus</i> L.	Soczewica jadalna	Chickling Vetch	Gesse cultivée, Jarosse	Saatplatterbse, Deutsche Kichererbse	Almorta
<i>Lens culinaris</i> Medik.	Soczewica jadalna	Lentil	Lentille	Linse	Lenteja
<i>Phaseolus coccineus</i> L.	Fasola wielokwiatowa	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne	Judía de España, Judía escarlata
<i>Phaseolus vulgaris</i> L. var. <i>nanus</i> (L.) Aschers.	Fasola zwykła karłowa	Dwarf French Bean	Haricot nain	Schnittbohne	Judía enana, Poroto enano
<i>Phaseolus vulgaris</i> L. var. <i>vulgaris</i>	Fasola zwykła tyczna	Climbing French Bean	Haricot à rames	Stangenbohne	Judíade enrame, Judía trepadora, Frijol de guía
<i>Pisum sativum</i> L. ssp. <i>sativum</i> convar. <i>axiphium</i> Alef. emend. C.O. Lehm.	Groch siewny tuskowy	Garden Sugar Pea	-	-	-

Latine	Polish	English	Français	Deutsch	Español
<i>Pisum sativum</i> L. ssp. <i>sativum</i> convar. <i>medullare</i> Alef. emend. C.O. Lehm. et convar <i>sativum</i>	Łędwian siewny	Garden Pea	Petit pois	Gemüseerbse	Guisante de verdeo
<i>Vicia faba</i> L. var. <i>major</i> Harz	Bob	Broad Bean, Horse Bean	Fève	Dicke Bohne (Puffbohne)	Haba de huerta, Haba de verdeo

Miscellaneous Vegetables

Latine	Polish	English	Français	Deutsch	Español
<i>Anethum graveolens</i> L.	Koper ogrodowy	Dill	Aneth	Dill	Eneldo
<i>Asparagus officinalis</i> L.	Szparag	Asparagus	Asperge	Spargel	Espárrago
<i>Foeniculum vulgare</i> Mill. ssp. <i>vulgare</i> var. <i>azoricum</i> (Mill.) Thell.	Koper włoski (fenkuł)	Sweet Fennel	Fenouil douce	Süßfenchel	Hinojo dulce
<i>Pastinaca sativa</i> L.	Pasternak	Parsnip	Panais	Pastinak	Chirivía, Pastinaca
<i>Valerianella locusta</i> (L.) Laterr.	Roszponka	Cornsalad, Lamb's Lettuce	Mâche, Doucette	Feldsalat	Hierba de los canónigos, Lechuga de campo
<i>Zea mays</i> L. convar. <i>microsperma</i> Koern.	Kukurydza pękają	Popcorn Maize	Maïs éclaté, pop-corn	Puffmais, Pearlmais	maíz reventón, maíz palomero, maíz de rosita
<i>Zea mays</i> L. convar. <i>saccharata</i> Koern.	Kukurydza cukrowa	Sweet Maize	Maïs douce	Süßmais	Maíz dulce

Edible Mushrooms

Latine	Polish	English	Français	Deutsch	Español
<i>Agaricus bisporus</i> (Lange) Sing.	Pieczarca	Mushroom	Champignon de couche	Champignon	Champiñón

Ornamental Plants
Annual Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Ageratum houstonianum</i> Mill.	Zeniszek meksykański	Ageratum, Flossflower	Ageratum du Mexique	Leberbalsam	Agérato
<i>Antirrhinum majus</i> L.	Wyzlin wiejszy, Iwia paszcza	Common Snapdragon	Muflier, Gueule de loup, Gueule de lion	Löwenmaul	Boca de dragón
<i>Begonia x semperflorens-cultorum</i> H. K. Krauss	Begonia stale kwitnaca	Perpetual Begonia	Bégonia semperflorens	Semperflorens-Begonie	Begonia perpetua
<i>Calendula officinalis</i> L.	Nagietek lekarski	Pot Marigold	Souci des jardins	Gartenringelblume	Caléndula, Maravilla
<i>Callistephus chinensis</i> (L.) Nees	Aster chinski	China Aster	Aster, Aster de Chine, Reine-marguerite	Sommeraster	-
<i>Celosia cristata</i> L.	Celozja grzebieniasta	Cockscomb	Crête de coq	Hahnenkamm	Cresta de gallo
<i>Clarkia amoena</i> (Lehm.) A. Nels et Macbr. ssp. <i>lindleyi</i> (Dougl.) F. H. Levis et M. E. Levis	Godecja wielkokwiatowa	Godetia	Godetia	Godetie, Atlasblume	Godetia
<i>Clarkia unguiculata</i> Lindl.	Klarkia dzierotka	Clarkia	Clarkia élégant	Clarkia	Clarkia
<i>Coleus blumei</i> Benth.	Koleus Blumego	Coleus, Flame Nettle	Coléus	Coleus, Buntnessel	Cóleo
<i>Coreopsis tinctoria</i> Nutt.	Nachylek barwierski	Plains Coreopsis	Coréopsis élégant	Zweifarbiges Mädchenauge	-
<i>Eschscholzia californica</i> Cham.	Eszolcja kalifornijska	California Poppy	Eschscholtzie de Californie, Pavot de Californie	Schlafmütchen, Kappenhahn	Amapola de California, Copa de oro
<i>Helianthus annuus</i> L.	Stonecznik	Common Sunflower	Tournesol, Soleil	Sonnenblume	Girasol
<i>Helichrysum bracteatum</i> (Vent.) Andr.	Kocanka ogrodowa	Everlasting	Immortelle à bractées	Gartenstrohblume	Siempreviva, Perpetua
<i>Iberis amara</i> L.	Ubiorek gorzki	Rocket Candytuft	Thlaspi blanc	Bittere Schleifenblume	Carraspique blanco

Latine	Polish	English	Français	Deutsch	Español
<i>Iberis umbellata</i> L.	Ubiorek okolkowy	Globe Candytuft	Thlaspi lilas	Doldige Schleifenblume	-
<i>Impatiens balsamina</i> L.	Niecierpek balsamina	Garden Balsam	Balsamine des jardins	Gartenbalsamine	Balsamina
<i>Impatiens New Guinea</i>	Niecierpek nowogwinejski	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea-Impatiens	-
<i>Impatiens walleriana</i> Hook.	Niecierpek Waleriana	Busy Lizzie	Impatiente	Fleißiges Lieschen	-
<i>Lathyrus odoratus</i> L.	Groszek pachnacy	Sweet Pea	Pois de senteur, Gesse odorante	Wohlrriechende Wicke	Guisante de olor
<i>Lobelia erinus</i> L.	Lobelia przyładkowa	True Lobelia of Gardens	Lobélie des jardins	Lobelie	Lobelia
<i>Lobularia maritima</i> (L.) Desv.	Lobularia nadmorska, smagliczka	Lobularia, Sweet Alyssum	Lobularia, Alysse maritime, Alysse odorante, Corbeille d'argent	Lobularia, Duftsteinrich	Alhelicillo, Lobularia
<i>Matthiola incana</i> (L.) R. Br.	Lewkonია letnia	Common Stock	Giroflée d'hiver	Levkoje	Alhelí
<i>Petunia x hybrida</i> Vilm.	Petunia ogrodowa	Petunia	Pétunia	Petunie	Petunia
<i>Rudbeckia hirta</i> L.	Rudbekia owłosiona	Cone Flower	Rudbeckia	Sonnenhut	-
<i>Salvia splendens</i> Buc'hoz ex Etl.	Szałwia błyszczaca	Scarlet Sage	Sauge éclatante du Brésil	Scharlachrote Salbei	-
<i>Tagetes erecta</i> L.	Aksamitka wyniosła	African Marigold, Aztec Marigold	Rose d'Inde	Aufrechte Studentenblume	Clavel de las Indias, Clavelón
<i>Tagetes patula</i> L.	Aksamitka rozpierzchła	French Marigold	Œillet d'Inde	Ausgebreitete Studentenblume	Copetillo, Damasquina
<i>Tagetes tenuifolia</i> Cav.	Aksamitka wąskolistna	Striped Mexican Marigold	Tagète taché, Tagète maculé	-	-
<i>Tanacetum parthenium</i> (L.) Schultz Bip.	Złocien maruna	Feverfew	Grande camomille, Matricaire	Falsche Kamille	Magarza

Latine	Polish	English	Français	Deutsch	Español
<i>Verbena x hybrida</i> Voss	Werbena ogrodowa	Common Garden Ver-bena, Florists' Ver-bena	Verveine hybride	Gartenverbene	-
<i>Zinnia elegans</i> Jacq.	Cynia wytwor-na	Youth-and-old-age, Youth and age	Zinnia élégant	Zinnie	Zinnia, Rasca-moño

Biennial Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Alcea rosea</i> L.	Prawoślaz różowy, malwa	Hollyhock	Rose trémière	Stockmalve, Stockrose	Malvaloca, Malvarrosa
<i>Bellis perennis</i> L.	Stokrotka pospolita	True Daisy, English Daisy	Pâquerette	Gänseblümchen, Tausendschön	Vellorita
<i>Myosotis alpestris</i> F.W. Schmidt	Niezapomina-kja alpejska	Forget-me-not	Myosotis	Vergißmeinnicht	Miosota, No-meolvides, Raspilla
<i>Viola x wittrockiana</i> Gams	Bratek ogro-dowy	Violet, Pansy	Violette, Pen-sée	Veilchen, Stiefmütterchen	Viola, Violeta, Pensamiento, Trinitaria

Non-winterhardy Perennial Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Begonia x tuberhy-rida</i> Voss	Begonia bul-wiasta	Tuberous Be-gonia	Bégonia tubé-reux	Knollenbe-gonie	Begonia tube-rosa
<i>Dahlia x cultorum</i> Thorsr. et Reis.	Dalia	Dahlia	Dahlia	Dahlie	Dalia
<i>Gladiolus x hybridus</i> hort.	Mieczyk	Gladiolus	Glaïeul	Gladiole	Gladiolo
<i>Pelargonium pelta-tum</i> hort. non (L.) L'Hérit. ex Ait.	Pelargonia bluszczolistna	Ivy-leaved Pelargonium	Géranium-lierre	Efeupelar-gonie	-
<i>Pelargonium x do-mesticum</i> L.H. Bailey	wielkokwia-towa	Show and Fancy Pelar-gonium	Pelargonium des fleuristes	Edelpelar-gonie	-
<i>Pelargonium x hor-torum</i> L.H. Bailey	Pelargonia rabatowa	Zonal Pelar-gonium	Géranium, Pe-largonium zonale	Zonalpelar-gonie	-

Perennial Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Calluna</i> Salisb.	Wrzos	Heather, Ling	Callune	Besenheide	Brezo
<i>Dendranthema</i> x <i>grandiflorum</i> (Ramat.) Kitamura	Cryzantema wielkokwiatowa	Chrysanthemum	Chrysanthème	Chrysantheme	Crisantemo
<i>Erica</i> L.	Wrzosiec	Heath	Bruyère	Glockenheide	Brezo
<i>Hemerocallis</i> L.	Liliowiec	Day-lily	Hémérocalle	Taglilie	Hemerocala
<i>Hosta</i> Tratt.	Funkia	Plantain Lily, Funkia, Hosta	Hémérocalle du Japon, Funkia	Funkie	-
<i>Iris</i> x <i>barbata</i> hort.	Kosciaciec ogrodowy	Iris	Iris	Iris, Schwertlilie	Lirio
<i>Leucanthemum maximum</i> (Ram.) DC.	Złocień wielki	Shasta Daisy	Grande marguerite	-	-
<i>Lilium</i> L.	Lilia	Lily	Lis	Lilie	Lirio
<i>Limonium</i> Mill.	Zatrwan	Sea Lavender, Statice	Limonium, Statice	Widerstoß, Meer Lavendel	Statice
<i>Narcissus</i> L.	Narcyz	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse	Narciso, Junquillo
<i>Paeonia lactiflora</i> Pall.	Piwonia chińska	Chinese Paeony	Pivoine de Chine	Chinesische Päonie	-
<i>Tulipa</i> L.	Tulipan	Tulip	Tulipe	Tulpe	Tulipán
<i>Vinca</i> L.	Barwinek	Periwinkle	Pervenche	Immergrün	Vinca

Trees and Shrubs

Latine	Polish	English	Français	Deutsch	Español
<i>Aesculus hippocastanum</i> L.	Kasztanowiec zwyczajny	Horse Chestnut	Marronnier	Gemeine Roßkastanie	Castaño de Indias
<i>Clematis</i> L.	Powojnik	Clematis	Clématite	Waldrebe	Clemátide
<i>Forsythia</i> Vahl	Forsycja	Forsythia, Golden Bell	Forsythia	Forsythie, Goldflieder, Goldglöckchen	Forsitia
<i>Fraxinus pennsylvanica</i> Marsh.	Jesion pennsylvanicki	Red Ash	Frêne rouge	Rotesche	Fresno rojo
<i>Juniperus</i> L.	Jalowiec	Juniper	Genévrier	Wacholder	Junípero

Latine	Polish	English	Français	Deutsch	Español
<i>Larix</i> Mill.	Modrzew	Larch	Mélèze	Lärche	Alerce, Lárice
<i>Malus</i> Mill.	Jablon	Crab Apple, Flowering Crab	Pommier or- nemental	Zierapfel	Manzano or- namental
<i>Philadelphus</i> L.	Jasminowiec	Mock Orange	Seringa	Pfeifenstrauch Falscher Jasmin	Jeringuilla, Celinda
<i>Picea</i> A. Dietr.	Swierk	Spruce	Épicéa	Fichte	Abeto, Picea
<i>Pinus</i> L.	Sosna	Pine	Pin	Kiefer	Pino
<i>Potentilla fruti- cosa</i> L.	Pieciornik krzewiasty	Shrubby Cinquefoil	Potentille li- gneuse	Fingerstrauch	-
<i>Rhododendron</i> L.	Rozanocznik	Rhododen- dron, Azalea, Azaleoden- dron	Rhododen- dron, Azalée	Rhododen- dron, Azalee	Rododendro, Azalea
<i>Rosa</i> L. ^x	Roza	Rose	Rosier	Rose	Rosal
<i>Syringa</i> L.	Lilak	Lilac	Lilas	Flieder	Lila
<i>Thuja</i> L.	Tuja	Thuya	Thuya	Lebensbaum	Tuya
<i>Weigela</i> Thunb.	Krzewuszką	Diervilla	Weigela	Weigelia	Weigela

Plants cultivated under cover

Latine	Polish	English	Français	Deutsch	Español
<i>Alocasia x ama- zonica</i> André	Alokazja ama- zonska	Alocasia	Alocasia	Alocasia, Pfeilwurz, Tropenwurz	Alocasia
<i>Alstroemeria x hy- brida</i>	Alstremeria	Alstroemeria, Herb Lily	Alstrœmère, Lis des Incas	Inkalilie	Alstromeria
<i>Anthurium x cul- torum</i> Birdsey	Anturium uprawne	Anthurium, Tail Flower	Anthurium	Große Flamingo- blume	Anthurium
<i>Anthurium x scherze- rianum</i> hort. non Schott	Anturium ogrodowa	Anthurium, Tail Flower	Anthurium	Kleine Flamingo- blume	Anthurium
<i>Begonia</i> L.	Begonia	Begonia	Bégonia	Begonie	Begonia
<i>Calceolaria x her- beohybrida</i> Voss	Pantofelnik ogrodowy	Slipperwort, Slipper Flower	Calcéolaire hybride	Pantoffel- blume	Calceolaria

Latine	Polish	English	Français	Deutsch	Español
<i>Cyclamen persicum</i> Mill.	Cyklamen perski	Ivy-leaved Cyclamen, Persian Cyclamen	Cyclamen de Perse	Alpenveilchen	Ciclamen
<i>Dendranthema x grandiflorum</i> (Ramat.) Kitamura	Chryzantema wielkokwiatowa	Chrysanthemum	Chrysanthème	Chrysantheme	Crisantemo
<i>Dianthus caryophyllus</i> L.	Gozdzik szklarniowy	Carnation	Œillet	Nelke	Clavel
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch	Wilczomiecz nadobny, poinsecja	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern	Flor de Pasua
<i>Freesia x hybrida</i> hort.	Frezja	Freesia	Freesia	Freesie	Fresia
<i>Gerbera jamesonii</i> H. Bolus ex Hook. f.	Gerbera Jamesona	Gerbera	Gerbera	Gerbera	Gerbera
<i>Hippeastrum x hortorum</i> Maatsch	Zwartnica posrednia	Amaryllis	Amaryllis	Ritterstern, Amaryllis	Amarilis
<i>Kalanchoë x hybrida</i> hort.	Kalanchoe	Kalanchoë	Kalanchoë	Kalanchoe	Kalanchoë
<i>Primula vulgaris</i> Huds.	Pierwiosnek zwyczajny	Primrose	Primevère	Kissenprimel	Primavera, Prímula
<i>Saintpaulia ionantha</i> H. Wendl.	Sepolia fiołkowa	African Violet	Saintpaulia	Usambara-veilchen	Saintpaulia
<i>Senecio x hybridus</i> Hyl.	Starzec popielny	Florists' Cineraria	Cinéaire hybride	Kreuzkraut	-
<i>Sinningia x hybrida</i> hort.	Syningia ogrodowa	Gloxinia	Gloxinia	Gloxinie	Gloxínea
<i>Streptocarpus x hybridus</i> Voss	Skretnik ogrodowy	Streptocarpus, Cape Primrose	Streptocarpus	Streptocarpus, Drehfrucht	Streptocarpus

Fruit Trees

Latine	Polish	English	Français	Deutsch	Español
<i>Corylus</i> L.	Leszczyna	Hazelnut, Filbert	Noisetier, Coudrier	Haselnuß	Avellano, Avellanera, Nochizo
<i>Cydonia oblonga</i> Mill. ^{xx}	Pigwa	Quince	Cognassier	Quitte	Membrillero
<i>Juglans regia</i> L.	Orzech włoski	Walnut	Noyer	Walnuß	Nogal

Latine	Polish	English	Français	Deutsch	Español
<i>Malus domestica</i> Borkh. ¹	Jabłoń	Apple	Pommier	Apfel	Manzano
<i>Prunus armeniaca</i> L.	Morela	Apricot	Abricotier	Aprikose	Albaricoquero
<i>Prunus avium</i> (L.) L. ^x	Czereśnia	Sweet Cherry	Cerisier (cerises dou- ces : guignes, bigarreaux)	Süßkirsche	Cerezo dulce, Mollar
<i>Prunus cerasus</i> L. ¹	Wisnia	Morella, Sour Cherry	Cerisier (cerises aci- des: griottes, amarelles)	Sauerkirsche	Cerezo ácido, Guindo
<i>Prunus domesti- ca</i> L. ^{1,x}	Śliwa domowa	Plum	Prunier	Pflaume	Ciruelo, Cirole- ro
<i>Prunus</i> L. ^x	Śliwa i wiśnia (inne gatunki)	Plum and cherry (other species)	Prunier et ce- risier (d'autres espèces)	Pflaume und Kirsche (andere Arten)	Ciruelo, Cirole- ro y Guindo (otras espe- cies)
<i>Prunus persica</i> (L.) Batsch ^x	Brzoskwinia	Peach	Pêcher	Pfirsich	Durazno, Melocotonero
<i>Prunus salicina</i> Lindl. ^x	Śliwa japońska	Plum, Japa- nese Plum	Prunier du Japon, Prunier japonais	Japanische Pflaume	Ciruelo japo- nés
<i>Pyrus communis</i> L. ^x	Grusza	Pear	Poirier	Birne	Peral

