

**UPOV**

To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society."

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# **WIPO-MOST Intermediate Training Course on Practical Intellectual Property Issues in Business**

## **Introduction to the PROTECTION of NEW VARIETIES of PLANTS under the UPOV CONVENTION**

**Peter Button,  
Technical Director, UPOV**

**Geneva, November 11, 2003**

# PREVIEW

## PART I - Introduction to the UPOV Convention

## PART II - The DUS Examination

## PART III - Interface between the UPOV Convention and other International Treaties

# UPOV

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# Part I

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# PART I - Introduction to the UPOV Convention

- Need for protection of plant varieties
- What is UPOV?
- Key features of the UPOV Convention
- About UPOV

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# THE NEED FOR PROTECTION OF PLANT VARIETIES

# THE NEED FOR NEW IMPROVED VARIETIES

- World population continues to grow
- Agricultural productivity needs to be increased - arable land and other resources are scarce
- Improved quality - less waste, higher value
- Better resistance to pests and diseases - higher yields, less inputs
- More efficient use of inputs
- Economic development

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# THE NEED FOR VARIETY PROTECTION

- Plant breeding is long and expensive
- BUT**
- Plant varieties can be easily and quickly reproduced
- è Breeders need protection to recover investment

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# WHAT IS UPOV?



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# WHAT IS UPOV?

The International **Convention** for the Protection of New Varieties of Plants established

The International **Union** for the Protection of New Varieties of Plants

**U**nion internationale pour la **p**rotection des **o**btentions **v**égétales

To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society."

# THE UNION

- Members of the Union
  - States or Intergovernmental Organizations
- Permanent Organs of the Union
  - The Council - consisting of the representatives of the members of the Union
  - The Office of the Union - carries out all the duties and tasks entrusted to it by the Council



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# Asia/Pacific Region

## Members of the Union

Australia  
China  
Japan  
New Zealand  
Republic of Korea

## Initiated the Procedure

India  
Singapore  
Viet Nam

## Contacted the Office

Bangladesh  
Cambodia  
Fiji  
Indonesia  
Lao People's Democratic Republic  
Malaysia  
Mongolia  
Myanmar

Nepal  
Pakistan  
Philippines  
Sri Lanka  
Thailand  
Tonga



## UPOV Mission Statement:

*“To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society”*

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# **KEY FEATURES OF THE UPOV CONVENTION**

**UPOV**

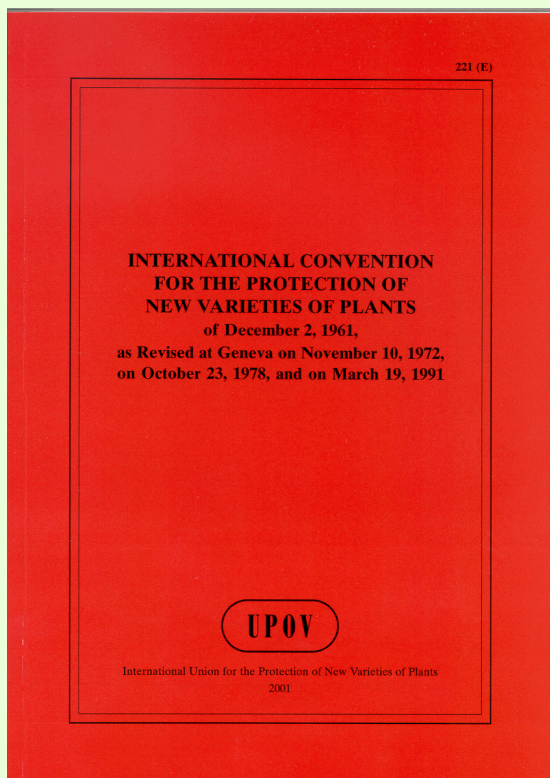
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# INTERNATIONAL CONVENTION

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- Chapter I - Definitions (**breeders and varieties**)
- Chapter II - General Obligations
  - **Genera and species** to be protected
  - **National treatment**
- Chapter III - **Conditions for the Grant** of the Breeder's Right
- Chapter IV - Application for the Grant of the Breeder's Right (**examination**)
- Chapters V-VII - The Rights of the Breeder (**scope, exceptions, etc.**)
- Chapters VIII - X - About the Union and the UPOV Convention



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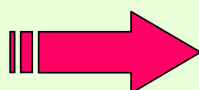
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# “BREEDERS” AND “VARIETIES”

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# BREEDERS AND VARIETIES

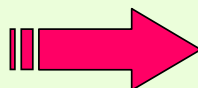
**BREEDER**



**THE ONE ENTITLED TO PROTECTION**

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**VARIETY**



**THE SUBJECT MATTER OF PROTECTION**

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## BREEDER

- **the person who bred, or discovered and developed, a variety**
- the person who is the employer of the aforementioned person or who has commissioned the latter's work, where the laws of the relevant Contracting Party so provide, or
- the successor in title of the first or second aforementioned person.

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# UPOV

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**DISCOVERY  
OR FIND**



**DEVELOPMENT  
IS NECESSARY**

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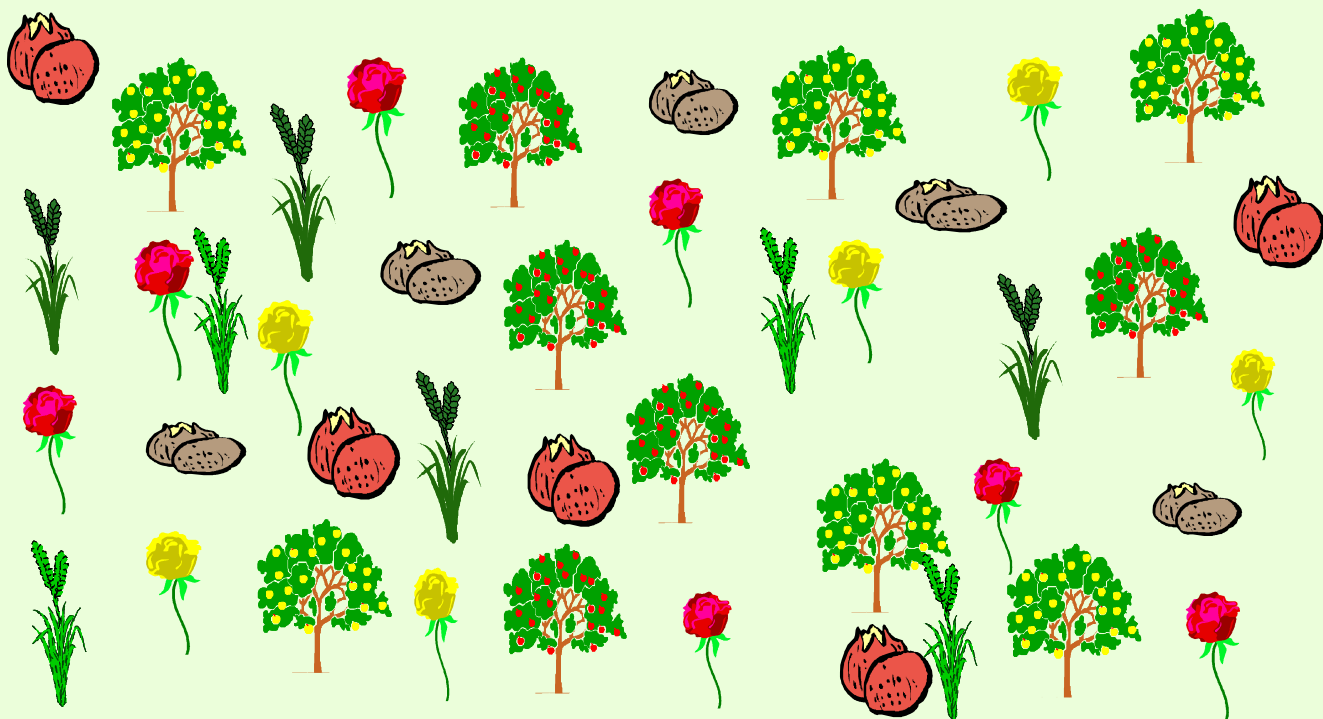


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# PLANT KINGDOM

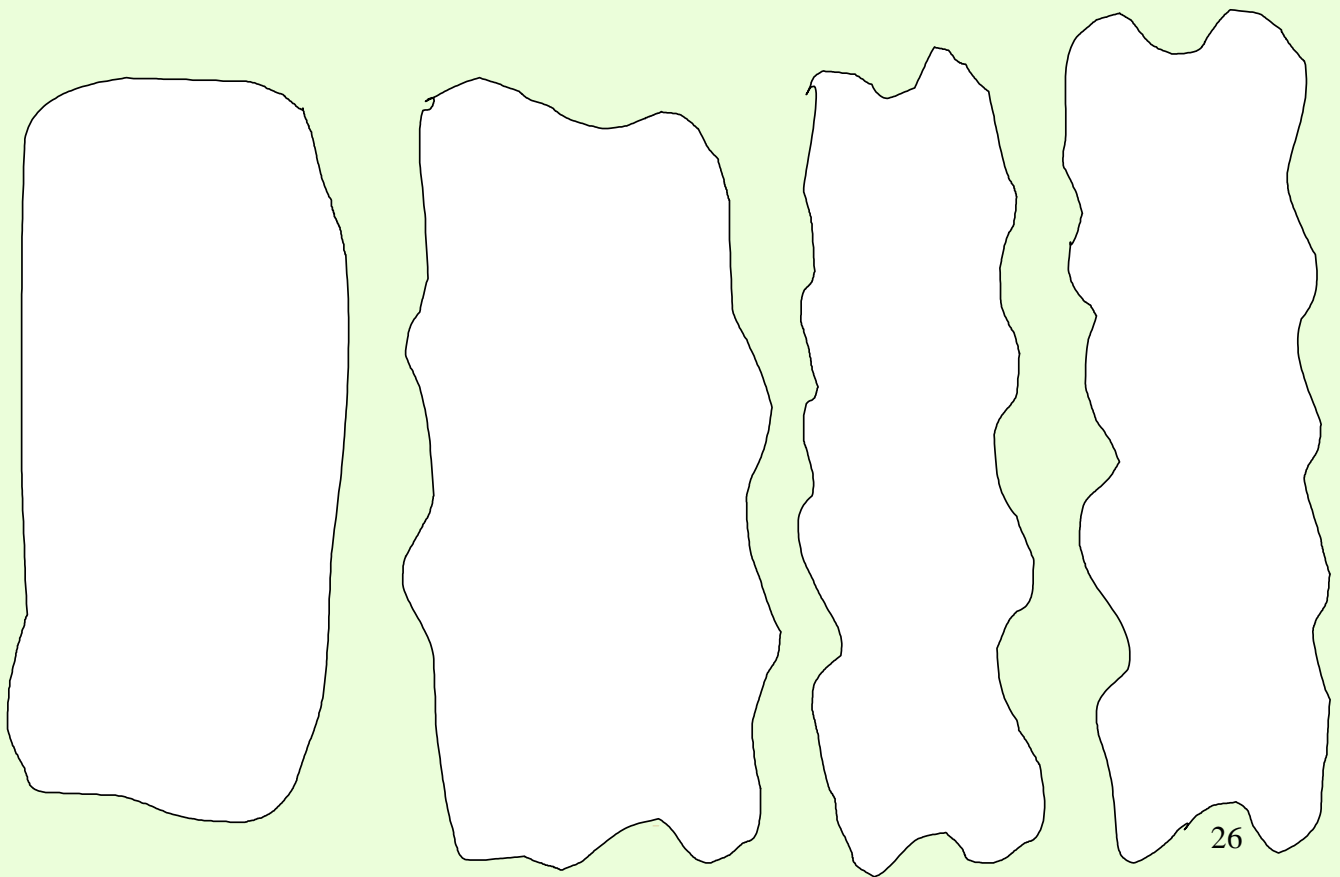


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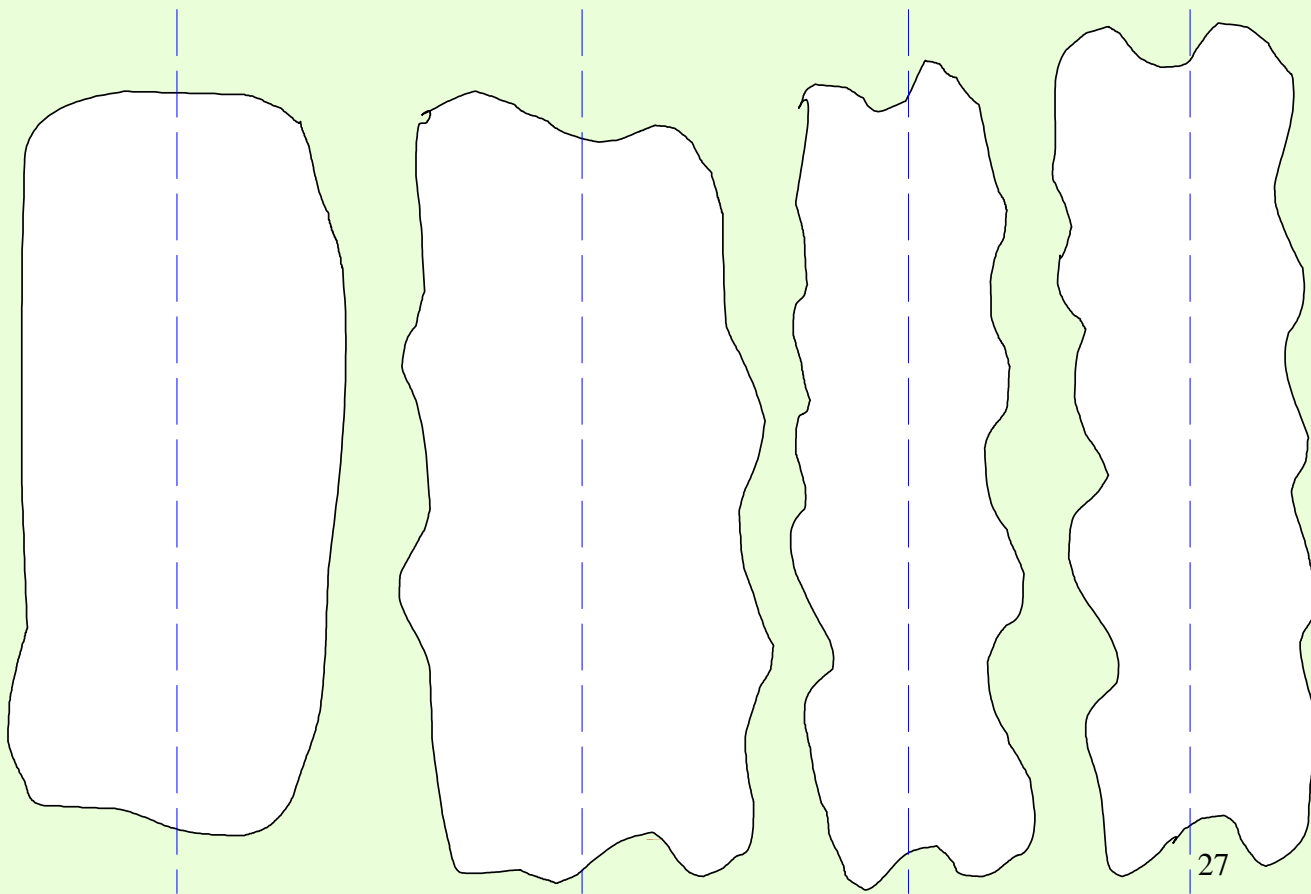
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# SPECIES