Berry Plants
Shrubs

Latine	Polish	English	Français	Deutsch	Español
<i>Aronia melanocarpa</i> (Milchx.) Elliott	Aronia	Chokeberry	Aronia	Apfelbeere	Amelanquier
<i>Ribes grossularia</i> L.	Agrest	Gooseberry	Groseillier à maquereau	Stachelbeere	Grosellero silvestre, Agrazón, Uva crespa
<i>Ribes niveum</i> Lindl. ¹	Porzeczka biala	White Currant	Groseillier blanc	Weiße Johannisbeere	Grosellero blanco
<i>Ribes nigrum</i> L.	Porzeczka czarna	Black Currant	Cassis	Schwarze Johannisbeere	Casis, Grose- llero negro
<i>Ribes sylvestre</i> (Lam.) Mert. et W. Koch	Porzeczka czerwona	Red Currant	Groseillier rouge	Rote Johannisbeere	Grosellero rojo

Latine	Polish	English	Français	Deutsch	Español
<i>Rubus fruticosus</i> L.	Jeżyna bezkolcowa	Blackberry	Ronce fruitière	Brombeere	Zarza
<i>Rubus idaeus</i> L.	Malina właściwa	Raspberry	Framboisier	Himbeere	Frambueso, Sangüeso
<i>Rubus occidentalis</i>	Malina czarna	Black Raspberry	Framboisier de Virginie	Schwarze Himbeere	Frambueso negro
<i>Vaccinium corymbosum</i> L.	Borówka wysoka	Blueberry	Myrtille	Kulturheidelbeere	Arándano americano
<i>Vaccinium macrocarpon</i> Ait.	Żurawina wielkoowocowa	American Cranberry	Canneberge à gros fruits, Airelle du Canada	Großfrüchtige Moosbeere, Cranberry	Arándano americano
<i>Vitis</i> L.	Vinorośl	Grapevine	Vigne	Rebe	Vid

Perennial Plants

Latine	Polish	English	Français	Deutsch	Español
<i>Fragaria vesca</i> L.	Poziomka	Wild Strawberry	Fraisier des bois	Walderdbeere	Fresa silvestre
<i>Fragaria x ananassa</i> Duch.	Truskawka	Strawberry	Fraisier	Erdbeere	Fresa

^x Fruit-bearing or decorative varieties and varieties for rootstocks

^{xx} Varieties for cultivation exclusively as rootstocks.

¹ Varieties of these taxa are recognized as perennial in understanding art. 6 of the Polish Seed Industry Law

SOUTH AFRICA

Protection was extended to plant genera and species by virtue of the amendments to Regulations referred to below (the Latin and English names appear in the Regulation, whereas the French, German and Spanish common names have been added, without guarantee of concor-

dance, by the Office of the Union).

By virtue of Regulations Relating to Plant Breeders' Rights: Amendment No. R. 831 of June 9, 1995, with the effect from the same day, to:

Latin	English	Français	Deutsch	Español
<i>Abutilon</i> Mill.	Flowering maple	Abutilon	Abutilon	Abutilon
<i>Acacia podalyriifolia</i> A. Cunn.	Queensland Silverwattle, Pearl Acacia	-	-	-

Latin	English	Français	Deutsch	Español
<i>Agapanthus</i> L'Hér.	Agapanthus, Blue lily	Agapanthe, Fleur d'amour	Agapanthus, Schmucklilie	Agapanto, Estrella de mar
<i>Antheophora pubes-</i> <i>cens</i> Nees	Bottle brush grass	-	-	-
<i>Argyranthemum</i> Webb	Daisy bush	-	-	-
<i>Aster</i> L.	Michaelmas daisy, Star wort, Frost flower	Aster	Aster	Aster, Reina Margarita
<i>Begonia</i> L.	Begonia	Bégonia	Begonie	Begonia
<i>Bergenia</i> Moench	Elephant's ear, Siberian saxi- frage	Bergenia	Wickelwurz	Bergenia
<i>Brachycome</i> Cass.	Swan river daisy	Brachycome	Brachycome	Brachycome
<i>Brunia</i> L.	Brunia	Brunia	Brunia	Brunia
<i>Callistemon</i> R. Br.	Bottle brush	Callistemon	Zylinderputzer	-
<i>Camellia</i> L.	Camellia, Ja- ponica	Camélia	Kamelie	Camelia
<i>Chamelaucium</i> Desf.	Wax flower	Chamelaucium	Chamelaucium	Chamelaucium
<i>Cheiranthus</i> L.	Wall flower	Giroflée	Goldlack	Aleli
<i>Coprosma</i> J. R. Forst. et G.Forst.	Mirror plant	Coprosma	Coprosma	Coprosma
<i>Cordyline</i> Comm. ex Juss.	Dragon tree	Cordyline	Cordyline, Keulenlilie, Keulenbaum	Cordyline
<i>Cupressus</i> L.	Cypres	Cyprès	Zypresse	Ciprés
<i>Diascia</i> Link et Otto	Twinspur	Diascie	Diascie	Diascia
<i>Dimorphotheca</i> Moench	Bitou, Daisy	Dimorphotheca	Kapkörbchen	-
<i>Duranta</i> L.	Forget-me-not tree	Duranta	Duranta	Duranta
<i>Erica</i> L.	Heath	Bruyère	Glockenheide	Brezo
<i>Euonymus</i> L.	Spindle tree	Fusain	Pfaffenhütchen, Spindelstrauch	Bonetero, Evó- nimo

Latin	English	Français	Deutsch	Español
<i>Fuchsia</i> L.	Fuchsia, Ladies' eardrops	Fuchsia	Fuchsie	Fucsia
<i>Gazania</i> Gaertn	Gazania	Gazania	Gazania	Gazania
<i>Gypsophila</i> L.	Gypsophila Baby's breath	Gypsophile	Gipskraut, Schleierkraut	Gipsófila
<i>Hardenbergia</i> Benth.	Australian lilac	Hardenbergia	Hardenbergia	Hardenbergia
<i>Hedera</i> L.	Ivy	Lierre	Efeu	Hiedra
<i>Hibiscus</i> L.	Hibiscus, Rose-mallows	Hibiscus	Eibisch	Hibisco
<i>Hydrangea</i> L.	Hydrangea	Hortensia	Hortensie	Hidrangea, Hortensia
<i>Iberis</i> L.	Candytuft	Ibéris, Thlaspi	Schleifenblume	Carraspique
<i>Juniperus</i> L.	Juniper, Cedar	Genévrier	Wacholder	Junípero
<i>Lantana montevidensis</i> (K. Spreng.) Briq.	Weeping lantana	-	-	-
<i>Lavandula</i> L.	Lavender	Lavande, Lavandin	Lavendel	Lavándula, Lavanda
<i>Leptospermum</i> J. R. Forst. et G. Forst.	Myrtle	Leptosperme	Südseemyrte	Leptospermum
<i>Lysimachia</i> L.	Moneywort	Lysimaque	Felberich	-
<i>Mandevilla</i> Lindl. (= <i>Dipladenia</i> A. DC.)	Chilean Jasmine	Mandevilla	Mandevilla	Mandevilla
<i>Nephrolepis</i> Schott	Sword fern	Nephrolepis	Nephrolepis	Helecho de frondas ensiformes
<i>Nerium</i> L.	Oleander	Laurier rose	Oleander	Adelfa, Laurel rosa
<i>Olea</i> L.	Olive	Olivier	Ölbaum, Olive	Olivo
<i>Ophiopogon</i> Ker-Gawl	Lilyturf, Mondo, Snake's-beard	Barbe de serpent	Schlangenbart	-
<i>Osteospermum</i> L.	Osteospermum	Osteospermum	Osteospermum	Osteospermum
<i>Panicum antidotale</i> Retz.	Giant Panicum, Blue Panicum	Panic antidote	-	-

Latin	English	Français	Deutsch	Español
<i>Philodendron</i> Schott	Philodendron Elephant's ear	Philodendron	Philodendron	Filodendron
<i>Phlox</i> L.	Phlox	Phlox	Phlox, Flammenblume	Flox
<i>Phormium</i> J. R. Forst. et G. Forst.	New Zealand Flax	Lin de Nouvelle- Zélande	Neuseeländer Flachs	Lino de Nueva Zelanda
<i>Rhododendron</i> L.	Rhododendron, Rosebay, Azalea	Rhododendron, Azalée	Rhododendron, Azalee	Rododendro, Azalea
<i>Spathiphyllum</i> Schott	Spathe flower, White sails	Spathiphyllum	Spathiphyllum	Spathiphyllum
<i>Syzygium</i> Gaertn.	Waterwood tree	Syzygium	Syzygium	Syzygium
<i>Tibouchina</i> Aubl.	Glory bush tree	Tibouchina	Tibouchina	Tibouchina
<i>Tropaeolum</i> L.	Nasturtium	Capucine	Kapuzinerkresse	Capuchina, Carmelita
<i>Tulbaghia</i> L.	Wild garlic	Tulbaghia	Kranzlauch	Tulbaghia
<i>Verbena</i> L.	Vervain	Verveine	Verbene, Eisenkraut	Verbena
<i>Viola</i> L.	Violet	Violette, Pensée	Veilchen, Stiefmütterchen	Viola, Violeta, Pensamiento, Trinitaria

By virtue of Regulations Relating to Plant
Breeder's Rights: Amendment No. R. 287 of Feb-

ruary 23, 1996, with the effect from the same day,
to:

Latin	English	Français	Deutsch	Español
<i>Cyathea</i> Sm.	Tree fern	Cyathée	Becherfarn	-
<i>Dendranthema</i> (DC.) Desmoul.	Chrysanthemum	Chrysanthème	Chrysantheme	Crisantemo
<i>Grevillea</i> R. Br.	Grevillea	Grevillée	Grevillie, Seideneiche	-
<i>Nemesia</i> Vent.	Nemesia	Némésie	Nemesie	-
<i>Pandorea</i> Spach	Pandorea	-	-	-
<i>Pentas</i> Benth.	Pentas	Pentas	Pentas	Pentas
<i>Photinia</i> Lindl.	Photinia	Photinia	Glanzmispel	Photinia

Latin	English	Français	Deutsch	Español
<i>Pimelea</i> Banks et Soland.	Riceflower	Pimélée	Glanzstrauch	-
<i>Polypodium</i> L.	Polypody	Polypode	Tüpfelfarn	Polipodio, Helecho
<i>Sutera</i> Roth	Sutera	-	-	-
<i>Vinca</i> L.	Periwinkle	Pervenche	Immergrün	Vinca

By virtue of Regulations Relating to Plant Breeders' Rights: Amendment No. R. 1203 of

July 26, 1996, with the effect from the same day, to:

Latin	English	Français	Deutsch	Español
<i>Citharexylum</i> Mill.	Fiddlewood	Citharexylon, Bois de guitare	Geigenholz, Leierholz	-
<i>Plectranthus</i> L'Hérit.	Spurflower, Coleus	Plectranthe	Hahnensporn, Harfenstrauch, Mottenpflanze, Mottenkönig	-

A list of the other taxa protected in South Africa is reproduced in Plant Variety Protection No. 74, starting on page 21.

EXTENSION OF PERIOD OF PROTECTION

FRANCE

By virtue of Decree No. 95-1407 of December 28, 1995, (*Journal officiel* of January 4, 1996) amending the Code of Intellectual Property (Regulation Part) and relating to the field of application of plant breeder's certificates and to the period and scope of protection, the period of protection was set at twenty

years. For forest trees, fruit trees, ornamental trees, vines, grasses, leguminous perennial forage crops and every inbred line used for the production of hybrid varieties, protection was set at twenty-five years with the effect from January 5, 1996. The text of the Decree will be published in a future issue.

NEWSLETTER**THE THIRTIETH ORDINARY SESSION OF THE COUNCIL**

The Council held its thirtieth ordinary session in Geneva on October 23, 1996, under the chairmanship of Mr. Bill Whitmore (New Zealand). The session was attended by observers from the following 16 non-member States: Belarus, Bolivia, Brazil, Bulgaria, Kenya, Mexico, Panama, Philippines, Republic of Korea, Republic of Moldova, Romania, Slovenia, Syria, Thailand, Tunisia, Venezuela. Nine international organizations were also represented: Food and Agriculture Organization of the United Nations (FAO), World Trade Organization (WTO), European Community (EC), Organisation for Economic Co-operation and Development (OECD), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Chamber of Commerce (ICC), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), International Federation of the Seed Trade (FIS).

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

(a) It adopted the report of the twenty-ninth ordinary session.

(b) It took a positive decision on the conformity of the Law on the Protection of New Plant Varieties and Animal Breeds of Bulgaria with the provisions of the 1978 Act and with the provisions of the 1991 Act of the Convention;

(c) It decided to advise the Government of Kenya that the Seeds and Plant Varieties Act, 1972, and the Seeds and Plant Varieties (Plant Breeder's Rights) Regulations, 1994, would upon incorporation of suitable amendments, conform with the 1978 Act of the Convention;

(d) It took a positive decision on the conformity of the Bill of Panama on the Norms for the Protection of New Plant Vari-

ties in the Republic of Panama with the provisions of the 1978 Act of the Convention;

(e) It approved the report by the Secretary-General on the activities of the Union in 1995, and noted the report on activities during the first nine months of 1996;

(f) It unanimously approved the report by the Secretary-General on his management during the 1994-95 biennium and on the financial situation of the Union at December 31, 1995;

(g) It noted the report of the auditors on the accounts of UPOV for the 1994-95 biennium and expressed its gratitude to the Government of Switzerland for its cooperation in this respect;

(h) 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;

(i) It established the calendar of meetings in 1997;

(j) It unanimously elected Mr. Aubrey Bould (United Kingdom) Chairman of the Technical Working Party for Agricultural Crops, Mr. John Law (United Kingdom) Chairman of the Technical Working Party on Automation and Computer Programs, Mr. Chris Barnaby (New Zealand) Chairman of the Technical Working Party for Fruit Crops, Mr. Joost Barendrecht (Netherlands) Chairman of the Technical Working Party for Ornamental Plants and Forest Trees and Mr. Baruch Bar-Tel (Israel) Chairman of the Technical Working Party for Vegetables, in each case for a term of three years ending with the thirty-third ordinary session of the Council, in 1999;

(k) It decided to extend the chairmanship of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular of Mr. Joël Guiard (France) for another year;

(l) It expressed its appreciation to the outgoing chairmen—Mrs. Elise Buitendag (South Africa), Mr. Huib Ghijsen

(Netherlands), Mr. Sylvain Grégoire (France), Mrs. Elisabeth Kristóf (Hungary) and

Mrs. Ulrike Löscher (Germany)—for the work carried out during their term.

THE INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS IN 1995

I. COMPOSITION OF THE UNION

In 1995, 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:

- (a) Portugal on September 14;
- (b) Ukraine on October 3;
- (c) Chile on December 5.

The aforementioned Act entered into force with respect to those States one month after deposit of the instruments of accession, i.e., on October 14 for Portugal, November 3 for Ukraine and January 5, 1996, for Chile.

As of the latter date, the Union comprises 30 member States: Argentina, Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, South Africa, Spain, Sweden, Switzerland, Ukraine, 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.

At the close of the year, Mexico, a signatory State to the 1978 Act, took steps with a view to ratification of that Act.

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.

In 1995, five requests were made on the basis of the 1978 Act:

- (a) by Chile, by letter dated January 27;
- (b) by Paraguay, by letter dated April 19;
- (c) by Bolivia, by letter dated September 15;
- (d) by Belarus, by letter dated October 17;
- (e) by Ecuador, by letter dated October 19.

At its twelfth extraordinary session, held on April 28, the Council took positive decisions in respect of the first two of the above mentioned requests. The following two were examined at its twenty-ninth ordinary session on October 17: the Council took a qualified decision in respect of the request by Bolivia and a positive decision with regard to the request by Belarus. The latter decision will be examined in 1996 at an extraordinary session.

According to its Article 37(1), the 1991 Act "shall enter 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." Under Article 30(2), each State or inter-governmental 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 1995, several States drew up amending laws and Denmark and Slovakia adopted such laws.

The table given at annex to this report summarizes the situation of the various States in

relation to the various Acts of the Convention as at December 31, 1995.

II. SESSIONS OF THE COUNCIL AND ITS SUBSIDIARY BODIES

Council

The Council held its twelfth extraordinary session on April 28 under the chairmanship of Mr. Bill Whitmore (New Zealand) as a result of the requests for advice submitted by Chile and Paraguay under Article 32(3) of the 1978 Act.

The Council held its twenty-ninth ordinary session on October 17, also under the chairmanship of Mr. Bill Whitmore. The session was attended by observers from 14 non-member States¹ and nine international organizations.²

At that session, it took the following main decisions:

(a) It pronounced on the conformity of the laws of Belarus and Bolivia with the UPOV Convention.

(b) It approved the report of the Secretary-General on the activities of the Union in 1994 and the first nine months of 1995.

(c) It approved the program and budget of the Union for the 1996-97 biennium.

(d) 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.

(e) It unanimously elected Mr. H. Dieter Hoinkes (United States of America) and Mr. John Carvill (Ireland) as Chairman and Deputy Chairman, respectively, of the Administrative and Legal Committee for a term of three years ending with the completion of the thirty-second ordinary session of the Council, in 1998.

(f) It unanimously elected Mr. Joël Guiard (France) and Mrs. Elise Buitendag (South Africa) as Chairman and Deputy Chairman, respectively, of the Technical Committee for the same term.

Consultative Committee

The Consultative Committee held its forty-ninth session on April 28 and its fiftieth session on October 16, under the chairmanship of Mr. Bill Whitmore.

The Committee examined the following matters at its two sessions: the proposed UPOV central CD-ROM database on plant variety protection and related matters (to be produced in 1996); the impact of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement, constituting annex 1C to the Agreement Establishing the World Trade Organization (WTO)) on plant variety protection; the relationship between biodiversity, plant genetic resources and plant variety protection.

At its forty-ninth session, the Committee also decided to extend the appointment of the Vice Secretary-General to November 30, 2001, and heard reports from the representatives of the member States on progress in implement-

¹ Belarus, Bolivia, Colombia, Mexico, Panama, Philippines, Republic of Korea, Republic of Moldova, Romania, Saudi Arabia, Slovenia, Syria, Tunisia, Venezuela.