# VARIETIES



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## VARIETY

means a **plant grouping** within a single botanical taxon **of the lowest known rank, which** grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, **can be**

- **defined by the expression of the characteristics resulting from a given genotype** or combination of genotypes,
- **distinguished** from any other plant grouping by the expression of **at least one of the said characteristics** and
- considered as **a unit** with regard to its suitability for being **propagated unchanged.**

# GENERA AND SPECIES TO BE PROTECTED

(1991 ACT: New members of the Union)

- At least 15 plant genera or species on becoming bound by the UPOV Convention
- ALL plant genera and species within 10 years

## NATIONAL TREATMENT

- National treatment, within the territory of a member of the Union, for nationals and residents of any other members of the Union

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## THE CONDITIONS FOR GRANTING A BREEDER'S RIGHT

### *Criteria to be satisfied*

- NOVELTY
- DISTINCTNESS
- UNIFORMITY
- STABILITY



“DUS”  
(DHS)

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## THE CONDITIONS FOR GRANTING A BREEDER'S RIGHT

### *Other conditions*

- VARIETY DENOMINATION
- FORMALITIES
- PAYMENT OF FEES

**NO OTHER CONDITIONS!**



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# THE APPLICATION

## FILING

- place of first application
- timing of applications
- independence of protection

## RIGHT OF PRIORITY

- 12 months

## EXAMINATION

- Compliance with the conditions for protection

## EXAMINATION

- Novelty:
  - Sale or disposal within
    - 1 year - own territory
    - 4 years - other territory (6 years - trees/vine)
    - Exception for varieties of recent creation (new members)
- Denomination:
  - No rights on the designation must hamper free use as the variety denomination
  - Breeder must submit variety under same denomination in all members of the Union
- DUS: Technical Examination

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# **BREEDERS' RIGHTS**

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# MINIMUM DURATION OF PROTECTION

1978 Act    1991 Act

TREES and VINES                      18 years                      25 years

OTHER PLANTS 15 years                      20 years

To be counted from the date of grant

## *Authorization of breeder required for:*

- (i) Production or reproduction (multiplication)
- (ii) Conditioning for the purpose of propagation
- (iii) Offering for sale
- (iv) Selling or marketing
- (v) Exporting
- (vi) Importing
- (vii) Stocking for any of the above purposes

Additional acts (optional)

*.... for any protected variety*

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## MATERIAL COVERED

- All propagating material
- Harvested material if:
  - obtained through unauthorized use of propagating material unless,
  - reasonable opportunity for breeder to exercise his right

*(particular importance for fruit trees, cut flowers etc.)*
- Certain products made from harvested material (optional)

## VARIETIES COVERED

- Varieties which are not clearly distinguishable from the protected variety
- Varieties whose production requires the repeated use of the protected variety (*e.g. as a parent for a hybrid variety*)
- Varieties which are **essentially derived** from the protected variety

# ESSENTIAL DERIVATION

## PURPOSE:

To ensure sustainable plant breeding development by:

- providing effective protection for the classical breeder and
- encouraging cooperation between classical breeders and developers of new technologies such as genetic modification

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## Essentially Derived Varieties (EDV's)

*May for example be obtained by:*

- selection of natural or induced mutants
- selection of a somaclonal variant
- selection of a variant individual from the original variety
- development of a very similar variety by repeated back-crossing
- transformation by genetic engineering

*An essentially derived variety may be protectable, but authorization of the breeder of the initial variety would be required for commercial exploitation*

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# **EXCEPTIONS TO THE BREEDER'S RIGHT**

## EXCEPTIONS

Acts done:

1. (i) privately and for non-commercial purposes  
(ii) for experimental purposes  
(iii) acts done for the purpose of **breeding other varieties**, and, ..., acts referred to in Article 14(1) to (4) [multiplication; conditioning; offering; marketing, etc.] in respect of such other varieties (**“Breeders’ exemption”**)
2. (Optional)  
saving of seed by farmers  
 **(“Farmers’ privilege” )**

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# **THE BREEDERS' EXEMPTION**

## ADVANTAGES OF THE BREEDER'S EXEMPTION

- Germplasm sources remain accessible to the community of breeders
- Genetic basis for plant improvement is broadened and is actively conserved
- Variety improvement is enhanced
- Opportunity for all breeders to share in benefits of breeding activities

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# THE SAVING OF SEED BY FARMERS ("FARMER'S PRIVILEGE")

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*Contracting Party may restrict breeder's rights in order to permit farmers to use:*

**for propagating purposes on their own holdings**

**the product of the harvest**

**obtained on their own holdings**

**from the protected variety**

**within reasonable limits**

**subject to**

**safeguarding legitimate interests of the breeder**

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# NULLITY AND CANCELLATION



## NULLITY

A breeder's right SHALL be declared null and void if the variety was:

- not **Novel** or **Distinct** at the time of grant
- not **Uniform** or **Stable** at the time of grant - *if the grant was essentially based upon information provided by the breeder*
- granted to a **person not entitled** to it - *unless transferred to an entitled person*

**NO OTHER REASONS**

## CANCELLATION

A breeder's right MAY be cancelled if :

- the variety is no longer **Uniform** or **Stable**
- the breeder does not enable the **maintenance** of the variety to be verified
- the breeder fails to pay the necessary **fees**
- the breeder fails to provide **another suitable denomination** where the original denomination is cancelled

**NO OTHER REASONS**

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# AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS AGREEMENT) 1994

## Article 27

### Patentable subject matter

- “1. ..., patents shall be available for any invention, ..., provided that they are new, involve an inventive step and are capable of industrial application...
2. Members may exclude from patentability ... (ordre public, morality, life or health, environment) ...
3. Members **may also exclude from patentability**
- (a) ...
- (b) **plants** and animals other than micro-organisms, .... However, Members shall provide for the protection of plant varieties **either by patents** or by **an effective sui generis system** or by any **combination thereof ...”**

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	<b>Patent Protection</b>	<b>Breeder's right based on the 1991 Act of the UPOV Convention</b>
I. Object of protection	Invention – determined by the claims of the patent	plant variety
II. Conditions of protection	(a) novelty (b) industrial applicability (c) unobviousness (inventive step) (d) an enabling disclosure	(a) commercial novelty (b) distinctness (c) uniformity (d) stability (e) an suitable denomination
III. Examination		
1. documentary examination	required	required
2. plant material examination	deposit of material may be required only for certain inventions	required (mainly growing tests)
IV. Scope of Protection		
1. use of a protected variety for breeding further varieties	may require the authorization of the patentee	does not require the authorization of the right holder (breeder's exemption)
2. further propagation by a farmer for subsequent planting on their own farm	may require the authorization of the patentee	may be allowed with reasonable limits subject to safeguarding the legitimate interests of the breeder
V. Term of Protection	20 years from date of application	25 years for trees and vines, 20 years for other species, from date of grant

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# ABOUT UPOV

# PLANT VARIETY PROTECTION SITUATION

- 53 members of the Union
- 19 States have initiated the procedure for becoming members of the Union
- 2 intergovernmental organizations have initiated the procedure for becoming members of the Union:
  - European Community
  - OAPI (16 countries)
- 50 States have contacted the Office of the Union for assistance in the development of legislation on plant variety protection

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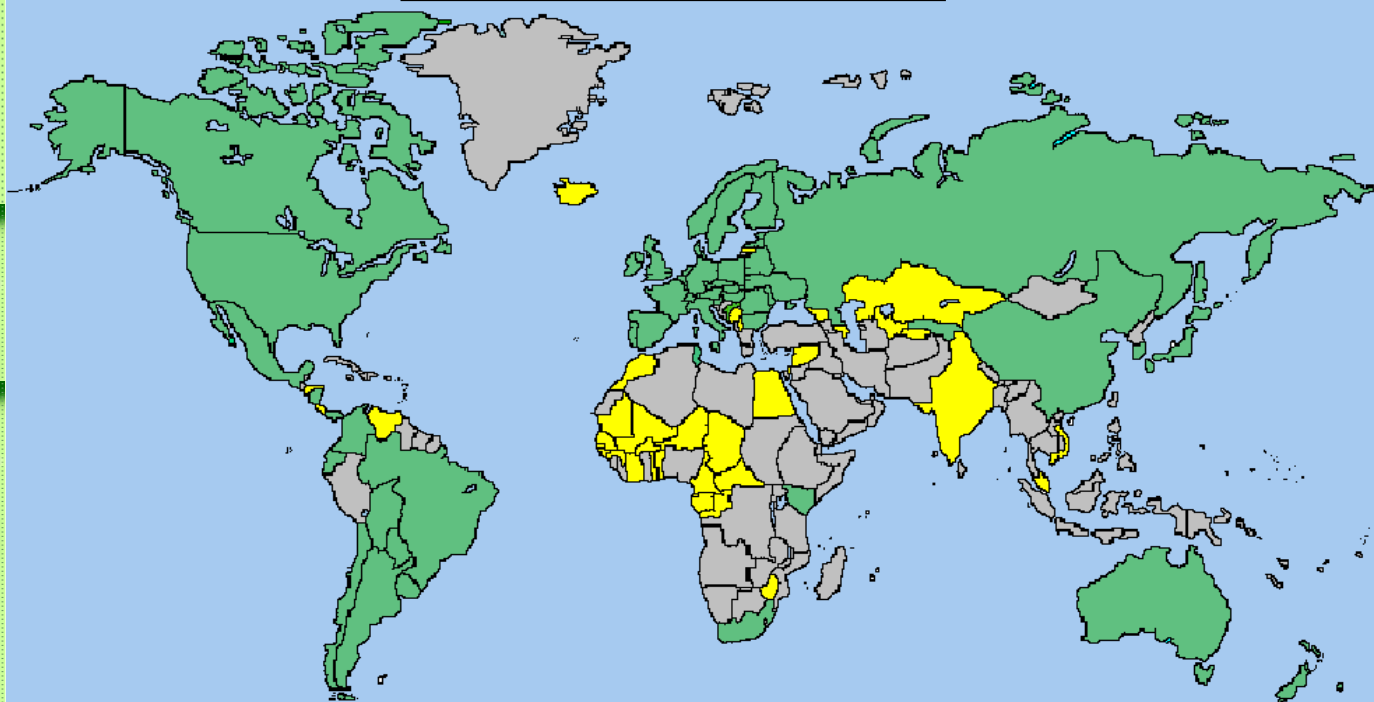
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# UPOV Membership

**Initiated the Procedure**

**19 States**

**2 intergovernmental organizations**

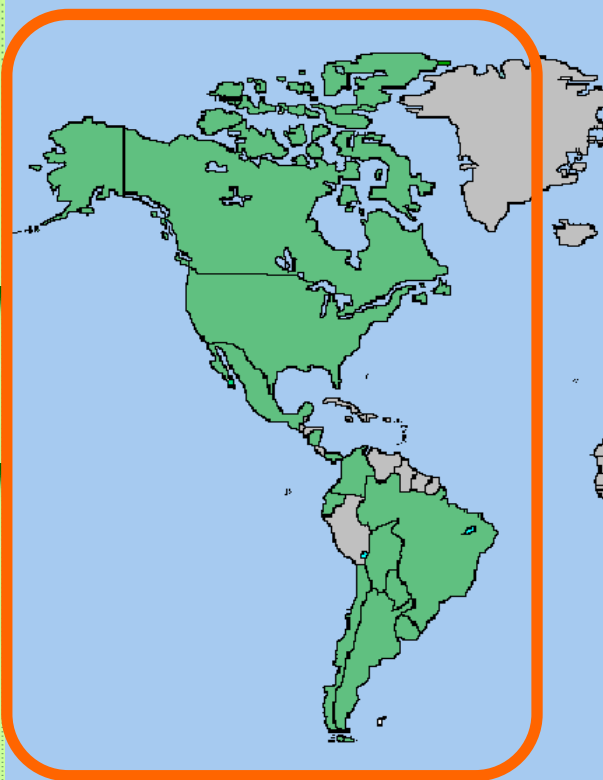


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# Americas



<u>Members of the Union</u>	
Argentina	Nicaragua
Bolivia	Panama
Brazil	Paraguay
Canada	Trinidad and Tobago
Chile	United States of America
Colombia	Uruguay
Ecuador	
Mexico	
<u>Initiated the Procedure</u>	<u>Contacted the Office</u>
Costa Rica	Barbados
Honduras	Cuba
Venezuela	Dominica
	Dominican Republic
	El Salvador
	Guatemala
	Guyana
	Jamaica
	Peru
	Suriname

# Europe and CIS Countries

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## Members of the Union

- |                     |                            |
|---------------------|----------------------------|
| <b>Austria</b>      | <b>Latvia</b>              |
| <b>Belarus</b>      | <b>Netherlands</b>         |
| <b>Belgium</b>      | <b>Norway</b>              |
| <b>Bulgaria</b>     | <b>Poland</b>              |
| <b>Croatia</b>      | <b>Portugal</b>            |
| <b>Czech Republ</b> | <b>Republic of Moldova</b> |
| <b>Denmark</b>      | <b>Romania</b>             |
| <b>Estonia</b>      | <b>Russian Federation</b>  |
| <b>Finland</b>      | <b>Slovakia</b>            |
| <b>France</b>       | <b>Slovenia</b>            |
| <b>Germany</b>      | <b>Spain</b>               |
| <b>Hungary</b>      | <b>Sweden</b>              |
| <b>Ireland</b>      | <b>Switzerland</b>         |
| <b>Italy</b>        | <b>Ukraine</b>             |
| <b>Kyrgyzstan</b>   | <b>United Kingdom</b>      |

## Contacted the Office

- Albania**
- Armenia**
- Cyprus**
- Greece**
- Turkey**
- Turkmenistan**

## Initiated the Procedure

- |                   |                              |
|-------------------|------------------------------|
| <b>Azerbaijan</b> | <b>Serbia and Montenegro</b> |
| <b>Georgia</b>    | <b>Tajikistan</b>            |
| <b>Iceland</b>    | <b>The former Yugoslav</b>   |
| <b>Kazakhstan</b> | <b>Republic of Macedonia</b> |
| <b>Lithuania</b>  | <b>Uzbekistan</b>            |
|                   | <b>European Community</b>    |