² Food and Agriculture Organization of the United Nations (FAO), World Trade Organization (WTO), European Community (EC), Organisation for Economic Co-operation and Development (OECD), 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), International Federation of the Seed Trade (FIS), International Chamber of Commerce (ICC).

ing the 1991 Act. The fiftieth session also prepared the ordinary session of the Council.

Administrative and Legal Committee

The Administrative and Legal Committee held its thirty-fifth session on April 26 and 27 under the chairmanship of Mr. Henning Kunhardt (Germany). The session was attended by observers from nine non-member States.³

At the session, the Committee examined a draft model law on the protection of new varieties of plants based on the 1991 Act of the Convention. The session had been prepared by a Working Group comprised of Mrs. Carmen Gianni (Argentina), Mr. José María Elena Rosselló (Spain), Mr. Bart Kiewiet (Netherlands) and Mr. Henning Kunhardt, each acting in an individual capacity; the Working Group had met on February 21 and 22.

Technical Committee

The Technical Committee held its thirty-second session from October 18 to 20 under the chairmanship of Mrs. Jutta Rasmussen (Denmark). The session was attended by observers from five non-member States⁴ and five international organizations.⁵

The Committee adopted test guidelines for the following 11 taxa on the basis of the preparatory work done by the Technical Working Parties: *Anthurium*; apple; broccoli; cauliflower; chamomile; cherry; flax, linseed; Norway spruce; peach; rhododendron; strawberry.

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 of new plant varieties. It looked more closely at the impact of new methods of biochemical and molecular analysis on the examination of varieties and on the concept of variety itself.

Technical Working Parties

The Technical Working Parties held sessions outside Geneva as follows:

(a) The Technical Working Party for Agricultural Crops (TWA) held its twenty-fourth session from June 20 to 22 in Hanover (Germany), under the chairmanship of Mr. Huib Ghijsen (Netherlands).

(b) The Technical Working Party on Automation and Computer Programs (TWC) held its thirteenth session from June 7 to 9 at Slupia Wielka (Poland), under the chairmanship of Mr. Sylvain Grégoire (France).

(c) The Technical Working Party for Fruit Crops (TWF) held its twenty-sixth session from September 11 to 15 at Canterbury (United Kingdom), under the chairmanship of Mrs. E. Buitendag (South Africa).

(d) The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its twenty-eighth session from September 4 to 9 at Ede-Wageningen (Netherlands), under the chairmanship of Mrs. U. Löschner (Germany).

(e) The Technical Working Party for Vegetables (TWV) held its twenty-ninth session from June 26 to July 1 at Roelofarendsveen (Netherlands), under the chairmanship of Mrs. E. Kristóf (Hungary).

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: rape seed (revision) (TWA); firelily, *Serruria* (TWO); beetroot (revision), leaf

³ Belarus, Chile, Colombia, India, Mexico, Peru, Republic of Korea, Romania, Russian Federation.

⁴ Colombia, Greece, Republic of Korea, Romania, Venezuela.

⁵ FAO, EC, OECD, ASSINSEL, FIS.

chicory, spinach (revision), ginger, pumpkin (TWV).

A subgroup of the Technical Working Party for Vegetables met on October 11 at Brion (France) to examine the test guidelines for shallot and onion.

The Technical Working Party on Automation and Computer Programs proceeded with the preparation of various documents relating to the statistical processing of data collected in the course of examination of varieties for distinctness and homogeneity. It recommended that the Mahalanobis' generalized distance D^2 be used for determining the closest variety to be shown in the variety description.

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

The Working Group on Biochemical and Molecular Techniques, and DNA Profiling

in Particular, held its third session from September 19 to 21 at Wageningen (Netherlands) under the chairmanship of Mr. J. Guiard (France). Observers from Greece and Portugal and from the EC, together with representatives from ASSINSEL, attended the session.

The Working Group is active in a new field and, consequently, is still at the stocktaking stage. Methods for determining DNA profiles were presented for 11 species (barley, cluster pine, hydrangea, lucerne, peach, potato, rapeseed, ryegrass, strawberry, sunflower, tomato).

Ad hoc Group on the UPOV Central CD-ROM Database on Plant Variety Protection and Related Matters

The Group met on November 23 and 24 to examine questions raised by tests with the first demonstration disc and to finalize procedures for production of the disc.

III. SEMINARS

In 1995, UPOV organized two regional seminars and two national seminars on the nature of and rationale for the protection of plant varieties under the UPOV Convention.

(a) On March 13, a national seminar was organized in San José (Costa Rica) in cooperation with the Ministry of Justice of Costa Rica and with the assistance of the Ministry of Agriculture of the Netherlands. Lectures were delivered on the general and technical aspects of plant variety protection, the 1991 Act, plant variety protection in the Netherlands, and the implications of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) for Costa Rica.

(b) On March 15, a national seminar was organized in Guatemala in cooperation with the Industrial Property Registry of the Ministry of Economy of Guatemala and the Chamber of Commerce in Guatemala and with the assistance of the Ministry of Agriculture of the Netherlands. The seminar was opened by

Mrs. Irma Luz Toledo Peñate, Vice-Minister for the Economy, and Mr. Fernando Vargas, Vice-Minister for Agriculture. Lectures were given on seed production in Guatemala, the general aspects of the Industrial Property Registry, the general and technical aspects of plant variety protection, the 1991 Act, and the protection of plant varieties in the Netherlands.

(c) From May 3 to 5, a Regional Seminar on the Protection of Plant Varieties under the UPOV Convention was organized in Pretoria (South Africa) in cooperation with the Department of Agriculture of South Africa and with the financial assistance of the Overseas Development Administration of the United Kingdom. The seminar was intended for the member States of the Southern African Development Community (SADC). Lectures were given on the general and technical aspects of plant variety protection, on the 1991 Act, on plant breeders' rights in South Africa, Sweden, the United Kingdom and Zimbabwe, on intel-

lectual property rights and the seed industry, and on plant variety protection and vegetatively propagated crops in South Africa. The representatives of participating States gave reports on the current situation of the plant breeding and seed industries in their countries.

(d) From December 5 to 7, a Technical Seminar on Variety Testing for Tropical and Sub-tropical Crops under the UPOV Convention was organized in Medan (Indonesia), in cooperation with the Ministry of Agriculture of Indonesia and with the financial assistance of the Ministry of Agriculture, Forestry and Fisheries of Japan. The Seminar was in

tended for the countries of South East Asia. Lectures were given on the general aspects of plant variety protection, the technical criteria for protection, the test guidelines, the organization of examination in general and for specific species, the use of molecular techniques in examination, and plant breeding and the production and distribution of propagating material of certain tropical and subtropical crops.

Each of the seminars provided an occasion for high-level discussions with the authorities responsible for plant variety protection in the host countries.

IV. RELATIONS WITH MEMBER STATES⁶

During the year, the Office of the Union provided information to various member States with regard to the adaptation of their legislation to the 1991 Act and also submitted observations on draft laws. On December 6 and 7, it received the visit of Mr. Roman Suchý, Senior Administrator, Ministry of Agriculture of Slovakia, Mr. Eduard Smelko, private sector lawyer involved in the revision work on the legislation, and Mr. Vladimír Dovica, Third Secretary in the Permanent Mission in Geneva.

The Office of the Union was also consulted by officials of various member States with regard to the obligations resulting from the TRIPS Agreement, particularly with regard to notification of laws and bilateral and multi-lateral agreements.

On February 1, the Secretary-General received a Note from the Permanent Mission of Chile requesting the advice of the UPOV Council on the conformity of the Chilean Law with the 1978 Act of the UPOV Convention.

On May 10, the Vice Secretary-General received the visit of Mr. Howard Mann, a consultant on international and environmental law and policy, who was working for the Canadian Department of the Environment and sought information concerning the implementation of the Convention on Biological Diversity.

On October 30 and 31, two officials of the Office of the Union traveled to Madrid (Spain) to agree on the Spanish language terminology to be used in the technical documents of UPOV.

On November 7, the Vice Secretary-General visited Miss Nicole Bustin, Secretary-General of the Committee for the Protection of New Plant Varieties of France in Paris. The same day, he attended a reception at which Mr. Philippe Vasseur, Minister for Agriculture, decorated Mr. Victor Desprez with the insignia of Commander of the *Légion d'honneur*.

⁶ See also page 43, 7th paragraph (Switzerland)

V. RELATIONS WITH NON-MEMBER STATES

States of Africa⁷

1. In the course of the seminar held on March 7 and 8 in Santa Fé de Bogotá⁸ the Vice Secretary-General met Professor Nora Olembo, Head of the Industrial Property Office of Kenya, who passed to him a copy of the Regulations that had been made to implement the Seeds and Plant Varieties Act 1971 of Kenya, so far as plant breeders' rights were concerned.

On August 17, the Office of the Union wrote to Dr. Grant A. Mwakatundu, Commissioner for Agriculture and Livestock, Ministry of Agriculture of Tanzania, with comments on a draft law for the protection of new plant varieties in Tanzania.

On December 11, the Vice Secretary-General attended in Cairo (Egypt) the second National Seed Conference, at which he gave a lecture. Outside the Conference, he had discussions with Mr. Salah Abdel el Wanis, Under-Secretary for Agriculture and Director of the Central Administration for Seed. He also met Mr. Mohamed I. El Hawary, Director General, Directorate of Standards and Seed Industry Promotion, and Mr. Gamal Eissa Attya, an official of that Division responsible for matters of plant variety protection.

States of Latin America and the Caribbean⁹

On January 31, the Vice Secretary-General wrote to Mr. Luiz Antonio Barreto de Castro, Secretary for the Coordination of Programs, Ministry of Science and Technology of Brazil, concerning aspects of the 1978 and 1991 Acts.

Following the meeting of the Subregional Committee for the Protection of Plant Varieties of the Andean Group held in Lima on January 30 and 31, an official of the Union visited the National Institute for the Defense of Competition and Intellectual Property Protection of Peru (INDECOPI) where he met Mrs. Begoña Venero Aguirre, Head of the Office for Inventions and New Technologies; the responsibilities of the Institute include the implementation in Peru of Decision 345, which concerns the protection of plant varieties, of the Commission of the Cartagena Agreement.

He subsequently visited Quito (Ecuador). On February 2, he gave a lecture on the protection of plant varieties at the offices of the Inter-American Institute for Agricultural Cooperation (IICA) to an audience of officials from the ministries concerned and members of the relevant private sector. He subsequently met, at the Ministry of Agriculture and Livestock, Mr. Ignacio Pérez Arteta, Under Secretary, and Mr. Eduardo Mayacela, Head of the Division for Inputs, and Mr. Nelson Peñafiel, Director of the National Directorate for Agriculture and Livestock. At the Ministry of Industry, Commerce, Integration and Fisheries, he met Mr. Diego Montalvo Escobar, Director, National Directorate of Industrial Property, Corina Guevara Fernández, Executive Director of the National Seed Office, and other officials. They discussed the plant variety protection situation in Costa Rica and the draft regulations made under the existing national seed law and intended to create a system of plant variety protection in Costa Rica.

On March 16, the day after the National Seminar held in Guatemala, the Vice Secretary-General and Mr. Huib Ghijsen visited agricultural research centers in Guatemala.

On April 3, the Office of the Union received a letter from Ing. Agr. Carlos Alberto Pflingst, Acting Director of the Seed Directorate of Paraguay, requesting that the conformity of the law of Paraguay with the UPOV

⁷ See also page 47, 5th paragraph (North Africa, particularly Egypt, Morocco, Tunisia).

⁸ See page 49, 5th paragraph.

⁹ See also page 47, 3th paragraph (Colombia, Ecuador, Peru).

Convention be considered by the Council of UPOV at its extraordinary session on April 28, 1995. On April 6, the Vice Secretary-General received the visit of Mr. Rigoberto Gauto, Chargé d'affaires, Permanent Mission of Paraguay in Geneva, to discuss that request with him.

On May 10, the Office of the Union received the visit of Mr. Carlos Eduardo Illescas Rivera, Industrial Property Registrar of Guatemala, who inquired concerning the possibility of UPOV cooperating in holding a second national seminar in his country.

On May 10, the Office of the Union received the visit of Mrs. Begonia Venero Aguirre (Peru) and discussed with her a draft decree for the application of Decision 345 of the Commission of the Cartagena Agreement.

On May 11, the Vice Secretary-General received the visit of Mr. Rolando Miguel Hernández Vigaud, Head of the Legal Department of the National Office of Inventions, Technical Information and Marks of Cuba, who stated that his country was preparing a plant variety protection law in conformity with the 1978 Act.

On May 12, the Vice Secretary-General received the visit of Mr. Rolando J. Vega Méndez, Director and Registrar of Industrial Property in Venezuela, who expressed the wish of his country to accede to the UPOV Convention.

On May 22 and 23, the Vice Secretary-General took part, in Brasilia (Brazil), in a seminar on the "Draft Law for the Protection of Plant Varieties in the Light of the 1978 Version of UPOV," organized jointly by the Brazilian Agriculture and Livestock Research Organization (EMBRAPA) and by the Brazilian Seed Trade Association (ABRASAM), and gave two lectures.

On May 24, he visited the headquarters of EMBRAPA, where he met its President, Dr. Alberto Duque Portugal. He also visited the Chamber of Deputies of the Brazilian Congress, where he met the President of the Agricultural Committee, Deputy Alcides Modesto.

On May 30, the Office of the Union received the visit of Mrs. Emilia Lara Díaz, Head of the Patent Department of the National Office of Inventions, Technical Information and Marks of Cuba, who sought information on plant variety protection.

On June 8, the Vice Secretary-General visited the offices of the National Seed Council in La Paz (Bolivia), and subsequently called on the National Secretary for Agriculture and Livestock, Ing. Edgar Talavera Solíz.

On June 9, he visited the Regional Seed Office of Santa Cruz, Bolivia, where he met Mr. Jorge Suárez, National Director of the National Seed Council, and Mr. Jorge Rosales King, President of Prosemillas, with whom he discussed the draft national implementing regulations for Decision 345 of the Commission of the Cartagena Agreement.

On June 11, the Vice Secretary-General participated in a meeting organized by Ing. Alejandro Trueba Carranza, Director General of Agricultural Policy in the Secretariat for Agriculture, Livestock and Rural Development of Mexico, and the Mexican Seed Trade Association. A broad cross-section of persons interested in the intellectual property protection of plant varieties was present at the meeting, which the Vice Secretary-General addressed on the subject of protection under the UPOV Convention.

On July 28, the Vice Secretary-General received the visit of Mr. Gustavo Anda Sevilla, Second Secretary at the Permanent Mission of Ecuador in Geneva, who sought information on the procedure for accession to the 1978 Act of the Convention.

On August 29, Mr. Manuel Santillán Vinuesa, of the National Directorate of Industrial Property of Ecuador, visited the Office of the Union and reported that the Directorate had received 250 applications for the protection of plant varieties.

On September 28, the Vice Secretary-General received the visit of Mrs. Connie Matos de Guerrero, Foreign Trade Adviser of

the Central Bank of the Dominican Republic, who inquired concerning the compatibility of protection under the UPOV Convention with her country's obligations under the TRIPS Agreement.

On October 2, the Vice Secretary-General received the visit of Mrs. América Santos Rivera, Director of the National Office of Inventions, Technical Information and Marks of Cuba, and discussed with her the possibility of holding a national seminar in Cuba.

On October 3, the Secretary-General received a letter from Mr. Carlos Agreda Lema, National Secretary for Agriculture and Livestock of Bolivia, in which he requested that the UPOV Council examine the conformity of the Bolivian legislation with the UPOV Convention.

On October 24, the Office of the Union received from the Permanent Mission of Ecuador a request for examination by the UPOV Council of the conformity of Ecuador's legislation with the UPOV Convention.

On October 24, the Office of the Union received a final text of the draft implementing regulations for Decision 345 of the Commission of the Cartagena Agreement drawn up by the authorities of Peru.

On November 1, the Vice Secretary-General received the visit of Mr. Germán Ortega Almeida, First Secretary at the Permanent Mission of Ecuador in Geneva, and of Mr. Alfredo Peñaherrera Wright, a lawyer from Quito, and discussed with them the procedure for acceding to the UPOV Convention.

On November 27, the Office of the Union received the visit of Mrs. Begoña Venero Aguirre (Peru) and organized for her a visit to the Plant Variety Protection Office of Switzerland in Berne.

At the beginning of December, the Office of the Union was informed that the Parliament of Colombia had adopted a law enabling that country to accede to the 1978 Act of the Convention.

On December 7, the Office of the Union wrote to Mr. Eduardo Benítez Paulin, Director of the National Seed Inspection and Certification Service of Mexico, with regard to ratification of the 1978 Act by that country.

On December 21, the Secretary-General wrote to the Permanent Mission of Brazil with regard to the conditions for accession to the 1978 Act. On the same day, the Vice Secretary-General discussed with Mrs. Vanda Scartezini, President of the National Industrial Property Institute of Brazil, the progress of work on the Brazilian plant variety protection law.

States of Asia and the Pacific

On April 26, the Vice Secretary-General received a visit from the observer delegation of the Republic of Korea which was participating in the thirty-fifth session of the Administrative and Legal Committee. They explained the situation concerning the introduction of plant variety protection in their country and asked various questions.

On April 27, the Vice Secretary-General received a visit from Mr. Ramarao Nuthakki, Joint Secretary, Department of Agriculture and Cooperation, Ministry of Agriculture of India and Mr. Mangala Rai, Assistant Director General, Indian Council for Agricultural Research, who described the preparation of legislation on plant variety protection in their country.

On May 10, the Vice Secretary-General received the visit of Mr. Taufik M.E. Maroef of the Bureau of Laws and Legislation in the Cabinet Secretariat of Indonesia, who described the role of his office in legislation for the protection of plant varieties.

On June 6, the Secretary-General received the visit of Mr. Yuan Ke Xing, Director General, Department of Rural Science and Technology, China, and of Mrs. Li Xiaolin, Deputy Director General of that Department, together with other officials of the Department, who asked for information concerning the UPOV system of plant variety protection.

On August 28, the Vice Secretary-General received an invitation from the Ministry of Agriculture to visit China in the context of a seed industry project of the World Bank to discuss proposals for the introduction of a law for the protection of new plant varieties with Chinese officials.

He visited China from October 4 to 10. From October 4 to 7, he participated in a seminar organized by the World Bank. On October 9 and 10, he met senior members of various institutions involved in the setting-up of legislation on plant variety protection and, in particular, the members of the Inter-Ministerial Committee responsible for producing the preliminary draft of the law.

On October 17, a group of eight experts in the field of varieties and seed in India, who were in Europe on a study visit under the aegis of the World Bank and of FAO, attended the session of the Council. The next day, they had talks with the Vice Secretary-General.

On November 10 and December 4, an official of the Union received the visit of Mr. Luis M. Bombín, Head of the General Legal Affairs Service of the Legal Office of FAO, who had been called upon to visit Malaysia to advise the Government of that country on legislation in the field of varieties and seed.

On November 15, the Vice Secretary-General wrote to Mrs. Hang Sanba, Director of Division, Department of Rural Science and Technology of China, with regard to the conditions for accession to the 1978 Act of the Convention.

On November 20, the Vice Secretary-General received the visit of Mr. Hemant Krishan Singh, Deputy Permanent Representative of India in Geneva, and Mr. Dilip Sinha, Counsellor, Permanent Mission, who handed to him an *aide-mémoire* setting out India's intention to accede to the 1978 Act of the Convention and requesting information on the deadline for depositing instruments of accession. The conditions for accession to the 1978 Act were subsequently set out in a letter dated November 23.

On December 14, the Vice Secretary-General received the visit of Mr. Ignacio S. Sapalo, Director of the Bureau of Patents, Trademarks and Technology Transfer of the Philippines, and Mr. Ferdinand M. Negre, a private lawyer working on behalf of that Office.

States of Europe and Central Asia

Countries in transition to market economy

On January 3, the Vice Secretary-General wrote to Mr. Eugen M. Stashkov, Director General of the State Agency for Industrial Property Protection of the Republic of Moldova, with comments on a draft law for the protection of plant varieties in Moldova.

On January 31, the Office of the Union wrote to Mr. Akil A. Azimov, Director of the Uzbek Patent Office, concerning the provisional statement on selection achievements adopted by the Cabinet of Ministers of Uzbekistan.

On February 28, the Secretary-General wrote to Mr. Alexander Chikvaidze, Minister for Foreign Affairs of Georgia, in response to a request for assistance in relation to plant variety protection matters.

On March 27, the Office of the Union received the visit of Mr. Saparbay A. Eminov, Head of the Intersectorial Committee for Techniques and Information Processing of the Cabinet of Ministers of Turkmenistan, and Mr. Bayram O. Kazakov, Head of the Department of New Technology and Education in the same Office, to whom information concerning plant variety protection was passed.

On April 6, the Vice Secretary-General discussed in a telephone conversation with Mr. Roman O. Omorov, Head of the Patent Department of Kyrgyzstan, the possibility of organizing a UPOV regional seminar for the countries of Central Asia in Bishkek.

On April 26, the Vice Secretary-General met with Dr. Kristo Iliev, President of the Pat

ent Office of Bulgaria, who told him of plans to legislate on plant variety protection in his country.

On April 27, the Vice Secretary-General received the visit of Mr. Yuriy Rogovsky, Deputy Chairman, State Commission for Testing and Protection of Selection Achievements of the Russian Federation, and Mrs. Tatjana Gorpichenko, Director, Center for Quality Control of Plant Varieties, who discussed with him arrangements concerning possible accession by their country to the UPOV Convention.

On May 11, the Vice Secretary-General received the visit of Mr. Valery J. Kudashov, Chairman of the Belarus Patent Office, who handed to him the Russian text of the Plant Variety Protection Law of Belarus, which entered into force on July 7.

Also on May 11, the Vice Secretary-General received the visit of Mrs. Mioara Radulescu, Director General of the State Office for Inventions and Trademarks of Romania, who discussed the status of the proposed plant variety protection law of Romania.

On June 27, the Vice Secretary-General visited Chisinau (Republic of Moldova). He met Mr. Eugeniu I. Revenco, Director of Research in the Ministry of Agriculture and Food, and Mr. Dimitri Brynzila, President of the State Commission for Variety Testing and Registration. He subsequently visited the State Agency for Industrial Property Protection of Moldova where he met the Director General, Mr. Eugen Stashkov, and the Research Institute for Selection and Technology in Horticulture, where he met the Director, Mr. Feodor C. Popovich.

In the afternoon of the same day, the Vice Secretary-General visited the Parliament of Moldova where he met the Chairman and members of the Parliament Committee for Agriculture and the Processing Industry and discussed the passage of plant variety protection legislation. He then visited the National Institute for Vines and Wine of the Republic of Moldova.

On June 28, he participated in a meeting

of plant breeders from the Agricultural Research Institutes of Moldova, held in the Ministry of Agriculture and Food, and spoke on the UPOV Convention and answered questions. He subsequently visited the Offices of the President of the Republic of Moldova where he met the Agricultural Adviser to the President, who told him of the intention of the Government to enact legislation on the protection of plant varieties and to accede to UPOV. He later visited the Maize and Sorghum Research Institute of Moldova and met its Director, Mr. Vasile E. Micu.

On June 29, the Vice Secretary-General visited the State Office for Inventions and Trademarks of Romania in Bucharest and met its Director General, Mrs. Mioara Radulescu, Mr. Nicolae Pirvu, President of the State Committee for the Testing of Plant Varieties, and other officials.

On June 30, the Vice Secretary-General met with Mr. Julian Pusca, Secretary of State in the Ministry of Agriculture, and Mr. Nicolae Pogorevici, Director of the Horticulture Department of the Ministry of Agriculture, and discussed the timetable for legislating on the protection of plant varieties.

On July 24, the Vice Secretary-General met in Sofia the Minister of Agriculture and Food Industry of Bulgaria, Mr. V. Chichibaba, together with Mr. Maria Lazarova, Deputy Minister for Agriculture, Professor Hristo Karjin, President of the Agricultural Academy of Bulgaria, and Mr. Cheleev Dimitar, Director of the State Variety Testing Commission and other officials, and discussed the proposed legislation of Bulgaria for the protection of new plant varieties and animal breeds and, in particular, the desire of the Bulgarian Government that the new Bulgarian law should conform with the 1991 Act.

On July 25, the Vice Secretary-General met in the Ministry of Agriculture with the Group of Experts responsible for drafting the new plant variety protection law of Bulgaria.

On July 27, the Vice Secretary-General met with Dr. Kristo Iliev, President of the Bulgarian Patent Office, and Professor Stefan Stefanov of the Technical University of Sofia,

who expressed interest in including plant variety protection material in the courses studied by students at the Technical University.

On September 27, the Vice Secretary-General received the visit of Mr. Akil A. Azimov (Uzbekistan), who discussed legal developments concerning plant variety protection in his country and invited a representative of the Office of the Union to visit his country.

Also on September 27, the Vice Secretary-General received the visit of Mr. David Gabunia, Chairman of the Patent Office of Georgia, and of Mr. Nureddin M.A. Babirly, Director of the Department of Patents and Licensing of the State Committee for Science and Engineering of Azerbaijan, and discussed with them the interest of their countries in plant variety protection.

On September 28, the Vice-Secretary General received the visit of Mr. Valery J. Kudashov, Chairman of the Patent Office of Belarus, and of Mr. Alexander Chenado, Deputy Head, Patent Examination Division of that Office, and discussed with them the plant variety protection law of Belarus and the wish of that country to receive the advice of the Council of UPOV on the conformity of that law with the UPOV Convention.

Also on September 28, the Vice Secretary-General received the visit of Mr. Eugen Stashkov (Republic of Moldova), who told him that a Bill introducing a law for the protection of plant varieties was currently before the Parliament of Moldova.

On September 29, the Vice Secretary-General received the visit of Mr. Khabiboulo F. Fayazov, Director of the National Center for Patents and Information of Tajikistan, and discussed the interest of his country in introducing a law for the protection of plant varieties.

Also on September 29, the Vice Secretary-General received the visit of Mr. Roman O. Omorov, Head of the Patent Department of Kyrgyzstan, and Mr. Abdikalil T. Tokoev, Deputy Head of the Department, and discussed the regulation for the protection of plant varieties which was already in force. They invited the Office of the Union to cooperate with

their country in organizing an international seminar on plant variety protection in Kyrgyzstan in 1996. That invitation was accepted on October 3.

On October 3, the Office of the Union received the visit of Mr. Sarkis L. Khantardjian, President of the Patent Office of Armenia, and provided him with documentation on plant variety protection and on UPOV.

On October 16, Mr. Eugeniu I. Revenco (Republic of Moldova) handed to the Office of the Union the text of a draft law on plant variety protection that had been submitted to Parliament.

On October 17, the Secretary-General received a letter from Mr. I.P. Shakolo, Vice-Minister for Agriculture of Belarus, requesting the advice of the UPOV Council on conformity of the Law of Belarus with the 1978 Act of the UPOV Convention.

Also on October 17, the Vice Secretary-General received from Mrs. Adriana Paraschiv, Head of the Examination Department of the State Office for Inventions and Trademarks of Romania, an English translation of the latest version of the draft law on the protection of plant varieties.

On November 30, the Vice Secretary-General received the visit of Mr. Atanas Atanasov, Director of the Genetic Engineering Institute of Bulgaria, and discussed with him the effects of the law on plant variety protection submitted to Parliament.

Other States¹⁰

On January 26, the Office of the Union corresponded with Mrs. Margellou, Director of International Relations and Legal Affairs of the Directorate of Commercial and Industrial Property of Greece, concerning protection of plant varieties under the UPOV Convention.

On August 2, the Office of the Union wrote to Mrs. Liljana Varga, Assistant Direc-

¹⁰ See also page 47, 5th paragraph (Cyprus, Turkey).

tor of the Industrial Property Protection Office of the Former Yugoslav Republic of Macedonia, to provide information which she had requested on plant variety protection.

On October 19, the Vice Secretary-General received the visit of Mr. Michael Gavras, Assistant Director of the Plant Production Supply Division of the Ministry of Agriculture of Greece, in order to examine with him the possibilities provided by the plant varieties and seeds legislation to introduce a plant variety protection system.

On November 28, the Vice Secretary-General received the visit of Mr. Dimitar Belcev, Counsellor at the Permanent Mission of the Former Yugoslav Republic of Macedonia in Geneva, who handed to him a letter from the Minister for Agriculture of his Government concerning possible assistance by UPOV in the setting-up of a plant variety protection system. A positive reply was given by the Secretary-General on November 30.

VI. RELATIONS WITH INTERNATIONAL ORGANIZATIONS¹¹

On January 30 and 31, an official of the Union participated in the second meeting of the Subregional Committee for the Protection of Plant Varieties of the Andean Group in Lima (Peru). This occasion was used to pay a visit to the authorities of Colombia, Ecuador and Peru.

On February 2, he visited the Offices of the Inter-American Institute for Agricultural Cooperation (IICA) in Quito (Ecuador), where he met Mr. Patricio Martínez Jaime, foreign trade and integration expert.

From March 19 to 23, an official of the Union participated in a meeting of the Council of the WANA (West Asia and North African) Seed Network in Antalya (Turkey). This network is organized by the International Center for Agricultural Research in the Dry Areas (ICARDA). The Council meeting was convened by ICARDA with the support of the Ministry of Agriculture of Turkey. The meeting was opened by Mr. Refaeddin Sahin, Minister for Agriculture of Turkey, who mentioned the promulgation of a plant variety protection law in Turkey in 1994. Further information concerning developments and the preparation of laws for the protection of plant varieties was obtained from participants from Cyprus, Egypt, Morocco, Tunisia and Turkey.

From May 29 to June 2, the Vice Secretary-General participated in the World Congresses of the International Federation of the Seed Trade (FIS) and the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) in Buenos Aires (Argentina).

On June 12 and 13, an official of the Office of the Union participated in the 24th Congress of the International Seed Testing Association (ISTA) in Copenhagen (Denmark) and gave information concerning developments in UPOV.

On June 19, an official of the Office of the Union participated in the Annual Meeting of Representatives of Designated National Authorities of OECD, Paris (France) and gave information on recent developments in UPOV.

From June 19 to July 2, an official of the Office of the Union participated in the sixth session of the Commission on Plant Genetic Resources of FAO in Rome (Italy).

On August 8, the Secretary-General wrote to Mr. Stuart Harbinson, Chairman of the Council for TRIPS of the World Trade Organization (WTO), in response to a request from the Council for TRIPS for information concerning UPOV's technical and financial cooperation with developing countries.

On August 23, the Vice Secretary-General received the visit of Mr. Piers Trehane,

¹¹ See also page 44, 1st, 2nd and 3rd paragraph (WORLD BANK) and 3rd and 4th (FAO)

editor of the International Code for the Nomenclature of Cultivated Plants, with whom he and other officials of the Union discussed the relationship between that code and the UPOV rules for denominations.

In September and October, the Office of the Union had contacts with the Secretariat of the Convention on Biological Diversity and provided information for the drafting of documents for the second meeting of the Conference of the Parties, held in Djakarta (Indonesia) from November 6 to 17.

On September 1, the Secretary-General sent an invitation to Mr. Renato Ruggiero, Director General of WTO, inviting him to designate a representative of WTO to participate in an observer capacity at the twenty-ninth ordinary session of the UPOV Council.

On September 21, the Council for TRIPS of WTO invited the Office of the Union to be represented in an observer capacity at its meeting held on that day and at its subsequent meeting. The Vice Secretary-General attended the meeting of the Council for TRIPS held on September 21.

On September 22, the Vice Secretary-General received the visit of Mr. José Esquinas-Alcazar, Secretary of the Commission for Plant Genetic Resources of FAO, and Mr. Arturo Purcell, Senior Liaison Officer of FAO in Geneva.

On October 10, an official of the Office of the Union participated in a meeting held by the EC Commission on comparative trials of shallot and onion varieties at Brion (France).

On October 18, the Secretary-General and an official of the Office of the Union met Mr. Graham Jenkins and Mr. Wolfgang Siebeck, two consultants from the International Plant Genetic Resources Institute (IPGRI) who

were carrying out a study on the way in which IPGRI should act to ensure the free circulation of plant genetic resources for food and agriculture within the framework of the Convention on Biological Diversity.

On October 22 and 23, the Vice Secretary-General participated in a meeting of the Genetic Resources Policy Committee of the Consultative Group on International Agricultural Research (CGIAR) at the Headquarters of the World Bank in Washington, D.C. (United States of America).

On November 16 and 17, the Vice Secretary-General participated in a workshop on seed industry privatization in the WANA region, organized by ICARDA, the Deutsche Gesellschaft. From June 19 to July 2, an official of the Office of the Union participated in the sixth session of the Commission on Plant Genetic Resources of FAO in Rome (Italy).

On November 21, the Vice Secretary-General participated in a meeting of the Council for TRIPS of WTO.

On December 11, an official of the Office of the Union attended in an observer capacity a session of the Council for TRIPS that adopted a draft agreement between WIPO and WTO concerning the conditions for cooperation between the two organizations in the fields of notification of intellectual property laws and regulations, of communication of State and other emblems and of technical and legal assistance and technical cooperation for the developing countries.

On December 14, the Secretary-General and an official of the Office of the Union met Mr. Michael Flitner and Mr. Dan Leskien, two consultants from IPGRI who were carrying out a study on *sui generis* systems of protection.

VII. OTHER EXTERNAL RELATIONS

On March 7 and 8, the Vice Secretary-General participated in an international seminar in Santa Fé de Bogotá (Colombia), organized by the Inter-American Institute for Agri-

cultural Cooperation (IICA) and the University of Amsterdam (Netherlands) on the topic "the effects of intellectual property rights on agriculture in developing countries." During the

seminar, a report was presented on the study of the impact of plant breeders' rights in developing countries based on the experience of Argentina, Chile, Colombia, Mexico and Uruguay.

On May 22, the Office of the Union received the visit of Mrs. Jayashree Watal, Senior Consultant, and of Mr. C. Niranjana Rao, Associate Fellow, of the International Council for Research on International Economic Relations, who asked questions concerning the UPOV Convention and the provisions of the TRIPS Agreement concerning plant varieties.

On May 29, the Office of the Union received the visit of Mr. Edwin H. Baker, Associate Resident Counsel to the Office of Technology Transfer, University of California (United States of America), who was interested in the plant variety protection system.

From June 14 to 16, the Vice Secretary-General participated in an international symposium on the protection of industrial property

in the field of biotechnology organized by the Mexican Institute for Industrial Property, the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO). He gave a paper on the protection of plant varieties under the UPOV Convention and was a member of a discussion panel.

On September 19, an official of the Office of the Union participated in the General Assembly in Grenoble (France) of the Union of French Maize Producers (SEPROMA), and spoke on developments in UPOV.

On October 17, an official of the Office of the Union gave a lecture on the protection of plant varieties and UPOV as part of a training course organized by WIPO and EPO on search and examination in the field of biotechnology.

On October 19, the Vice Secretary-General received the visit of a group of members of the Japanese Society of Independent Breeders.

VIII. PUBLICATIONS

The Office of the Union published:

(a) a new edition (1995) of the UPOV General Information Brochure in English, French, German and Spanish;

(b) updated editions of the information leaflet on UPOV and plant variety protection in English, French, German and Spanish;

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

(d) 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);

(e) two supplements and an index to the Collection of Laws and Treaties;

(f) the records of the national seminars held in Malaysia and in Pakistan in November and December 1994.

[Annex follows]

ANNEX

MEMBERSHIP OF THE UNION
(as of December 31, 1995)

State	Date of Signature ¹²	Date of Deposit of Instrument ^{12, 13}	Date Upon Which State Became Bound ¹²
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 10, 1972 October 23, 1978 March 19, 1991	November 5, 1976 November 5, 1976 - -	December 5, 1976 February 11, 1977 - -
Canada	- - October 31, 1979 March 9, 1992	- - February 4, 1991 -	- - March 4, 1991 -
Chile	- - - -	- - December 5, 1995 -	- - January 5, 1996 -
Czech Republic ¹⁴	- - - -	- - - -	- - January 1, 1993 -
Denmark	November 26, 1962 November 10, 1972 October 23, 1978 March 19, 1991	September 6, 1968 February 8, 1974 October 8, 1981 -	October 6, 1968 February 11, 1977 November 8, 1981 -

12 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.

13 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.

14 Continuation of the accession of Czechoslovakia (instrument deposited on November 4, 1991; State bound on December 4, 1991).

State	Date of Signature ¹²	Date of Deposit of Instrument ^{12, 13}	Date Upon Which State Became Bound ¹²
Finland	- - - -	- - March 16, 1993 -	- - April 16, 1993 -
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 -
Norway	- - - -	- - August 13, 1993 -	- - September 13, 1993 -

State	Date of Signature ¹²	Date of Deposit of Instrument ^{12, 13}	Date Upon Which State Became Bound ¹²
Poland	- - - -	- - October 11, 1989 -	- - November 11, 1989 -
Portugal	- - - -	- - September 14, 1995 -	- - October 14, 1995 -
Slovakia ¹⁴	- - - -	- - - -	- - January 1, 1993 -
South Africa	- - October 23, 1978 March 19, 1991	October 7, 1977 October 7, 1977 July 21, 1981 -	November 6, 1977 November 6, 1977 November 8, 1981 -
Spain	- - - March 19, 1991	April 18, 1980 April 18, 1980 - -	May 18, 1980 May 18, 1980 - -
Sweden	- January 11, 1973 December 6, 1978 December 17, 1991	November 17, 1971 January 11, 1973 December 1, 1982 -	December 17, 1971 February 11, 1977 January 1, 1983 -
Switzerland	November 30, 1962 November 10, 1972 October 23, 1978 March 19, 1991	June 10, 1977 June 10, 1977 June 17, 1981 -	July 10, 1977 July 10, 1977 November 8, 1981 -
Ukraine	- - - -	- - October 3, 1995 -	- - November 3, 1995 -
United Kingdom	November 26, 1962 November 10, 1972 October 23, 1978 March 19, 1991	September 17, 1965 July 1, 1980 August 24, 1983 -	August 10, 1968 July 31, 1980 September 24, 1983 -
United States of America	- - October 23, 1978 October 25, 1991	- - November 12, 1980 -	- - November 8, 1981 -
Uruguay	- - - -	- - October 13, 1994 -	- - November 13, 1994 -

UNITED STATES OF AMERICA

Plant Variety Protection Act¹

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¹ Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542-1559.
Consolidation published by the Agricultural Marketing Service of the United States Department of Agriculture.