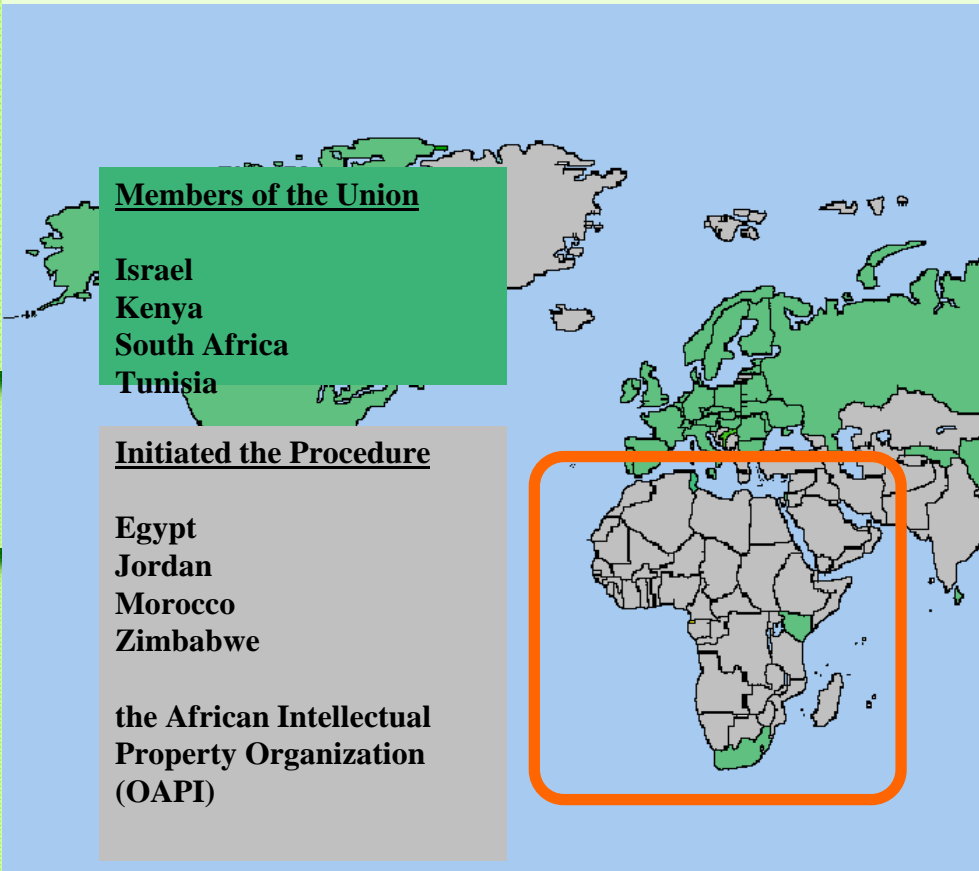


# Africa and Middle East Region

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**Members of the Union**  
 Israel  
 Kenya  
 South Africa  
 Tunisia

**Initiated the Procedure**  
 Egypt  
 Jordan  
 Morocco  
 Zimbabwe  
  
 the African Intellectual Property Organization (OAPI)

**Contacted the Office**  
 Algeria  
 Burundi  
 Congo  
 (Democratic Republic of)  
 Djibouti  
 Ghana  
 Islamic Republic of Iran  
 Kingdom of Bahrain  
 Lebanon  
 Madagascar  
 Malawi  
 Mauritius  
 Oman  
 Saudi Arabia  
 Seychelles  
 Sudan  
 Syria  
 Uganda  
 United Republic of Tanzania  
 Yemen  
 Zambia

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# Asia/Pacific Region

## Members of the Union

- Australia
- China
- Japan
- New Zealand
- Republic of Korea

## Initiated the Procedure

- India
- Singapore
- Viet Nam

## Contacted the Office

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>Bangladesh</li> <li>Cambodia</li> <li>Fiji</li> <li>Indonesia</li> <li>Lao People's Democratic Republic</li> <li>Malaysia</li> <li>Mongolia</li> <li>Myanmar</li> </ul> | <ul style="list-style-type: none"> <li>Nepal</li> <li>Pakistan</li> <li>Philippines</li> <li>Sri Lanka</li> <li>Thailand</li> <li>Tonga</li> </ul> |
|--|--|

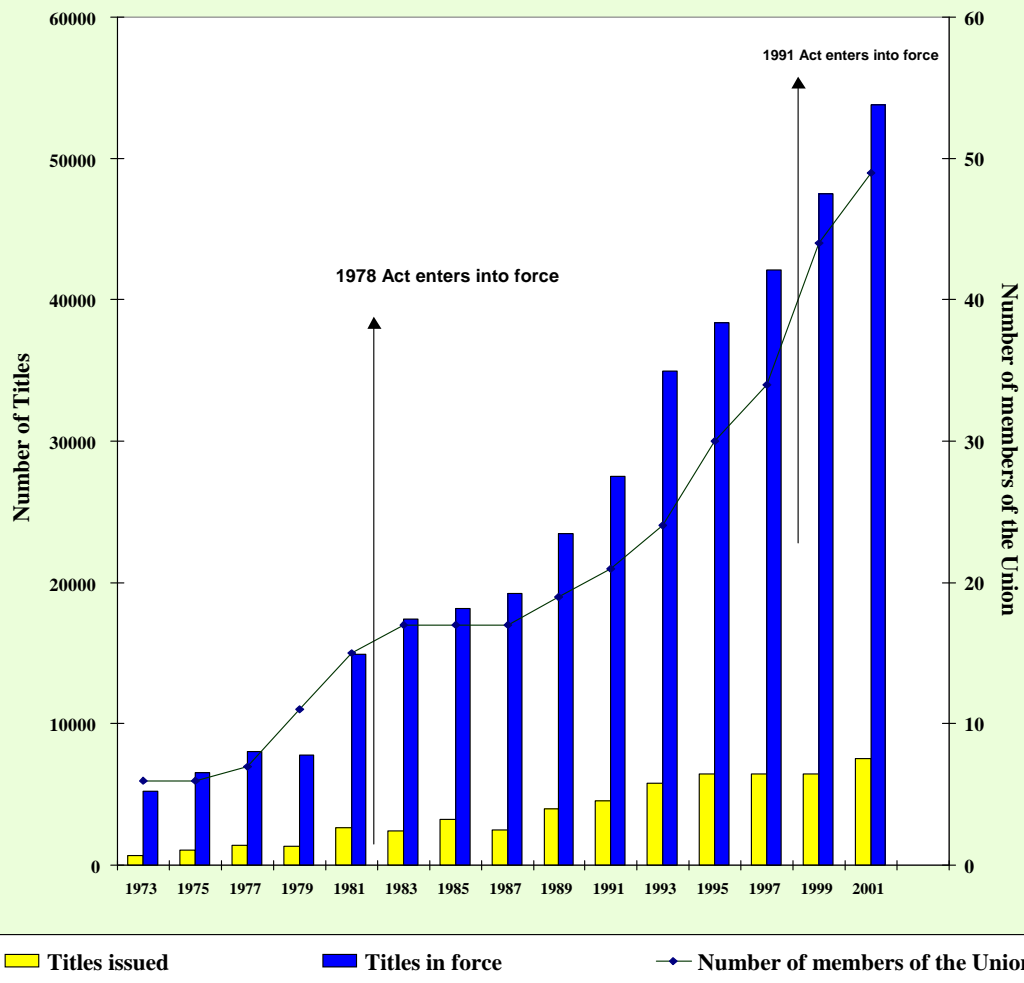


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### Development of Plant Variety Protection



## HOW TO BECOME A MEMBER OF THE UNION

A State or Intergovernmental Organization must:

1. Have a law which conforms with the UPOV Convention
2. **Ask Council of UPOV to advise on conformity of its law**
3. Deposit its instrument of accession/ratification

## BENEFITS OF UPOV MEMBERSHIP

- Internationally accepted *sui generis* system
- Protection for Breeders in other UPOV members' territories
- Benefit from the priority date (first application) in other UPOV members
- Co-operation in examination
- Technical guidance
- Awareness / Influence of future developments