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Plant Variety Protection Act

To encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

CHAPTER 1

ORGANIZATION AND PUBLICATIONS

Section 1

Establishment²

There is hereby established in the Department of Agriculture an office to be known as the Plant Variety Protection Office, which shall have the functions set forth in this Act. (7 U.S.C. 2321.)

Section 2

Seal

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated. (7 U.S.C. 2322.)

Section 3

Organization

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this Act. (7 U.S.C. 2323.)

² Sec. 1 of Pub. L. 96-574, Dec. 22, 1980, 94 Stat. 3350, substituted "an office" for "a bureau". Section 1 of Pub. L. 103-349, 108 Stat. 3136, Oct. 6, 1994 reads:

Section 1

Short Title; References

"(a) SHORT TITLE— This Act may be cited as the "Plant Variety Protection Act Amendments of 1994".

"(b) REFERENCES TO PLANT VARIETY PROTECTION ACT— Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.)." (7 U.S.C. 2321 note.)

Section 4

Restrictions on Employees as to Interest in Plant Variety Protection

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office. (7 U.S.C. 2324.)

Section 5

Repealed³

(7 U.S.C. 2325.)

Section 6

Regulations

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board. (7 U.S.C. 2326.)

Section 7

Plant Variety Protection Board

(a)⁴ APPOINTMENT— The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this Act. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or the designee of the Secretary shall act as chairperson of the Board without voting rights except in the case of ties.

³ Sec. 2 of Pub. L. 96-574, 94 Stat. 3350, Dec. 22, 1980, repealed Section 5 which required employees to obtain surety bonds.

⁴ As amended by Sec. 13(a) of Pub. L. 103-349, 108 Stat. 3142, Oct. 6, 1994, to eliminate gender specific language.

(b) FUNCTIONS OF BOARD— The functions of the Plant Variety Protection Board shall include:

- (1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this Act;
- (2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and
- (3) Advising the Secretary on all questions under section 44.

(c) COMPENSATION OF BOARD— The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses. (7 U.S.C. 2327.)

Section 8

Library

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the examiners⁵ in the discharge of their duties. (7 U.S.C. 2328.)

Section 9

Register of Protected Plant Varieties⁶

The Secretary shall maintain a register of descriptions of United States protected plant varieties. (7 U.S.C. 2329.)

Section 10

Publications

(a)⁷The Secretary may publish, or cause to be published, in such format as the Secretary shall determine to be suitable, the following:

- (1) The descriptions of plant varieties protected including drawings and photographs.
- (2) The Official Journal of the Plant Variety Protection Office including annual indices.
- (3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b)⁸The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of plant breeding.

(c)⁹The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of descriptions, drawings, and photographs of United States protected plant varieties for copies of descriptions, drawings, and photographs of applications and protected plant varieties of foreign countries. (7 U.S.C. 2330.)

Section 11

Copies for Public Libraries

The Secretary may supply printed copies of descriptions,¹⁰ drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public. (7 U.S.C. 2331.)

CHAPTER 2

LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

Section 21

Day for Taking Action Falling on Saturday, Sunday, or Holiday

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant

⁵ Section 3 of Pub. L. 96-574, 94 Stat. 3350, struck the word "officers" and inserted in lieu thereof the word "examiners".

⁶ Section 4 of Pub. L. 96-574, 94 Stat. 3350, substituted "descriptions" for "published specifications", and deleted provisions requiring maintenance of a file for other information.

⁷ Sec. 13(b) of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, eliminated gender-specific language; and Sec. 5 of Pub. L. 96-574, 94 Stat. 3350, substituted "descriptions of plant varieties protected" for "specifications for plant variety protection" in paragraph (1).

⁸ Section 6 of Pub. L. 96-574, 94 Stat. 3350, repealed former subsection (b) which related to photolithography and lithography. Section 7 of Pub. L. 96-574 redesignated former subsection (c) as (b), and substituted "plant breeding" for "the useful arts".

⁹ Section 8 of Pub. L. 96-574 redesignated former subsection (d) as (c), and substituted "descriptions" for "specifications" in the second sentence.

¹⁰ Section 9 of Pub. L. 96-574 substituted "descriptions" for "specifications".

Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day. (7 U.S.C. 2351.)

Section 22

Form of Papers Filed

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office. (7 U.S.C. 2352.)

Section 23

Testimony in Plant Variety Protection Office Cases¹¹

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, the person shall have like power. (7 U.S.C. 2353.)

Section 24

Subpoenas, Witnesses¹²

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding the witness to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused

to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless the fees and traveling expenses of the witness in going to, and returning from, one day's attendance at the place of examination, are paid or tendered the witness at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary. (7 U.S.C. 2354.)

Section 25

Effect of Defective Execution

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed. (7 U.S.C. 2355.)

Section 26

Regulations for Practice Before the Office

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct. (7 U.S.C. 2356.)

Section 27

Unauthorized Practice¹³

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 26, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; nor to anyone who establishes that the person acted only on behalf of any employer by whom the person was regularly employed. (7 U.S.C. 2357.)

¹¹ Section as amended by Sec. 13 of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, to eliminate gender-specific language.

¹² *Ibid.*

¹³ *Ibid.*

CHAPTER 3

PLANT VARIETY PROTECTION FEES

Section 31Plant Variety Protection Fees¹⁴

(a) IN GENERAL— The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

(b) LATE PAYMENT PENALTY— On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

(c) DISPOSITION OF FUNDS— Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(d) ACTIONS FOR NONPAYMENT— The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

(e) AUTHORIZATION OF APPROPRIATIONS— There are authorized to be appropriated such sums as are necessary to carry out this Act. (7 U.S.C. 2371.)

Section 32Payment of Plant Variety Protection Fees;
Return of Excess Amounts

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required. (7 U.S.C. 2372.)

¹⁴ Section as amended by Pub. L. 96-574, 94 Stat. 3350, Dec. 22, 1980. Pub. L. 100-203, 101 Stat. 1330-28, Dec. 22, 1987, generally amended the section, including the authority to invest the funds collected.

CHAPTER 4

PROTECTABILITY OF PLANT VARIETIES

Section 41Definitions and Rules of Construction¹⁵

(a) DEFINITIONS— As used in this Act:

(1) BASIC SEED— The term 'basic seed' means the seed planted to produce certified or commercial seed.

¹⁵ As amended by Sec. 2 of Pub. L. 103-349, 108 Stat. 3136, Oct. 6, 1994. Sections 14 and 15 of Pub. L. 103-349, 108 Stat. 3144 read:

Section 14Transitional provisions

"(a) IN GENERAL— Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

"(b) APPLICATIONS REFILED.—

"(1) IN GENERAL— An applicant may refile a pending application on or after the effective date of this Act.

"(2) EFFECT OF REFILING— If a pending application is refiled on or after the effective date of this Act—

"(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

"(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

"(c) LABELING—

"(1) IN GENERAL— To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

"(2) SANCTIONS— Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

Section 15Effective date

"This Act and the amendments made by this Act [amending sections 2327, 2330, 2353, 2354, 2357, 2401, 2402, 2404, 2422, 2423, 2424, 2425, 2442, 2461, 2462, 2463, 2482, 2483, 2486, 2501, 2504, 2532, 2541, 2542, 2543, 2561, 2566, 2567, 2568, and 2570 and repealing sections 2463, 2502, and 2503] shall become effective 180 days after the date of enactment of this Act" (7 U.S.C. 2401 note.)

- (2) **BREEDER**— The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.
- (3) **ESSENTIALLY DERIVED VARIETY**—
- (A) **IN GENERAL**— The term 'essentially derived variety' means a variety that—
- (i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;
 - (ii) is clearly distinguishable from the initial variety; and
 - (iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.
- (B) **METHODS**— An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.
- (4) **KIND**— The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.
- (5) **SEED**— The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.
- (6) **SEXUALLY REPRODUCED**— The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.
- (7) **TUBER PROPAGATED**— The term 'tuber propagated' means propagated by a tuber or a part of a tuber.
- (8) **UNITED STATES**— The terms 'United States' and 'this country' mean the United States, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.
- (9) **VARIETY**— The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.
- (b) **RULES OF CONSTRUCTION**— For the purposes of this Act:
- (1) **SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES**— The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.
 - (2) **SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES**— The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.
 - (3) **SALE OR DISPOSITION OF HYBRID SEED**— The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.
 - (4) **APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES**— The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.
 - (5) **DISTINCTNESS**— The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any

characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

(6) PUBLICLY KNOWN VARIETIES—

(A) IN GENERAL— A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

(B) DESCRIPTION— A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

(C) OTHER MEANS— A variety may become publicly known and a matter of common knowledge by other means. (7 U.S.C. 2401.)

Section 42

Right to Plant Variety Protection; Plant Varieties Protectable¹⁶

(a) IN GENERAL— The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

(A) in the United States, more than 1 year prior to the date of filing; or

(B) in any area outside of the United States—

(i) more than 4 years prior to the date of filing, except that in the case of a tuber

propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; or

(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) MULTIPLE APPLICANTS—

(1) IN GENERAL— If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

(2) REQUIREMENTS COMPLETED ON SAME DATE—

(A) IN GENERAL— Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

(B) VARIETIES INDISTINGUISHABLE— If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants. (7 U.S.C. 2402.)

Section 43

Reciprocity Limits

Protection under the Act may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species. (7 U.S.C. 2403.)

¹⁶ Sec. 3 of Pub. L. 103-349, 108 Stat. 3138, Oct. 6, 1994; Sec. (a) defines what is protectable, "new", "distinct", "uniform", and "stable"; and Sec. (b) defines procedure for multiple applicants, requirements completed on the same date, and varieties indistinguishable. Sec. 913(a) of Pub. L. 104-127, 110 Stat. 1186, April 4, 1996; amended Sec. 42(a)(1)(B)(i) by waiving the four year limitation for a period of one year, for a tuber propagated plant variety.

Section 44Public Interest in Wide Usage¹⁷

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when the Secretary determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 71 or 72 (any finding that the price is not reasonable being reviewable), and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court. (7 U.S.C. 2404.)

CHAPTER 5**APPLICATIONS; FORM, WHO MAY FILE,
RELATING BACK, CONFIDENTIALITY**Section 51Application for Recognition of Plant Variety Rights

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary. (7 U.S.C. 2421.)

Section 52Content of Application¹⁸

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be

issued. The variety shall be named in accordance with regulations issued by the Secretary.

(2) A description of the variety setting forth its distinctiveness, uniformity, and stability and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A statement of the basis of the claim of the applicant that the variety is new.

(4) A declaration that a viable sample of basic seed (including any propagating material) necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder.¹⁹

(5) A statement of the basis of applicant's ownership. (7 U.S.C. 2422.)

Section 53Joint Breeders²⁰

(a) When two or more persons are the breeders, one person (or the successor of the person) may apply, naming the others.

(b) The Secretary, after such notice as the Secretary may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application. (7 U.S.C. 2423.)

Section 54Death or Incapacity of Breeder²¹

Legal representatives of deceased breeders and of those under legal incapacity may make application for

¹⁷ As amended by Sec. 13(f) of Pub. L. 103-349, 108 Stat. 3143, Oct 6, 1994, to eliminate gender-specific language.

¹⁸ Sec. 4 of Pub. L. 103-349, 108 Stat. 3139, Oct. 6, 1994, added "The variety shall be named in accordance with the regulations issued by the Secretary." to the end of paragraph (1); struck "novelty" in paragraph (2) and inserted "distinctiveness, uniformity, and stability"; redesignated paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and added a new paragraph (3); and inserted "(including any propagating material)" after "basic seed" in paragraph (4).

¹⁹ Section 11 of Pub. L. 96-574, 94 Stat. 3350, deleted provision relating to adding of declaration by amendment.

²⁰ As amended by Sec. 13 of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, to eliminate gender-specific language.

²¹ *Ibid.*

plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or the successor in interest of the breeder. (7 U.S.C. 2424.)

Section 55

Benefit of Earlier Filing Date²²

(a)(1) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by nationals of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed, not including the date on which the application is filed in the foreign country.

(2) No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in the application filed in the United States or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

- (i) the 2-year period beginning on the date of the expiration of the period of priority; or
- (ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

(B) An event occurring within the period of priority (such as the filing of another

application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by the predecessor in title of the person, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application. (7 U.S.C. 2425.)

Section 56

Confidential Status of Application²³

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies, the name of the applicant, and whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed. (7 U.S.C. 2426.)

Section 57

Publication²⁴

The Secretary may establish regulations for the publication of information regarding any pending application when publication is requested by the owner. (7 U.S.C. 2427.)

²² Sec. 5 of Pub. L. 103-349, 108 Stat. 3139, Oct. 6, 1994, redesignated the first and second sentences of Sec. (a) as paragraphs (1) and (2), respectively; added ", not including the date on which the application is filed in the foreign country" at the end of paragraph (1); and added a new paragraph (3). Sec. 13(i) of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, eliminated gender-specific language.

²³ Pub. L. 96-574, 94 Stat. 3350, added provision relating to the name of the applicant and whether the variety is to be sold by variety name only.

²⁴ Pub. L. 96-574, 94 Stat. 3350, added "information regarding" following "publication of".

CHAPTER 6

EXAMINATION, RESPONSE TIME, INITIAL
APPEALSSection 61Examination of Application

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided. (7 U.S.C. 2441.)

Section 62Notice of Refusal; Reconsideration

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b)²⁵For taking appropriate action after the mailing to an applicant of an action other than allowance, the applicant shall be allowed at least 30 days, and not more than 180 days, or such other time as the Secretary shall set in the refusal, or such time as the Secretary may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary. (7 U.S.C. 2442.)

Section 63Initial Appeal

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal. (7 U.S.C. 2443.)

²⁵ Sec. 6 of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994, struck "six months" and inserted "at least 30 days, and not more than 180 days", and struck "in exceptional circumstances"; and Sec. 13(j) of Pub. L. 103-349, 108 Stat. 3143, eliminated gender-specific language.

CHAPTER 7

APPEALS TO COURTS AND OTHER REVIEW

Section 71Appeals²⁶

From the decisions made under sections 44, 63, 91, and 128 appeal may, within sixty days or such further times as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal. (7 U.S.C. 2461.)

Section 72Civil Action Against Secretary²⁷

An applicant dissatisfied with a decision under section 63 or 91 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for the variety as specified in the application as the facts of the case may appear, on compliance with the requirements of this Act. (7 U.S.C. 2462.)

Section 73Repealed²⁸

(7 U.S.C. 2463.)

²⁶ As amended by Pub. L. 97-164, 96 Stat. 45, April 2, 1982, to provide the Court of Appeals for the Federal Circuit with exclusive jurisdiction over appeals. See footnote 50. Section further amended by Sec. 8(d)(1) of Pub. L. 103-349, 108 Stat. 3141, Oct. 6, 1994, to strike "92," after "91".

²⁷ As amended by Sec. 13(k) of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, to eliminate gender-specific language.

²⁸ Sec. 8(c)(2) of Pub. L. 103-349, 108 Stat. 3141, Oct. 6, 1994, repealed Sec. 73, relating to appeal or civil action in contested cases. Prior to repeal, subsection (b) of Sec. 73 was transferred to Sec. 92 (7 U.S.C. 2504) by Sec. 8(c)(1) of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994.

CHAPTER 8

CERTIFICATES OF PLANT VARIETY
PROTECTIONSection 81Plant Variety Protection

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 52 (3), the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted. (7 U.S.C. 2481.)

Section 82How Issued²⁹

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have the signature of the Secretary placed thereon, and shall be recorded in the Plant Variety Protection Office. (7 U.S.C. 2482.)

²⁹ As amended by Sec. 13 (l) of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, to eliminate gender-specific language.

Section 83Contents and Term of Plant Variety Protection³⁰

(a)(1) Every certificate of plant variety protection shall certify that the breeder (or the successor in interest of the breeder), has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this Act.

(2) If the owner so elects, the certificate shall—

(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

(B) if so specified, conform to the number of generations designated by the owner.

(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).

(4) The Secretary may at the discretion of the Secretary permit such election or waiver to be made after certifying and amend the certificate accordingly, without retroactive effect.

(b) Term—

(1) IN GENERAL— Except as provided in paragraph (2), the term of plant variety protection shall expire 20 years from the date of issue of the certificate in the United States, except that —

³⁰ Sec. 7 of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994, designated first through fourth sentences of subsection (a) as paragraphs (1) through (4), respectively, and revised paragraphs (2) and (3) (as so designated). Pub. L. 96-574, 94 Stat. 3350, substituted "eighteen" for "seventeen". In subsection (b), Sec. 7(2) of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994, substituted "20" for "eighteen" and added protection for a tree or vine for a 25 year term. As amended by Sec. 7(3) of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994, which substituted "repository, or requiring the submission of a different name for the variety, except that" for "repository: *Provided, however, That*"; and Sec. 13(m) of Pub. L. 103-349, 108 Stat. 3143, eliminated gender-specific language. Sec. 913(b) of Pub. L. 104-127, 110 Stat. 1186, April 4, 1996, amended the term of protection to expire 20 years after the date of protection granted to the variety outside the United States. Sec. 913(b)(3) erroneously referred to paragraph (2) of Section 83(b). Section 913(b)(3) reads:

"(3) in paragraph (2) (as so designated), by striking "except that, in the case" and inserting the following:

"except that—

The intent was to refer to paragraph (1). The language in the text reflects the intent of Congress.

(A) in the case of a tuber propagated plant variety subject to a waiver granted under the section 42(a)(1)(B)(i), the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

(B) in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate.

(2) EXCEPTIONS— If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certifying, relating to replenishing seed in a public repository, or requiring the submission of a different name for the variety, except that this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 101(d) and the last owner fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary. (7 U.S.C. 2483.)

Section 84

Correction of Plant Variety Protection Office Mistake

Whenever a mistake in a certificate of plant variety protection incurred through the fault of the Plant Variety Protection Office is clearly disclosed by the records of the Office, the Secretary may issue, without charge, a corrected certificate of plant variety protection, stating the fact and nature of such mistake. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form. (7 U.S.C. 2484.)³¹

Section 85

Correction of Applicant's Mistake³²

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety

protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a corrected certificate if the correction could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form. (7 U.S.C. 2485.)

Section 86

Correction of Named Breeder³³

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by the Secretary or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights the person otherwise would have had. (7 U.S.C. 2486.)

CHAPTER 9

REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

Section 91

Reexamination After Issue³⁴

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the description³⁵ of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such

³¹ Pub. L. 96-574, 94 Stat. 3350-3351, authorizes issuance of a corrected certificate instead of a certificate of correction.

³² Pub. L. 96-574, 94 Stat. 3351, provides for reissuance of a corrected certificate when a correction is necessary through a mistake not the fault of the Plant Variety Protection Office.

³³ As amended by Sec. 13(n) of Pub. L. 103-349, 108 Stat. 3143, Oct. 6, 1994, to eliminate gender-specific language.

³⁴ Amended by Sec. 13(o) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, to eliminate gender-specific language.

³⁵ Pub. L. 96-574, 94 Stat. 3351, struck "specification" and inserted in lieu thereof "description".

interparty proceedings as the Secretary shall establish. (7 U.S.C. 2501.)

Section 92

Repealed³⁶

(7 U.S.C. 2502.)

Section 93

Repealed³⁷

(7 U.S.C. 2503.)

Section 92

Interfering Plant Variety Protection³⁸

(a) The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but the Secretary shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy

³⁶ Repealed by Sec. 8(a) of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994.

³⁷ *Ibid.*

³⁸ Sec. 8 of Pub. L. 103-349, 108 Stat. 3140, Oct. 6, 1994, repealed Sections 92 and 93 relating to priority contests; re-designated existing Section 94 (7 U.S.C. 2504) as Sec. 92(a); and struck at the end of subsection (a) of Sec. 92 (as designated) "The provisions of section 73(b) of this title shall apply to actions brought under this section ."; and added subsection (b) which was formerly subsection (b) of Sec. 73 (7 U.S.C. 2463(b)). Further amended by Sec. 13(p) of Pub. L. 103-349, 108 Stat. 3144, to eliminate gender-specific language.

of the judgment and on compliance with the requirements of this Act. (7 U.S.C. 2504.)

CHAPTER 10

OWNERSHIP AND ASSIGNMENT

Section 101

Ownership and Assignment

(a) Subject to the provisions of this title, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgment thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage. (7 U.S.C. 2531.)

Section 102

Ownership During Testing³⁹

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible or tuber propagable plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder.

³⁹ Sec. 8(d)(2) of Pub. L. 103-349, 108 Stat. 3141, Oct. 6, 1994, inserted "or tuber propagable" after "sexually reproducible" each place it appears.

No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible or tuber propagable plant material available to the public, as by sale thereof. (7 U.S.C. 2532.)

CHAPTER 11

INFRINGEMENT OF PLANT VARIETY PROTECTION

Section 111

Infringement of Plant Variety Protection⁴⁰

(a) Except as otherwise provided in this title, it shall be an infringement of the rights of the owner of a protected variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a protected plant variety with the notice under section 127:

- (1) sell or market the protected variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;
- (2) import the variety into, or export it from, the United States;
- (3) sexually multiply, or propagate by a tuber or a part of a tuber, the variety as a step in marketing (for growing purposes) the variety;
- (4) use the variety in producing (as distinguished from developing) a hybrid or different variety therefrom;
- (5)⁴¹ use seed which had been marked "Unauthorized Propagation Prohibited" or

"Unauthorized Seed Multiplication Prohibited" or progeny thereof to propagate the variety;

- (6) dispense the variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received;
- (7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;
- (8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);
- (9) perform any of the foregoing acts even in instances in which the variety is multiplied other than sexually, except in pursuance of a valid United States plant patent; or
- (10) instigate or actively induce performance of any of the foregoing acts.

(b)(1) Subject to paragraph (2), the owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

(2) In the case of a contract between a seed producer and the owner of a protected variety of lawn, turf, or forage grass seed, or alfalfa or clover seed for the production of seed of the protected variety, the producer shall be deemed to be authorized by the owner to sell such seed and to use the variety if—

(A) the producer has fulfilled the terms of the contract;

(B) the owner refuses to take delivery of the seed or refuses to pay any amounts due under the contract within 30 days of the payment date specified in the contract; and

(C) after the expiration of the period specified in subparagraph (B), the producer notifies the owner of the producer's intent to sell the seed and unless the owner fails to pay the amounts due under the contract and take delivery of the seed within 30 days of such notification. For the purposes of this paragraph, the term "owner" shall include any licensee of the owner.

(3) Paragraph (2) shall apply to contracts entered into with respect to plant varieties protected

⁴⁰ Section 3 of Pub. L. 102-560, 106 Stat. 4231, Oct. 28, 1992, designated former section as subsection (a) and added subsection (b). Sec. 4 of Pub. L. 102-560, 106 Stat. 4232, Oct. 28, 1992, provided that the amendments made by this Act [amending Sec. 111 and adding Sec. 130] shall take effect with respect to violations that occur on or after the date of enactment of this Act (Oct. 28, 1992). (7 U.S.C. 2541 note.) Sec. 9 of Pub. L. 103-349, 108 Stat. 3141, Oct. 6, 1994, replaced all references to "novel variety" with "protected variety"; added marketing as an act that requires authority of the breeder; included tuber propagation as a step in marketing; redesignated paragraphs (7) and (8) as paragraphs (9) and (10), respectively; added new paragraphs (7) and (8) in subsection (a); redesignated subsection (b) as subsection (f); and added new subsections (b) through (e). Further amended by Sec. 13(q) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, to eliminate gender-specific language.

⁴¹ Section 19(a) of Pub. L. 96-574, 94 Stat. 3351, struck "propagation prohibited" and inserted in lieu thereof " 'Unauthorized Propagation Prohibited' or 'Unauthorized Seed Multiplication Prohibited' ".

under this Act (7 U.S.C. 2321 et seq.) as in effect on the day before the effective date of this provision as well as plant varieties protected under this Act as amended by the Plant Variety Protection Act Amendments of 1994.

- (4) Nothing in this subsection shall affect any other rights or remedies of producers or owners that may exist under other Federal or State laws.
- (c) This section shall apply equally to—
 - (1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;
 - (2) any variety that is not clearly distinguishable from a protected variety;
 - (3) any variety whose production requires the repeated use of a protected variety; and
 - (4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided under this Act with respect to the propagating material.
- (d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that is sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.
- (e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.
- (f) As used in this section, the term "perform without authority" includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity. (7 U.S.C. 2541.)

Section 112

Grandfather Clause⁴²

Nothing in this Act shall abridge the right of any person, or the successor in interest of the person, to reproduce or sell a variety developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection. (7 U.S.C. 2542.)

Section 113

Right To Save Seed; Crop Exemption⁴³

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 111, it shall not infringe any right hereunder for a person to save seed produced by the person from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on the farm of the person, or for sale as provided in this section. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 127 that the actions of the purchaser constitute an infringement. (7 U.S.C. 2543.)

Section 114

Research Exemption

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this Act. (7 U.S.C. 2544.)

Section 115

Intermediary Exemption

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this Act. (7 U.S.C. 2545.)

⁴² As amended by Sec. 13(r) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, to eliminate gender-specific language.

⁴³ As amended by Sec. 10 of Pub. L. 103-349, 108 Stat. 3142, Oct. 6, 1994, which struck the proviso that allowed the sale of "saved seed" to other persons; and by Sec. 13(s) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, which eliminated gender-specific language.

CHAPTER 12

REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

Section 121Remedy for Infringement of Plant Variety Protection.⁴⁴

An owner shall have remedy by civil action for infringement of plant variety protection under section 111. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety. (7 U.S.C. 2561.)

Section 122Presumption of Validity; Defenses

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) non-infringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 42 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 52; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this Act. (7 U.S.C. 2562.)

Section 123Injunction

The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable. (7 U.S.C. 2563.)

Section 124Damages

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

⁴⁴ As amended by Sec. 13(t) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, to eliminate gender-specific language.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages. (7 U.S.C. 2564.)

Section 125Attorney Fees

The court in exceptional cases may award reasonable attorney fees to the prevailing party. (7 U.S.C. 2565.)

Section 126Time Limitation on Damages⁴⁵

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that the claim has been denied shall not be counted as part of the period referred to in the preceding paragraph. (7 U.S.C. 2566.)

Section 127Limitation of Damages; Marking and Notice⁴⁶

Owners may give notice to the public by physically associating with or affixing to the container of seed of a variety or by fixing to the variety, a label containing either the words "Unauthorized Propagation Prohibited" or

⁴⁵ As amended by Sec. 13(u) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, to eliminate gender-specific language.

⁴⁶ Section 19(b) of Pub. L. 96-574, 94 Stat. 3351, struck the phrase "the words 'Propagation Prohibited' " and inserted in lieu thereof the phrase "either the words 'Unauthorized Propagation Prohibited' or the words 'Unauthorized Seed Multiplication Prohibited' ". Sec. 11 of Pub. L. 103-349, 108 Stat. 3142, Oct. 6, 1994, struck "novel" before "variety" each place it appeared.

the words "Unauthorized Seed Multiplication Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice. (7 U.S.C. 2567.)

Section 128

False Marking; Cease and Desist Orders⁴⁷

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant material or tuber or parts of tubers, is prohibited, and the Secretary may, if the Secretary determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 71:

- (1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certificate, when it is not.
- (2) Use of any wording importing that the material is a variety for which an application for plant variety protection is pending, when it is not.
- (3) Use of either the phrase "Unauthorized Propagation Prohibited" or "Unauthorized Seed Multiplication Prohibited" or similar phrase without reasonable basis. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.
- (4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, or alfalfa or clover seed may be

sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than \$10,000 and not less than \$500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action. (7 U.S.C. 2568.)

Section 129

Nonresident Proprietors; Service and Notice

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court. (7 U.S.C. 2569.)

Section 130

Liability of States, Instrumentalities of States, and State Officials for Infringement of Plant Variety Protection⁴⁸

(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including

⁴⁷ Pub. L. 96-574, 94 Stat. 3352, added the word "either" following the words "Use of", and struck "propagation prohibited" and inserted in lieu thereof the words "Unauthorized Propagation Prohibited" or "Unauthorized Seed Multiplication Prohibited", and struck the phrase "a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed" in paragraph (3). Sec. 12 of Pub. L. 103-349, 108 Stat. 3142, Oct. 6, 1994, inserted "or tuber or parts of tubers" after "plant material" in the introductory provisions; and added new paragraph (4). Sec. 13(v) of Pub. L. 103-349, 108 Stat. 3144, eliminated gender-specific language.

⁴⁸ Sec. 3(b) of Pub. L. 102-560, 106 Stat. 4231, Oct. 28, 1992, added Sec. 130; and Sec. 4 of Pub. L. 102-560 provided that the amendments made by this Act [amending Sec. 111 and adding Sec. 130] shall take effect with respect to violations that occur on or after the date of enactment of this Act. (7 U.S.C. 2541 note.) Sec. 13(w) of Pub. L. 103-349, 108 Stat. 3144, Oct. 6, 1994, eliminated gender-specific language.

remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125. (7 U.S.C. 2570.)

CHAPTER 13

INTENT AND SEVERABILITY

Section 131

Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon. (7 U.S.C. 2581.)

Section 132

Severability

If this Act is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances. (7 U.S.C. 2582.)

CHAPTER 14

TEMPORARY PROVISION AND RELATED ENACTMENTS; EXEMPTED PLANTS; MISCELLANEOUS

Section 141

Effective Date

This Act shall take effect upon enactment. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation. (7 U.S.C. 2321.)

Section 142

Amendment of Federal Seed Act⁴⁹

(7 U.S.C. 1551.)

Section 143

Amendment of Judicial Code⁵⁰

(28 U.S.C. 1545.)

Section 144

Repealed⁵¹

(7 U.S.C. 2583.)

Section 145

Short Title

This Act may be cited as the "Plant Variety Protection Act". (7 U.S.C. 2321 note.)

⁴⁹ This section amends the Federal Seed Act (53 Stat. 1275) by adding at the end thereof a new Title V, Section 501, dealing with the sale of uncertified seed of protected variety. Following is the language of Title V, Section 501:

"Title V – SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

Sec. 501. It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer for sale or advertise, by variety name, seed not certified by an official seed certifying agency, when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owners of the variety." (7 U.S.C. 1611.)

⁵⁰ This section amended Title 28 of the United States Code, entitled Judicial Code and Judiciary, by adding Section 1545, which gave nonexclusive jurisdiction of appeals to the Court of Customs and Patent Appeals. Section 1545 was repealed by Pub. L. 97-164, 96 Stat. 41, April 2, 1982.

Pub. L. 97-164, 96 Stat. 37-38, April 2, 1982, amended title 28 of the United States Code by adding a new section 1295, which reads:

"Sec. 1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit

"(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction--

"(8) of an appeal under section 71 of the Plant Variety Protection Act (7 U.S.C. 2461)".

⁵¹ Pub. L. 96-574, 94 Stat. 3352, Dec. 22, 1980, repealed Section 144 which exempted okra, celery, peppers, tomatoes, carrots, and cucumbers from provisions of the Act.

UNITED STATES OF AMERICA

Regulations and Rules of Practice¹

Part 97--Plant Variety and Protection

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¹ Authority: Plant Variety Protection Act, as amended, 7 U.S.C. 2321 *et seq.*; and Sec. 14, Plant Variety Protection Act amendments of 1994, 7 U.S.C. 2401 note.

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Regulations and Rules of Practice

Part 97--Plant Variety and Protection

Scope§ 97.1 General

Certificates of protection are issued by the Plant Variety Protection Office for new, distinct, uniform, and stable varieties of sexually reproduced or tuber propagated plants. Each certificate of plant variety protection certifies that the breeder has the right, during the term of the protection, to prevent others from selling the variety, offering it for sale, reproducing it, importing or exporting it, conditioning it, stocking it, or using it in producing a hybrid or different variety from it, as provided by the Act.

Definitions§ 97.2 Meaning of words

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. The definitions of terms contained in the Act shall apply to such terms when used in this part. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

Abandoned application. An application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

Act. The Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

Administrator. The Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

Applicant. The person who applied for a certificate of plant variety protection.

Application. An application for plant variety protection under the Act.

Assignee. A person to whom an owner assigns his/her rights in whole or in part.

Board. The Plant Variety Protection Board appointed by the Secretary.

Certificate. A certificate of plant variety protection issued under the Act by the Office.

Certified seed. Seed which has been determined by an official seed certifying agency to conform to standards

of genetic purity and identity as to variety, which standards have been approved by the Secretary.

Commissioner. The Examiner in Chief of the Office.

Decision and order. Includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law, as well as the reasons or basis therefor; and order.

Examiner. An employee of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

Foreign application. An application for plant variety protection filed in a foreign country.

Hearing Clerk. The Hearing Clerk, U.S. Department of Agriculture, Washington, DC.

Hearing Officer. An Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly assigned to preside at a hearing held pursuant to the rules of this part.

Office or Plant Variety Protection Office. The Plant Variety Protection Office, Science and Technology Division, AMS, USDA.

Official Journal. The "Official Journal of the Plant Variety Protection Office."

Owner. A breeder who developed or discovered a variety for which plant variety protection may be applied for under the Act, or a person to whom the rights to such variety have been assigned or transferred.

Person. An individual, partnership, corporation, association, government agency, or other business or governmental entity.

Secretary. The Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his or her stead.

Seed certifying agency. It shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

Sale for other than seed purposes. The transfer of title to and possession of the seed by the owner to a grower or other person, for reproduction for the owner, for testing, or for experimental use, and not for commercial sale of the seed or the reproduced seed for planting purposes.

Administration

§ 97.3 Plant Variety Protection Board

(a) The Plant Variety Protection Board shall consist of 14 members appointed for a 2-year term. The Board shall be appointed every 2 years and shall consist of individuals who are experts in various areas of varietal development. The membership of the Board, which shall include farmer representation, shall be drawn approximately equally from the private or seed industry sector and from the government or public sector. No member shall be eligible to act on any matter involving any appeal or questions under section 44 of the Act, in which the member or his or her employer has a direct financial interest.

(b) The functions of the Board are to:

- (1) advise the Secretary concerning adoption of rules and regulations to facilitate the proper administration of the Act;
- (2) make advisory decisions on all appeals from the examiner or Commissioner;
- (3) advise the Secretary on the declaration of a protected variety open to use in the public interest; and
- (4) advise the Secretary on any other matters under the regulations in this part.

(c) The proceedings of the Board shall be conducted in accordance with the Federal Advisory Committee Act, Administrative Regulations of the U.S. Department of Agriculture (7 CFR Part 25), and such additional operating procedures as are adopted by members of the Board.

The Application

§ 97.5 General requirements

(a) Protection under the Act shall be afforded only as follows:

- (1) Nationals and residents of the United States shall be eligible to receive all of the protection under the Act.
- (2) Nationals and residents of Member States of the International Union for the Protection of New Varieties of Plants (including states which are members of an intergovernmental organization which is a UPOV member) shall be eligible to receive the same protection under the Act as is provided to nationals of the United States.
- (3) Persons who are not entitled to protection under paragraph (a)(1) or (2) of this section, and who are nationals of a foreign state which is not a member of the International Union for the Protection of New Varieties of Plants,

shall be entitled to only so much of the protection provided under the Act, as is afforded by such foreign state to nationals of the United States, for the same genus and species under the laws of such foreign state in effect at the time that the application for protection under the Act is filed, except where further protection under the Act must be provided in order to avoid the violation of a treaty to which the United States is a party.

(b) Applications for certificates shall be made to the Plant Variety Protection Office. An application shall consist of:

- (1) A completed application form, except that the section specifying that seed of the variety shall be sold by variety name only as a class of certified seed, need not be completed at the time of application.
- (2) A completed set of the exhibits, as specified in the application form, unless the examiner waives submission of certain exhibits as unnecessary, based on other claims and evidence presented in connection with the application.
- (3) Language and legibility:
 - (i) Applications and exhibits must be in the English language and legibly written, typed or printed.
 - (ii) Any interlineation, erasure, cancellation, or other alteration must be made in permanent ink before the application is signed and shall be clearly initialed and dated by the applicant to indicate knowledge of such fact at the time of signing.

(4) To determine the extent of reciprocity of the protection to be provided under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request², furnish the Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national, and an accurate English translation of such laws and regulations.

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Science and Technology Division, AMS, USDA, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705.)

² Copies and translations of foreign laws and regulations will be requested only if they are not in the files of the Plant Variety Protection Office. Applicants may learn whether such a request will be made by writing to the address given in paragraph (c) of this section.

(d) Effective the date of these regulations and rules of practice, the signature of the applicant, or his or her agent or attorney on any affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by the applicant. The signature certifies that all information relied on in any affidavit or statement filed in the course of the proceeding is knowingly correct and false claims have not been made to mislead.