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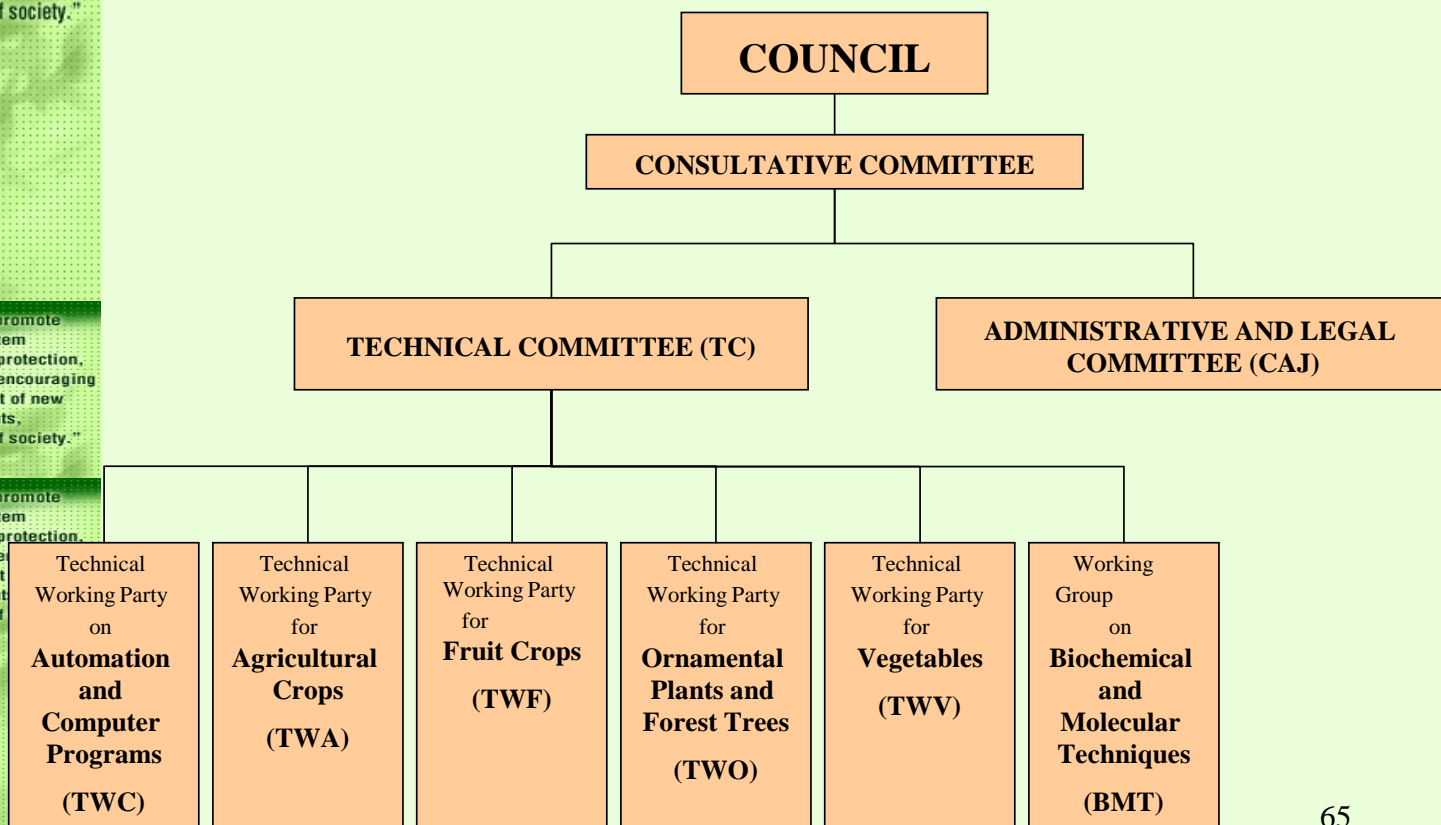


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# UPOV Structure

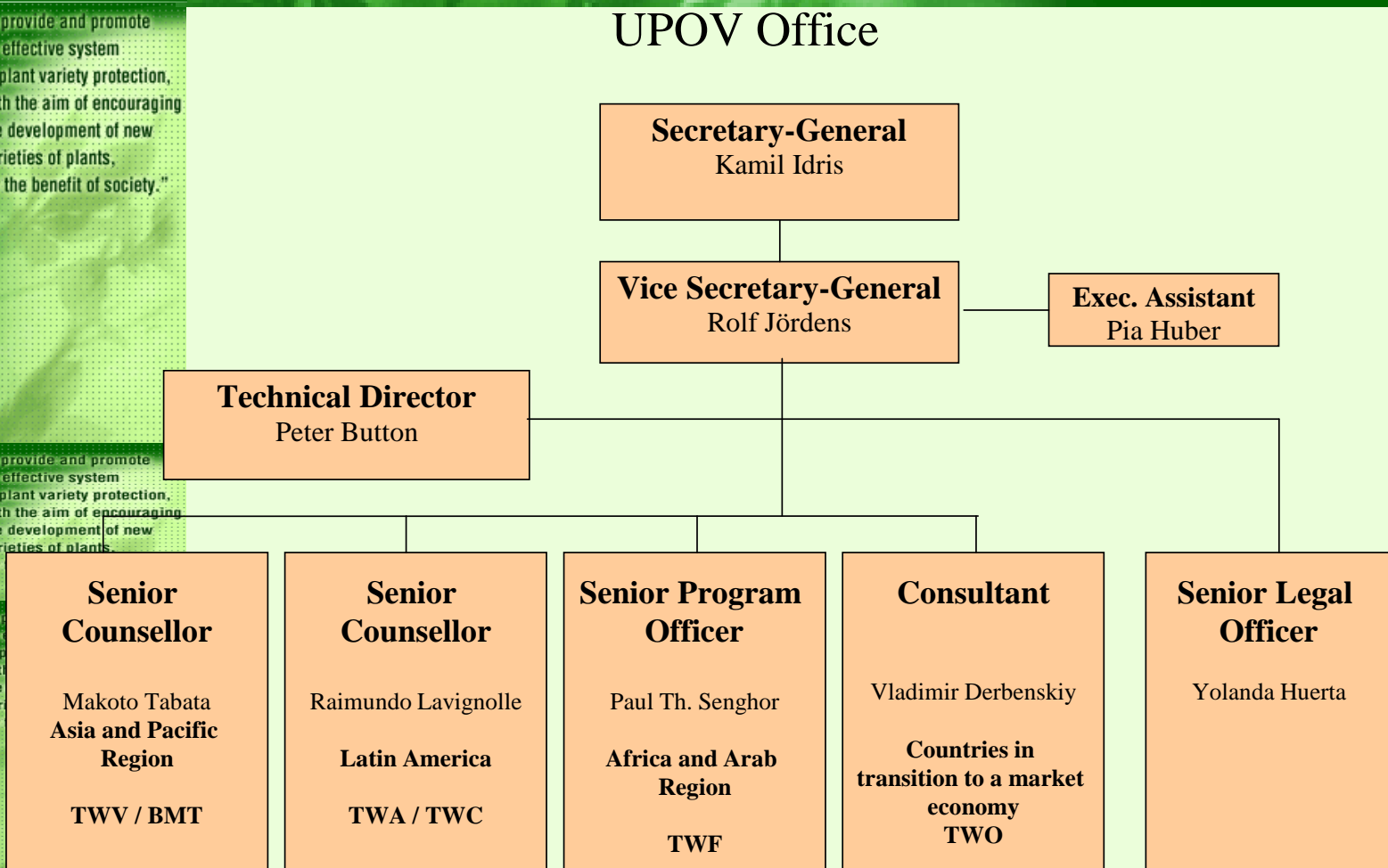


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**UPOV Office**



## UPOV

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# Part II

To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society."