§ 97.6 Application for certificate

(a) An application for a plant variety protection certificate shall be signed by, or on behalf, of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

(c) The fees for filing an application, and search or examination, shall be submitted with the application in accordance with sections 97.175 through 97.178.

(d) The applicant shall submit with the application:

(1) at least 2,500 seeds of the viable basic seed required to reproduce the variety;

(2) with the application for a tuber propagated variety, verification that a viable cell culture has been deposited in a public depository approved by the Commissioner and will be maintained for the duration of the certificate; or

(3) with the application for a hybrid from self-incompatible parents, verification that a plot of vegetative material for each parent has been established in a public depository approved by the Commissioner and will be maintained for the duration of the certificate.

§ 97.7 [Reserved]

§ 97.8 Specimen requirements

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office for all costs, including travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by

an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his or her expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

§ 97.9 Drawings and photographs

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety, and the color shall be described by use of Nicker-son's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube, in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

§ 97.10 Parts of an application to be filed together

All parts of an application, including exhibits, should be submitted to the Office together, otherwise, each part shall be accurately and clearly referenced to the application.

§ 97.11 Application accepted and filed when received

(a) An application, if materially complete when initially submitted, shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified. The application will be held a maximum of 3 months for completion. Applications not completed at the end of the prescribed period will be considered abandoned. The application fee in such cases will not be refunded.

§ 97.12 Number and filing date of an application

(a) Applications shall be numbered and dated in sequence in the order received in the Office. Applicants will be informed in writing as soon as practicable of the number and effective filing date of the application.

(b) An applicant may claim the benefit of the filing date of a prior foreign application in accordance with section 55 of the Act. A certified copy of the foreign application shall be filed upon request made by the examiner. If a foreign application is not in the English language, an English translation, certified as accurate by a sworn or official translator, shall be submitted with the application.

§ 97.13 When the owner is deceased or legally incapacitated

In case of the death of the owner or if the owner is legally incapacitated, the legal representative (executor, administrator, or guardian) or heir or assignee of the deceased owner may sign as the applicant. If an applicant dies between the filing of his or her application and the granting of a certificate thereon, the certificate may be issued to the legal representative, heir, or assignee, upon proper intervention.

§ 97.14 Joint applicants

(a) Joint owners shall file a joint application by signing as joint applicants.

(b) If an application for certificate is made by two or more persons as joint owners, when they were not in fact joint owners, the application shall be amended prior to issuance of a certificate by filing a corrected application, together with a written explanation signed by the original applicants. Such statement shall also be signed by the assignee, if any.

(c) If an application has been made by less than all the actual joint owners, the application shall be amended by filing a corrected application, together with a written explanation, signed by all of the joint owners. Such statement shall also be signed by the assignee, if any.

(d) If a joint owner refuses to join in an application or cannot be found after diligent effort, the remaining owner may file an application on behalf of him or herself and the missing owner. Such application shall be accompanied by a written explanation and shall state the last known address of the missing owner. Notice of the filing of the application shall be forwarded by the Office to the missing owner at the last known address. If such notice is returned to the Office undelivered, or if the address of the missing owner is unknown, notice of the filing of the application shall be published once in the Official Journal. Prior to the issuance of the certificate, a missing owner may join in an application by filing a written explanation. A certificate obtained by less than all of the joint owners under this paragraph conveys the same rights and privileges to said owners as though all of the original owners had joined in an application.

§ 97.15 Assigned varieties and certificates

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or

one of the persons identified in section 97.13. However, the certificate may be issued to the assignee, or jointly to the owner and the assignee, when a part interest in a variety is assigned.

§ 97.16 Amendment by applicant

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in section 97.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name, only as a class of certified seed.

§ 97.17 Papers of completed application to be retained

The papers submitted with a completed application shall be retained by the Office except as provided in section 97.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 97.18 Applications handled in confidence

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application. Also, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his or her assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and section 1.4 of this title, and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress, or as provided in sections 56 or 57 of the Act and section 97.19.

(b) Abandoned applications shall not be open to public inspection. However, if an abandoned application is directly referred to in an issued certificate and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified di-

rectly or through the attorney or agent of record, and a time, not less than 30 days, shall be set for presenting objections.

§ 97.19 Publication of pending applications

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show:

- (a) application number and date of filing;
- (b) the name of the variety or temporary designation;
- (c) the name of the kind of seed; and
- (d) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified. Additional information, such as the name and address of the applicant or a brief description of the distinctive features of the variety, may be published only upon request or approval received from the applicant, at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

§ 97.20 Abandonment for failure to respond within the time limit

- (a) Except as otherwise provided in section 97.104, if an applicant fails to advance actively his or her application within 30 days after the date when the last request for action was mailed to the applicant by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned. The application fee in such cases will not be refunded.
- (b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.
- (c) When the applicant makes a bona fide attempt to advance the application, and is in substantial compliance with the request for action, but has inadvertently failed to comply with some procedural requirement, opportunity to comply with the procedural requirement shall be given to the applicant before the application shall be deemed abandoned. The Commissioner may set a period, not less than 30 days, to correct any deficiency in the application.

§ 97.21 Extension of time for a reply

The time for reply by an applicant to a request by the Office for certain action, shall be extended by the Commissioner only for good and sufficient cause, and for a specified reasonable time. A request for extension and appropriate fee shall be filed on or before the specified

time for reply. In no case shall the mere filing of a request for extension require the granting of an extension or state the time for reply.

§ 97.22 Revival of an application abandoned for failure to reply

An application abandoned for failure on the part of the applicant to advance actively his or her application to its completion, in accordance with the regulations in this part, may be revived as a pending application within 3 months of such abandonment, upon a finding by the Commissioner that the failure was inadvertent or unavoidable and without fraudulent intent. A request to revive an abandoned application shall be accompanied by a written statement showing the cause of the failure to respond, a response to the last request for action, and by the specified fee.

§ 97.23 Voluntary withdrawal and abandonment of an application

- (a) An application may be voluntarily withdrawn or abandoned by submitting to the Office a written request for withdrawal or abandonment, signed by the applicant or his or her attorney or agent of record, if any, or the assignee of record, if any.
- (b) An application which has been voluntarily abandoned may be revived within 3 months of such abandonment by the payment of the prescribed fee and a showing that the abandonment occurred without fraudulent intent.
- (c) An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only by refiling and payment of a new application fee.
- (d) Transitional provision. An applicant whose application is pending on April 4, 1995, may notify the Plant Variety Protection Office in writing that he or she wishes to withdraw the application and refile it under the Plant Variety Protection Act as amended in 1994. Payment of the current application fee is required but no other formalities are necessary.

§ 97.24 Assignee

The assignee of record of the entire interest in an application is entitled to advance actively or abandon the application to the exclusion of the applicant.

Examinations, Allowances, and Denials

§ 97.100 Examination of applications

- (a) [Reserved]
- (b) Examinations of applications shall include a review of all available documents, publications, or

other material relating to varieties of the species involved in the application, except that if there are fundamental defects in the application, as determined by the examiner, the examination may be limited to an identification of such defects and notification to the applicant of needed corrective action. However, matters of form or procedure need not, but may, be raised by an examiner until a variety is found to be new, distinct, uniform, and stable and entitled to protection.

§ 97.101 Notice of allowance

If, on examination, it shall appear that the applicant is entitled to a certificate, a notice of allowance shall be sent to the applicant or his or her attorney or agent of record, if any, calling for the payment of the prescribed fee, which fee shall be paid within 1 month from the date of the notice of allowance. Thereafter, a fee for delayed payment shall be made as required under section 97.175.

§ 97.102 Amendments after allowance

Amendments to the application, after the notice of allowance is issued, may be made, if the certificate has not been issued.

§ 97.103 Issuance of a certificate

(a) After the notice of allowance has been issued, the prescribed fee is received by the Office, and the applicant has clearly specified whether or not the variety shall be sold by variety name only as a class of certified seed, the certificate shall be promptly issued. Once an election is made and a certificate issued specifying that seed of the variety shall be sold by variety name only as a class of certified seed, no waiver of such rights shall be permitted by amendment of the certificate.

(b) The certificate shall be delivered or mailed to the owner.

§ 97.104 Application or certificate abandoned

(a) Except as provided in paragraph (c) of this section, if the fee specified in the notice of allowance is not paid within 1 month from the date of the notice, the application shall be considered abandoned.

(b) Upon request by the Office, the owner shall replenish the viable basic seed sample of the variety. Upon request, the sample of seed which has been replaced shall be returned to the owner, otherwise it shall be destroyed. Failure to replenish viable basic seed within 3 months from the date of request shall result in the certificate being regarded as abandoned. No sooner than 1 year after the date of such request, notices of abandoned certificates shall be published

in the Official Journal, indicating that the variety has become open for use by the public and, if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

(c) If the allowance fee, the viable basic seed sample or the fee for delayed payment are submitted within 9 months of the final due date, it may be accepted by the Commissioner as though no abandonment had occurred. For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned.

(d) A certificate may be voluntarily abandoned by the applicant or his or her attorney or agent of record or the assignee of record by notifying the Commissioner in writing. Upon receipt of such notice, the Commissioner shall publish a notice in the Official Journal that the variety has become open for use by the public, and if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

§ 97.105 Denial of an application

(a) If the variety is found by the examiner to be not new, distinct, uniform, and stable, the application shall be denied.

(b) In denying an application, the examiner shall cite the reasons the application was denied.

When a reason involves the citation of certain material which is complex, the particular part of the material relied on shall be designated as nearly as practicable. The pertinence of each reason, if not obvious, shall be clearly explained.

(c) If prior domestic certificates are cited as a reason for denial, their numbers and dates and the names of the owners shall be stated. If prior foreign certificates or rights are cited, as a reason for denial, their nationality or country, numbers and dates, and the names of the owners shall be stated, and such other data shall be furnished, as may be necessary to enable the applicant to identify the cited certificates or rights.

(d) If printed publications are cited as a reason for denial, the author (if any), title, date, pages or plates, and places of publication, or place where a copy can be found shall be given.

(e) When a denial is based on facts known to the examiner, and upon request by the applicant, the denial shall be supported by the affidavit of the examiner. Such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

(f) Abandoned applications may not be cited as reasons for denial.

§ 97.106 Reply by applicant; request for reconsideration

(a) After an adverse action by the examiner, the applicant may respond to the denial and may request a reconsideration, with or without amendment of his or her application. Any amendment shall be responsive to the reason or reasons for denial specified by the examiner.

(b) To obtain a reconsideration, the applicant shall submit a request for reconsideration in writing and shall specifically point out the alleged errors in the examiner's action. The applicant shall respond to each reason cited by the examiner as the basis for the adverse action. A request for reconsideration of a denial based on a faulty form or procedure may be held in abeyance by the Commissioner until the question of the variety being new, distinct, uniform, and stable is settled.

(c) An applicant's request for a reconsideration must be a bona fide attempt to advance the case to final action. A general allegation by the applicant that certain language which he or she cites in the application or amendment thereto establishes the variety is new, distinct, uniform, and stable without specifically explaining how the language distinguishes the alleged new, distinct, uniform, and stable variety from the material cited by the examiner shall not be grounds for a reconsideration.

§ 97.107 Reconsideration and final action

If, upon reconsideration, the application is denied by the Commissioner, the applicant shall be notified by the Commissioner of the reason or reasons for denial in the same manner as after the first examination. Any such denial shall be final unless appealed by the applicant to the Secretary within 60 days from the date of denial, in accordance with sections 97.300-97.303. If the denial is sustained by the Secretary on appeal, the denial shall be final subject to appeal to the courts, as provided in section 97.500.

§ 97.108 Amendments after final action

(a) After a final denial by the Commissioner, amendments to the application may be made to overcome the reason or reasons for denial. The acceptance or refusal of any such amendment by the Office and any proceedings relative thereto shall not relieve the applicant from the time limit set for an appeal or an abandonment for failure to reply.

(b) No amendment of the application can be made in an appeal proceeding. After decision on appeal, amendments can only be made to carry into effect a recommendation under section 97.302(b).

Correction of Errors in Certificate

§ 97.120 Corrected certificate - office mistake

When a certificate is incorrect because of a mistake in the Office, the Commissioner may issue a corrected cer-

tificate stating the fact and nature of such mistake, under seal, without charge, to be issued to the owner and recorded in the records at the Office.

§ 97.121 Corrected certificate - applicant's mistake

When a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of minor character, or in the description of the variety (including, but not limited to, the use of a misleading variety name or a name assigned to a different variety of the same species), and the mistake is found by the Commissioner to have occurred in good faith and does not require a further examination, the Commissioner may, upon payment of the required fee and return of the original certificate, correct the certificate by issuing a corrected certificate, in accordance with section 85 of the Act. If the mistake requires a reexamination, a correction of the certificate shall be dependent on the results of the reexamination.

Reissuance of Certificate

§ 97.122 Certified seed only election

When an owner elects after a certificate is issued to sell the protected variety by variety name only as a class of certified seed, a new certificate may be issued upon return of the original certificate to the Office and payment of the appropriate fee.

Assignments and Recording

§ 97.130 Recording of assignments

(a) Any assignment of an application for a certificate, or of a certificate of plant variety protection, or of any interest in a variety, or any license or grant and conveyance of any right to use of the variety, may be submitted for recording in the Office in accordance with section 101 of the Act (7 U.S.C. 2531).

(b) No instrument shall be recorded which is not in the English language or which does not identify the certificate or application to which it relates.

(c) An instrument relating to title of a certificate shall identify the certificate by number and date, the name of the owner, and the name of the variety as stated in the certificate. An instrument relating to title of an application shall identify an application by number and date of filing, the name of the owner, and the name of the variety as stated in the application.

(d) If an assignment is executed concurrently or subsequent to the filing of an application, but before its number and filing date are ascertained, the assignment shall identify the application by the date of the application, the name of the owner, and the name of the variety.

§ 97.131 Conditional assignments

Assignments recorded in the Office are regarded as absolute assignments for Office purposes until canceled in writing by both parties to the assignment or by a decree of a court of competent jurisdiction. The Office shall not determine whether conditions precedent to the assignment, such as the payment of money, have been fulfilled.

§ 97.132 Assignment records open to public inspection

(a) Assignment records relating to original or amended certificates shall be open to public inspection and copies of any recorded document may be obtained upon payment of the prescribed fee.

(b) Assignment records relating to any pending or abandoned application shall not be available for inspection except to the extent that pending applications are published as provided in section 57 of the Act and section 97.19, or where necessary to carry out the provisions of any Act of Congress. Copies of assignment records and information on pending or abandoned applications shall be obtainable only upon written authority of the applicant or his or her assignee, or attorney or agent of record, or where necessary to carry out the provisions of any Act of Congress. An order for a copy of an assignment shall give the proper identification of the assignment.

Marking or Labeling Provisions

§ 97.140 After filing

Upon filing an application for protection of a variety and payment of the prescribed fee, the owner, or his or her designee, may label the variety or containers of the seed of the variety or plants produced from such seed, substantially as follows: "Unauthorized Propagation Prohibited --(Unauthorized Seed Multiplication Prohibited) -U.S. Variety Protection Applied For. Where applicable, "PVPA 1994" or "PVPA 1994 - Unauthorized Sales for Reproductive Purposes Prohibited" may be added to the notice.

§ 97.141 After issuance

Upon issuance of a certificate, the owner of the variety, or his or her designee, may label the variety or containers of the seed of the variety or plants produced from such seed substantially as follows: "Unauthorized Propagation Prohibited--(Unauthorized Seed Multiplication Prohibited) U.S. Protected Variety. "Where applicable, "PVPA 1994" or "PVPA 1994 - Unauthorized Sales for Reproductive Purposes Prohibited" may be added to the notice."

§ 97.142 For testing or increase

An owner who contemplates filing an application and releases for testing or increase, seed of the variety or

reproducible plant material of the variety, may label such plant material or containers of the seed or plant material substantially as follows: "Unauthorized Propagation Prohibited--For Testing (or Increase) Only."

§ 97.143 Certified seed only

(a) Upon filing an application, or amendment thereto, specifying seed of the variety is to be sold by variety name only as a class of certified seed, the owner, or his or her designee, may label containers of seed of the variety substantially as follows: "Unauthorized Propagation Prohibited--U.S. Variety Protection Applied for Specifying That Seed of This Variety Is To Be Sold By Variety Name Only as a Class of Certified Seed."

(b) An owner who has received a certificate specifying that a variety is to be sold by variety name only, as a class of certified seed, may label containers of the seed of the variety substantially as follows: "Unauthorized Propagation Prohibited --To Be Sold By Variety Name Only as a Class of Certified Seed --U.S. Protected Variety ."

§ 97.144 Additional marking or labeling

Additional clarifying information that is not false or misleading may be used by the owner, in addition to the above markings or labeling.

Attorneys and Agents

§ 97.150 Right to be represented

An applicant may actively advance an application or may be represented by an attorney or agent authorized in writing.

§ 97.151 Authorization

Only attorneys or agents specified by the applicant shall be allowed to inspect papers or take action of any kind, on behalf of the applicant, in any pending application or proceedings.

§ 97.152 Revocation of authorization; withdrawal

An authorization of an attorney or agent may be revoked by an applicant at any time, and an attorney or agent may withdraw, upon application to the Commissioner. When the authorization is so revoked, or the attorney or agent has so withdrawn, the Office shall inform the interested parties and shall thereafter communicate directly with the applicant, or with such other attorney or agent as the applicant may appoint. An assignment will not of itself operate as a revocation of authorization previously given, but the assignee of the entire interest may revoke previous authorizations and be represented by an attorney or agent of his or her own selection.

§ 97.153 Persons recognized

Unless specifically authorized as provided in section 97.151, no person shall be permitted to file or advance applications before the Office on behalf of another person.

§ 97.154 Government employees

Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203 and 205) from practicing as attorneys or agents in proceedings or other matters before government departments or agencies, shall not be eligible to represent applicants, except officers and employees whose official duties require the preparation and prosecution of applications for certificates of variety protection.

§ 97.155 Signatures

Every document filed by an attorney or agent representing an applicant or party to a proceeding in the Office shall bear the signature of such attorney or agent, except documents which are required to be signed by the applicant or party.

§ 97.156 Addresses

Attorneys and agents practicing before the Plant Variety Protection Office shall notify the Office in writing of any change of address. The Office shall address letters to any person at the last address received.

§ 97.157 Professional conduct

Attorneys and agents appearing before the Office shall conform to the standards of ethical and professional conduct, generally applicable to attorneys appearing before the courts of the United States.

§ 97.158 Advertising

(a) The use of advertising, circulars, letters, cards, and similar material to solicit plant variety protection business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Office or may be suspended, excluded, or disbarred from further practice before the Office.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical

data in standard professional directories, shall not be considered a violation of this section.