# THE DUS EXAMINATION

- The meaning of “DUS”
- Nature of the DUS Examination
- UPOV Guidance for Examination
- Organization of the Examination

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## DISTINCTNESS

Must be clearly distinguishable from any other variety whose existence is a matter of common knowledge

### >>> **CHARACTERISTICS** <<<

which

- *may* have direct *commercial relevance*  
e.g. Flower color (ornamental); Fruit color
- *but commercial relevance* NOT required - often no commercial value  
e.g. Leaf shape

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# DISTINCTNESS

## Apple: Fruit color



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## DISTINCTNESS

### Apple: Fruit color



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# DISTINCTNESS

## Apple: Flower bud color





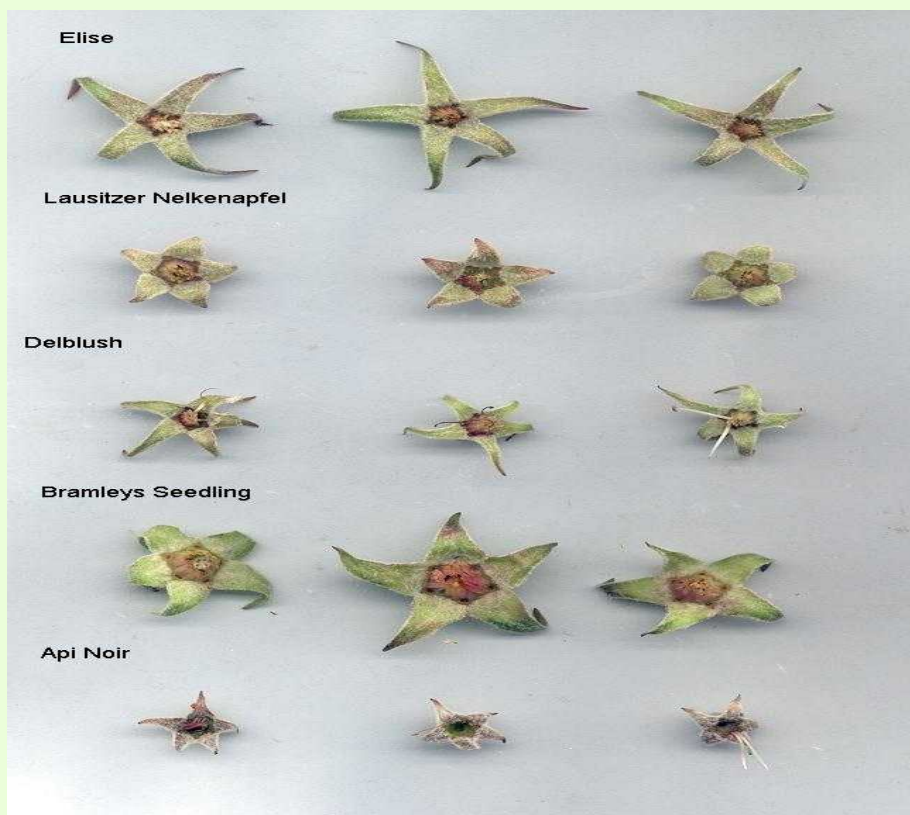
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# DISTINCTNESS

## Apple: Calyx



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# DISTINCTNESS

## Maize: Stem base color



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- **DISTINCTNESS**
- **UNIFORMITY**
  - Must be *sufficiently* uniform in its relevant characteristics, *subject to the variation that may be expected from the particular features of its propagation*

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# UNIFORMITY

## Ryegrass: Spaced plants (Cross-pollinated)



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# UNIFORMITY

## Wheat: (Self-pollinated)



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- **DISTINCTNESS**
- **UNIFORMITY**
- **STABILITY**
  - Relevant characteristics must remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle

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**UPOV**

## Part II: The DUS Examination

# Nature of the DUS Examination

## The “DUS Test” (field trial)



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# Guidance for Examination

**facilitates:**

## **BEST PRACTICE (based on experience)**

- => good decisions
- => good definition of the object of protection  
(strong protection)
- => efficiency in method of examination (learn from the best)

## **HARMONIZATION**

- => efficiency
  - mutual acceptance of DUS reports  
(minimize cost of examination for individual authorities)
  - mutual recognition of variety descriptions  
(all parties speak the same “language”)
  - simple and cheap system for applicants  
(minimize cost for breeders)



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## UPOV provides guidance by:

- The “General Introduction” (TG/1/3)
  - General technical principles
  - Organization of DUS Testing
  - Associated “TGP” Documents (e.g. statistical methods)

AND

- “Test Guidelines”
  - Species/Crop-specific recommendations developed by crop experts

UPOV Test Guidelines (“Test Guidelines”)  
are developed for  
**individual species / variety groupings**

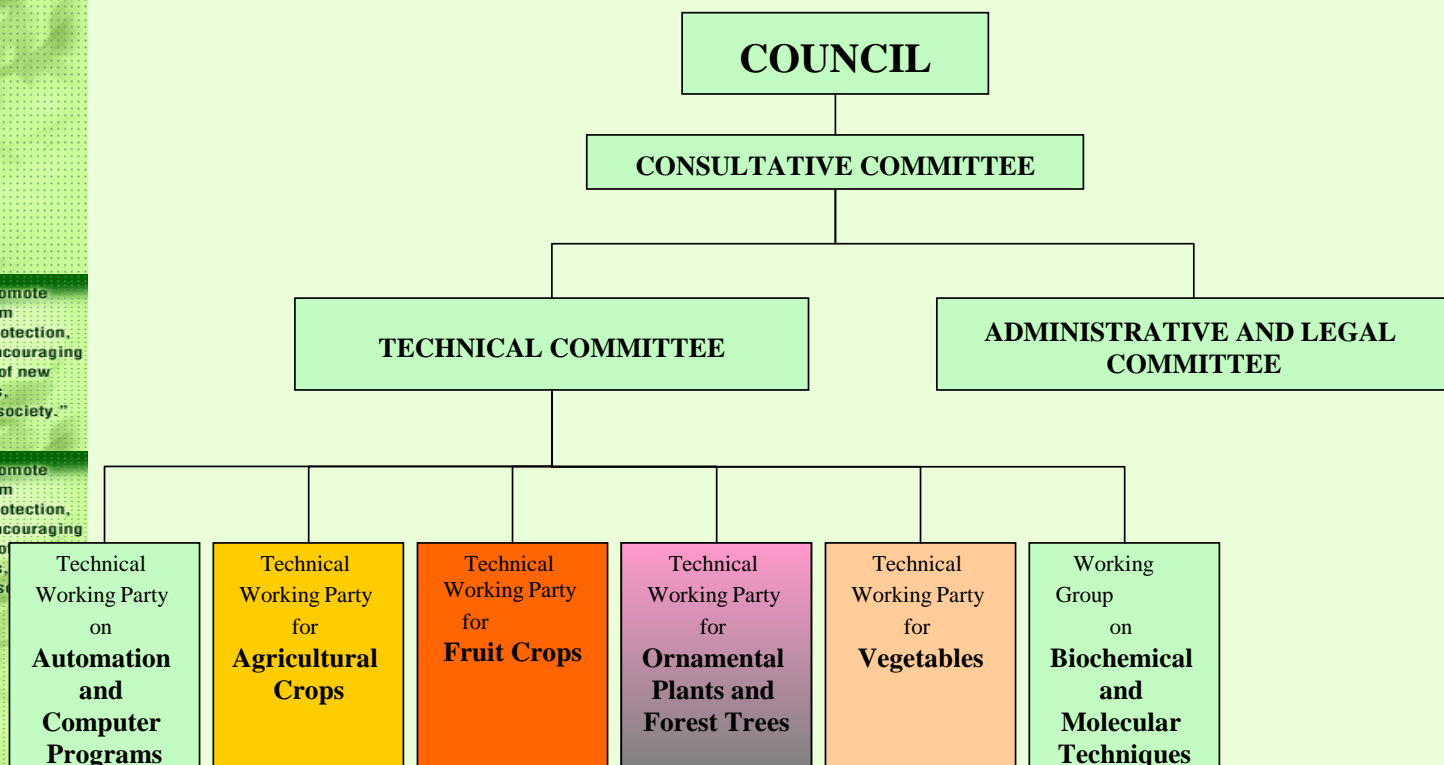
- Basis for internationally **harmonized examination of DUS** testing through guidance on the features of DUS Testing e.g.
  - growing cycles of testing (usually one or two)
  - number of plants (6 to 600)
  - material to be tested
  - characteristics to be examined (around 30 - 100)
  - uniformity standardsand facilitating **harmonized variety descriptions** on the basis of selected characteristics
- **Drafted by Members’ Experts (Technical Working Parties)**

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# UPOV Structure



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## Test Guidelines

- Total of **212 Test Guidelines** adopted
- Further **53 under development / revision** in 2003

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# ORGANIZATION OF THE DUS EXAMINATION

*(Article 12 of the 1991 Act of the UPOV  
Convention)*

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“In the course of the examination, **the authority** .....