Fees And Charges

§ 97.175 Fees and charges

The following fees and charges apply to the services and actions specified below:

- (a) Filing the application and notifying the public of filing \$ 300
- (b) Search or examination 2,150
- (c) Allowance and issuance of certificate and notifying public of issuance 300
- (d) Revive an abandoned application 300
- (e) Reproduction of records, drawings, certificates, exhibits, or printed material (copy per page of material) 1
- (f) Authentication (each page) 1
- (g) Correcting or reissuance of a certificate 300
- (h) Recording assignments (per certificate/ application) 25
- (i) Copies of 8 x 10 photographs in color 25
- (j) Additional fee for reconsideration 300
- (k) Additional fee for late payment 25
- (l) Additional fee for late replenishment of seed 25
- (m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision) 2,750
- (n) Granting of extensions for responding to a request 50
- (o) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations.
- (p) Any other service not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed \$60 per employee-hour.

§ 97.176 Fees payable in advance

Fees and charges shall be paid at the time of making application or at the time of submitting a request for any action by the Office for which a fee or charge is payable and established in this part.

§ 97.177 Method of payment

Checks or money orders shall be made payable to the Treasurer of the United States. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the prescribed fee. Money sent by mail to the Office shall be sent at the sender's risk.

§ 97.178 Refunds

Money paid by mistake or excess payments shall be refunded, but a mere change of plans after the payment of money, as when a party decides to withdraw an application or to withdraw an appeal, shall not entitle a party to a refund. However, the examination or search fee shall be refunded if an application is voluntarily abandoned pursuant to section 97.23(a) before a search or examination has begun. Amounts of \$1 or less shall not be refunded unless specifically demanded.

§ 97.179 Copies and certified copies

(a) Upon request, copies of applications, certificates, or of any records, books, papers, drawings, or photographs in the custody of the Office and which are open to the public, will be furnished to persons entitled thereto, upon payment of the prescribed fee.

(b) Upon request, copies will be authenticated by imprint of the seal of the Office and certified by the official, authorized by the Commissioner upon payment of the prescribed fee.

Availability of Office Records

§ 97.190 When open records are available

Copies of records, which are open to the public and in the custody of the Office, may be examined in the Office during regular business hours upon approval by the Commissioner.

Protest Proceedings

§ 97.200 Protests to the grant of a certificate

Opposition on the part of any person to the granting of a certificate shall be permitted while an application is pending and for a period not to exceed 5 years following the issuance of a certificate.

§ 97.201 Protest proceedings

(a) Opposition shall be made by submitting in writing a petition for protest proceedings, which petition shall be supported by affidavits and shall show the reason or reasons for opposing the application or certificate. The petition and accompanying papers shall be filed in duplicate. If it appears to an examiner that a variety involved in a pending application

recovered by a certificate may not be or may not have been entitled to protection under the Act, a protest proceeding may be permitted by the Commissioner.

(b) One copy of the petition and accompanying papers shall be served by the Office upon the applicant or owner, or his or her attorney or agent of record.

(c) An answer, by the applicant or owner of the certificate, or his or her assignee, in response to the petition, may be filed with the Commissioner within 60 days after service of the petition, upon such person. If no answer is filed within said period, the Commissioner shall decide the matter on the basis of the allegations set forth in the petition.

(d) If the petition and answer raise any issue of fact needing proof, the Commissioner shall afford each of the parties a period of 60 days in which to file sworn statements or affidavits in support of their respective positions.

(e) As soon as practicable after the petition or the petition and answer are filed, or after the expiration of any period for filing sworn statements or affidavits, the Commissioner shall issue a decision as to whether the protests are upheld or denied. The Commissioner may, following the protest proceeding, cancel any certificate issued and may grant another certificate for the same variety to a person who proves to the satisfaction of the Commissioner, that he or she is the breeder or discoverer. The decision shall be served upon the parties in the manner provided in section 97.403.

Priority Contest³

§ 97.205 Definition; when declared

A priority contest may be instituted by the Secretary, on his or her own motion, or upon the request of any person who has applied for protection on the same variety, for which an adverse certificate has been issued, for the purpose of determining the question of priority between two or more parties claiming development or discovery of the same novel variety: *Provided, however*, That any person shall have forfeited his or her right to assert priority when an adverse certificate has been issued, if he or she fails to make a request for the institution of a priority contest within 1 year of the publication in the Official Journal of issuance of the adverse certificate by the Secretary, or if he or she fails to make the request within the period for taking action after refusal of the application on the basis of the adverse certificate.

§ 97.206 Preparation for priority contest between applicants

(a) Before a priority contest will be handled by the Office, an examiner must determine that the same

³ All provisions relating to priority contests apply only to varieties protected under the Act as it was in force prior to April 4, 1995.

novel variety is involved in separate applications filed by two or more parties and apparently certifiable to each of the parties, subject to the determination of the question of priority.

(b) The fact that a certificate has been issued will not prevent a priority contest.

§ 97.207 Preparation of priority papers and declaration of priority contest

(a) When a priority question is found to exist, the examiner shall forward the pertinent files to the Commissioner, together with a written statement showing the reason for the contest.

(b) The Commissioner shall institute and declare the priority contest by forwarding a notice to each of the applicants involved. Each notice shall include the name and residence of each of the other applicants or those of his or her attorney or agent, if any, and of any assignee, and will identify the application of each opposing party by number and filing date, or in the case of a certificate, by the number and date of the certificate. The notice shall specify the basis of the priority contest. The notice shall specify a time, not to exceed 2 months, for filing preliminary statements.

(c) When a notice is returned to the Office undelivered, or when one of the parties resides abroad and his or her agent in the United States is unknown, notice may be given once by publication in the Official Journal.

§ 97.208 Burden of proof

The parties to a priority contest will be presumed to have developed their varieties in the chronological order of the filing dates of their applications for certificates involved in the priority contest, and the burden of proof will rest upon the party who last filed an application.

§ 97.209 Preliminary statement on novel variety developed in the United States

(a) Each party to the priority contest is required to file on or before a date fixed by the Office, a concise preliminary statement giving the facts and dates relating to the development of his or her alleged novel variety. The preliminary statement must be signed by the owner: *Provided, however,* That in appropriate circumstances, as when the owner is dead or legally incapacitated, or a showing is made of inability to obtain a statement from the owner, the preliminary statement may be made by the assignee or by someone authorized or entitled to make the statement, having knowledge of the facts.

(b) Preliminary statements shall be filed with the Office in duplicate. A copy shall be forwarded to each opposing party by the Office as soon as practicable after both parties have filed their statements within the requisite period.

(c) In filing a preliminary statement each party must show the following information:

(1) The date upon which the first determination of the novel variety was made.

(2) The date upon which the first written description of the novel variety was made. If a written description of the novel variety has not been made prior to the filing date of the application, it must be so stated.

(3) The date of the first act or acts susceptible of proof (other than making a written description or disclosing the novel variety to another person), which, if proven, would establish determination of the novel variety, and a brief description of such act or acts. If there have been no such acts, it must be so stated.

(4) The date of the actual production of the novel variety. If the novel variety had not been actually produced before the filing date of the application, it must be so stated.

(d) When an allegation as to the first written description (paragraph (c)(2) of this section) is made, a copy of such written description shall be attached to the statement.

(e) If a party intends to rely on a prior application, domestic or foreign, the preliminary statement shall clearly identify such prior application. Copies of the cited application and related documents will be served by the Office, upon all interested parties to the contest. In the case of an application filed in a foreign country, English translations shall be served to all interested parties by the party relying on the application filed in the foreign country.

§ 97.210 Preliminary statement on novel variety developed in a foreign country

When the novel variety was developed in a foreign country, the preliminary statement must show (a) the information specified in section 97.209 (c) through (e) and (b) whether, and if so, when and under what circumstances the novel variety was introduced into the United States by or on behalf of the party.

§ 97.211 Statements sealed before filing

The preliminary statement shall be submitted in a sealed envelope bearing the name of the party filing it and the number and title of the priority contest as shown on the notice issued by the Office. The envelope should be enclosed in an outer mailing envelope marked "To Be Opened Only by the Commissioner."

§ 97.212 Correction of a statement on motion

In case of material error arising through inadvertence or mistake, a preliminary statement may be corrected

upon a satisfactory showing to the Commissioner that the correction is of material significance. Correction of the statement must be made as soon as practicable after the discovery of the error.

§ 97.213 Failure to file statements

If any party to a priority contest fails to file a preliminary statement, he or she shall be restricted to his or her earliest effective filing date.

§ 97.214 Access to preliminary statements

The preliminary statements shall be open to the inspection of any party after the date set for the filing of preliminary statements (section 97.207(b)), but shall not be open to inspection prior to that time.

§ 97.215 Dissolution at the request of the Commissioner

If during a priority contest, information is submitted or found which, in the opinion of the Commissioner, may render the variety ineligible for a certificate, the priority contest may be suspended by the Commissioner and referred to an examiner for consideration of the matter. The parties will be notified of the reason for the suspension. Arguments of the parties regarding the suspension will be considered, if filed within 60 days of the notification. The suspension will then be continued, modified, or dismissed, in accordance with the determination by the Commissioner.

§ 97.216 Concession; abandonment

(a) An applicant or a certificate holder involved in a priority contest may, at any time, file a written concession of priority, or abandonment of the certificate, signed by him or her. Upon the filing of such an instrument by any party, the decision shall be rendered against the interested party by the Commissioner.

(b) A concession of priority may not be made by an assignee of a part interest.

§ 97.217 Affidavits and exhibits

Affidavits and exhibits, including official records and any special matter contained in a printed publication, pertinent to the issue involved in the contest, may be introduced as evidence in a priority contest by any party to the contest. In the case of official records and printed publications, the party introducing the evidence shall specify the record or the printed publication, the page or pages to be used, indicate generally its relevancy, and submit to the Commissioner the record or authenticated copy, or the printed publication, or a copy. Copies of affidavits and exhibits, including any record or publication, shall be served by the Commissioner on each of the other interested parties.

§ 97.218 Matters considered in determining a priority

In determining priority, the Commissioner will consider only priority of development based on the evidence submitted. Questions of novelty generally will not be considered in the decision on priority. The Commissioner may refer proposed findings of fact, conclusions, and notice of priority to the Board for an advisory decision.

§ 97.219 Recommendation by the Commissioner

The Commissioner may, either before or concurrently with a decision on the question of priority, but independently of such decision, direct the attention of the examiner to any matter not relating to priority which may come to the Commissioner's attention, and which in his or her opinion establishes the fact that there has been an irregularity which amounts to a bar to the granting of a certificate to either of the parties. The Commissioner may suspend the priority contest and remand the case to the examiner for further consideration of the matters, to which attention has been directed.

§ 97.220 Decision by the Commissioner

(a) When a priority contest is concluded on the basis of preliminary statements, or proposed findings of fact, conclusions and notice of priority shall be issued by the Commissioner to the interested parties, giving them a specified period, not less than 30 days, to show cause why such proposed findings of fact, conclusions, and notice of priority should not be made final. Any response made during the specified period will be considered by the Commissioner. Additional affidavits or exhibits will not be considered, unless accompanied by a showing of good cause acceptable to the Commissioner. Thereafter, final findings of fact, conclusions, and notice of priority shall be issued by the Commissioner.

(b) The decision shall be entered by the Commissioner against a party whose preliminary statement alleges a date of determination later than the filing date of the other party's application.

§ 97.221 Status of claims of defeated applicant

Whenever a final notice of priority has been issued by the Commissioner in a priority proceeding, and the time limit for an appeal from such decision has expired, the claim or claims constituting the issue of the priority stand finally disposed of without further action by the Commissioner.

§ 97.222 Second priority contest

A second priority contest between the same parties shall not be entertained by the Commissioner for the same novel variety.

Appeal to the Secretary§ 97.300 Petition to the Secretary

(a) Petition may be made to the Secretary from any final action of the Commissioner denying an application or refusing to allow a certificate to be issued, or from any adverse decision of the Commissioner made under sections 97.18(c), 97.107, 97.201(e), and 97.220.

(b) Any such petition shall contain a statement of the facts involved and the point or points to be reviewed, and the actions requested.

(c) A petition to the Secretary shall be filed in duplicate and accompanied by the prescribed fee (see section 97.175).

(d) Upon request, an opportunity to present data, views, and arguments orally, in an informal manner or in a formal hearing, shall be given to interested persons. If a formal hearing is requested, the proceeding shall be conducted in accordance with sections 50.28 and 50.30 through 50.33 (sections 50.28, 50.30 through 50.33 of this chapter) of the rules of practice under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, *et seq.*).

(e) Except as otherwise provided in the rules in this part, any such petition not filed within 60 days from the action complained of shall be dismissed as untimely.

§ 97.301 Commissioner's answer

(a) The Commissioner may, within such time as may be directed by the Secretary, furnish a written statement to the Secretary in answer to the appellant's petition, including such explanation of the reasons for the action as may be necessary and supplying a copy to the appellant.

(b) Within 20 days from the date of such answer, the appellant may file a reply statement directed only to such new points of argument as may be raised in the Commissioner's answer.

§ 97.302 Decision by the Secretary

(a) The Secretary, after receiving the advice of the Board, may affirm or reverse the decision of the Commissioner, in whole or in part.

(b) Should the decision of the Secretary include an explicit statement that a certificate be allowed, based on an amended application, the applicant shall have the right to amend his or her application in conformity with such statement and such decision shall be binding on the Commissioner.

§ 97.303 Action following the decision

(a) Copies of the decision of the Secretary shall be served upon the appellant and the Commissioner in

the manner provided in section 97.403.

(b) When an appeal petition is dismissed, or when the time for appeal to the courts pursuant to the Act has expired and no such appeal or civil action has been filed, proceedings in the appeal shall be considered terminated as of the dismissal or expiration date, except in those cases in which the nature of the decision requires further action by the Commissioner. If the decision of the Secretary is appealed or a civil action has been filed pursuant to the Act, the decision of the Secretary will be stayed pending the outcome of the court appeal or civil action.

General Procedures in Priority, Protest, or Appeal Proceedings§ 97.400 Extensions of time

Upon a showing of good cause, extensions of time not otherwise provided for may be granted by the Commissioner or, if an appeal has been filed by the Secretary for taking any action required in any priority, protest, or appeal proceeding.

§ 97.401 Miscellaneous provisions

(a) Petitions for reconsideration or modification of the decision of the Commissioner in priority or protest proceedings shall be filed within 20 days after the date of the decision.

(b) The Commissioner may consider on petition any matter involving abuse of discretion in the exercise of an examiner's authority, or such other matters as may be deemed proper to consider. Any such petition, if not filed within 20 days from the decision complained of, may be dismissed as untimely.

§ 97.402 Service of papers

(a) Every paper required to be served on opposing parties and filed in the Office in any priority, protest, or appeal proceeding, must be served by the Secretary in the manner provided in section 97.403.

(b) The requirement in certain sections that a specified paper shall be served includes a requirement that all related supporting papers shall also be served. Proof of such service upon other parties to the proceeding must be made before the supporting papers will be considered by the Commissioner or Secretary.

§ 97.403 Manner of service

Service of any paper under this part must be on the attorney or agent of the party if there be such, or on the party if there is no attorney or agent, and may be made in any of the following ways:

(a) By mailing a copy of the paper to the person served by certified mail, with the date of the return receipt controlling the date of service;

(b) By leaving a copy at the usual place of business of the person served with someone in his or her employ;

(c) When the person served has no usual place of business, by leaving a copy at his or her home with a member of the family over 14 years of age and of discretion; and

(d) Whenever it shall be found by the Commissioner or Secretary that none of the above modes of serving the paper is practicable, service may be by notice, published once in the Office Journal.

Review of Decisions by Court

§ 97.500 Appeal to U.S. Courts

Any applicant dissatisfied with the decision of the Secretary on appeal may appeal to the U.S. Court of Customs and Patent Appeals or the U.S. Courts of Appeals, or institute a civil action in the U.S. District Court as set forth in the Act. In such cases, the appellant or plaintiff shall give notice to the Secretary, state the reasons for appeal or civil action, and obtain a certified copy of the record. The certified copy of the record shall be forwarded to the Court by the Plant Variety Protection Office on order of, and at the expense of the appellant or plaintiff.

Cease and Desist Proceedings

§ 97.600 Rules of practice

Any proceedings instituted under section 128 of the Act for false marking shall be conducted in accordance with sections 202.10 through 202.29 of this chapter (rules of practice under the Federal Seed Act) (7 U.S.C. 1551 *et seq.*), except that all references in those rules and regulations to "Examiner" shall be construed to be an Administrative Law Judge, U.S. Department of Agriculture, and not an "Examiner" as defined in the regulations

under the Plant Variety Protection Act.

Public Use Declaration

§ 97.700 Public interest in wide usage

(a) If the Secretary has reason to believe that a protected variety should be declared open to use by the public in accordance with section 44 of the Act, the Secretary shall give the owner of the variety appropriate notice and an opportunity to present views orally or in writing, with regard to the necessity for such action to be taken in the public interest.

(b) Upon the expiration of the period for the presentation of views by the owner, as provided in paragraph (a) of this section, the Secretary shall refer the matter to the Plant Variety Protection Board for advice, including advice on any limitations or rate of remuneration.

(c) Upon receiving the advice of the Plant Variety Protection Board, the Secretary shall advise the owner of the variety, the members of the Plant Variety Protection Board, and the public, by issuance of a press release, of any decision based on the provisions of section 44 of the Act to declare a variety open to use by the public. Any decision not to declare a variety open to use by the public will be transmitted only to the owner of the variety and the members of the Plant Variety Protection Board.

Publication

§ 97.800 Publication of public variety descriptions

Voluntary submissions of varietal descriptions of "public varieties" on forms obtainable from the Office will be accepted for publication in the Official Journal. Such publication shall not constitute recognition that the variety is, in fact, distinct, uniform, and stable.

CALENDAR

UPOV MEETINGS IN 1997

March 11 to 13 (Cambridge, United Kingdom)	Working Group on Biochemical and Molecular Techniques, and DNA Profiling in Particular
April 29 and 30 (Geneva, Switzerland)	Consultative Committee
June 3 to 5 (Budapest, Hungary)	Technical Working Party on Automation and Computer Programs
September 1 to 5 (Denmark, location still to be finalized)	Technical Working Party for Ornamental Plants and Forest Trees
September 8 to 12 (Wageningen, Netherlands)	Technical Working Party for Fruit Crops
October 27 (Geneva, Switzerland)	Administrative and Legal Committee
October 28 (Geneva, Switzerland)	Consultative Committee
October 29 (Geneva, Switzerland)	Council
November 10 to 14 (Montevideo, Uruguay)	Technical Working Party for Agricultural Crops
November 24 to 28 (Valencia or Almería, Spain)	Technical Working Party for Vegetables

OTHER MEETINGS IN 1997

April 18 (Strasbourg, France)	7 th International Colloquium on Plant Breeders' Rights
May 26 to 31 (Stockholm, Sweden)	FIS/ASSINSEL Congress
June 16 to 19 (Paris, France)	OECD Annual Meeting