*[i.e. the examination is conducted by the authority]*

...may grow the variety or carry out other necessary tests, .....

*[i.e. the authority may conduct growing trials, or other tests, itself - “Official Testing”]*

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**...cause** the growing of the variety or the carrying out of other necessary tests, .....  
*[i.e. the authority may arrange for other parties to conduct the growing trials or other tests e.g. by an*  
*Independent Institute*  
*Individual Breeder / Applicant*  
*Organization on behalf of a group of breeders / applicants]*

.. or **take into account** the results of growing tests or other **trials which have already been carried out.**”

*[i.e. the authority may take into account the results from previous tests or trials conducted by, for example, other National Authorities (purchasing of DUS reports)]*



# Cooperation between Authorities

Cooperation between Authorities can involve:

- **purchase of DUS Test Reports** from other Authorities
- **bilateral arrangements** to remove the need for duplication of DUS Tests
- **centralized DUS testing** at regional or global level

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## Cooperation between Authorities

Cooperation between Authorities is important for:

- minimizing the time for DUS examination
- minimizing the cost of DUS examination
- optimizing examination of Distinctness in growing trials

# Cooperation with Breeders

## Cooperation with Breeders

- maximizes the use of all available information
- minimizes the time for DUS examination
- can provide access to breeders' specialist resources

# Cooperation with Breeders

## DUS Testing in Cooperation with Breeders

- is always under the **control of the Authority**
- can involve the applicant in all aspects of conducting the DUS Test but will always result in a **decision being taken by the Authority**

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# Part III

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# Interface between the UPOV Convention and other International Treaties

Mettre en place  
et promouvoir un système  
efficace de protection  
des variétés végétales  
afin d'encourager  
l'obtention de variétés  
dans l'intérêt de tous

**1961-1991**

**UPOV**

**53 Members**

**International Convention for the Protection of New Varieties of Plants**

**1994**

**TRIPS/WTO**

**144 Members**

**Agreement on Trade-Related Aspects of Intellectual Property Rights /  
World Trade Organization**

**1992**

**CDB/COP**

**186 Members**

**Convention on Biological Diversity / Conference of the Parties**

**2001**

**ITPGRFA/FAO**

*Not yet in force*

**International Treaty on Plant Genetic Resources for Food and  
Agriculture / Food and Agriculture Organization of the  
United Nations**

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## UPOV

*To provide and promote an effective system of **plant variety protection**, with the aim of encouraging the development of new varieties of plants, for the benefit of society*

## WTO/TRIPS

*Protection and **enforcement** of intellectual property rights in order to reduce distortion and impediments to international trade*

## CBD/COP

*Conservation of biological diversity, **sustained use** of its elements and **benefit sharing** of the advantages flowing from exploitation of these genetic resources*

## FAO/ITPGRFA

*Conservation and **sustainable use** of plant genetic resources for food and agriculture and the fair and equitable **sharing of the benefits** arising out of their use for sustainable agriculture and food security* <sup>96</sup>

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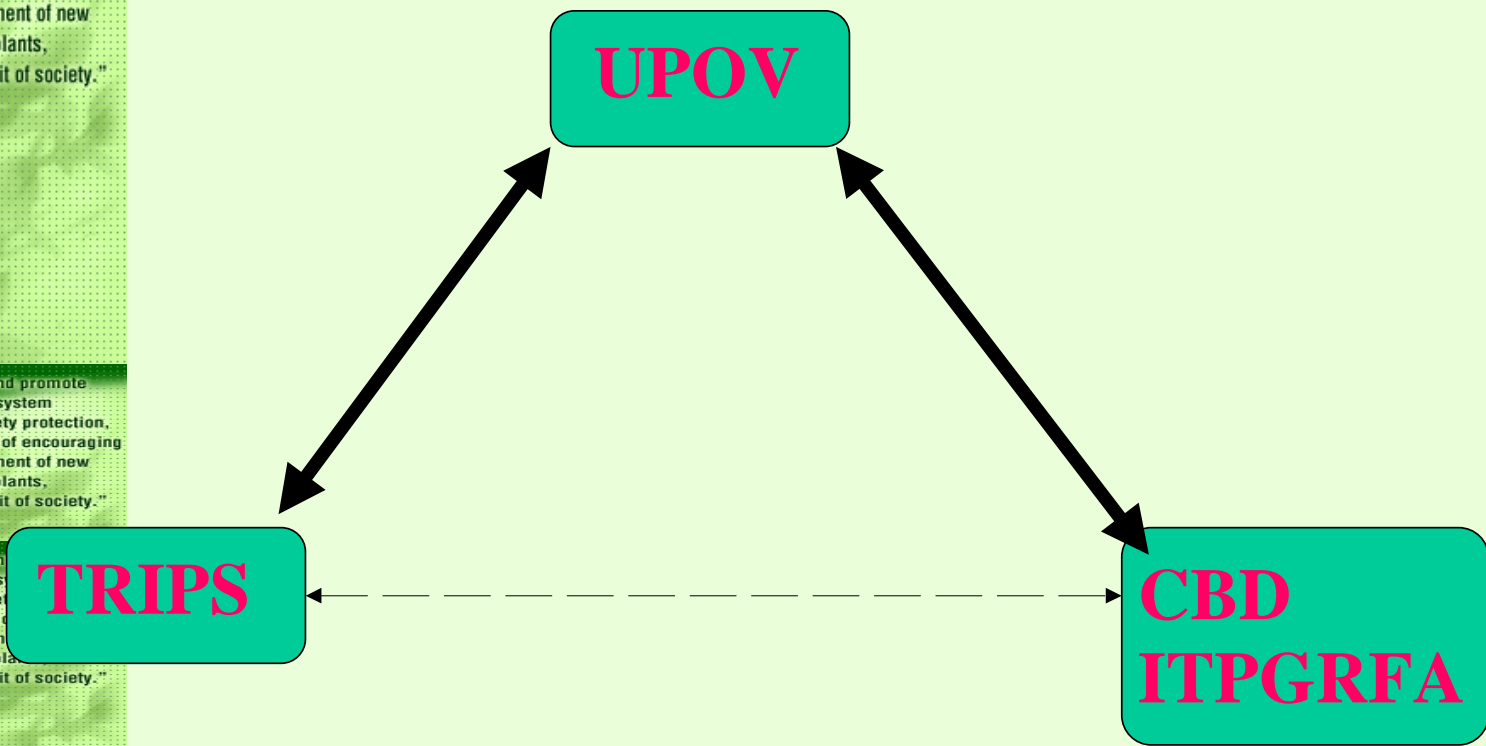
# UPOV

## Part III: The Interface between the UPOV Convention and other IT's

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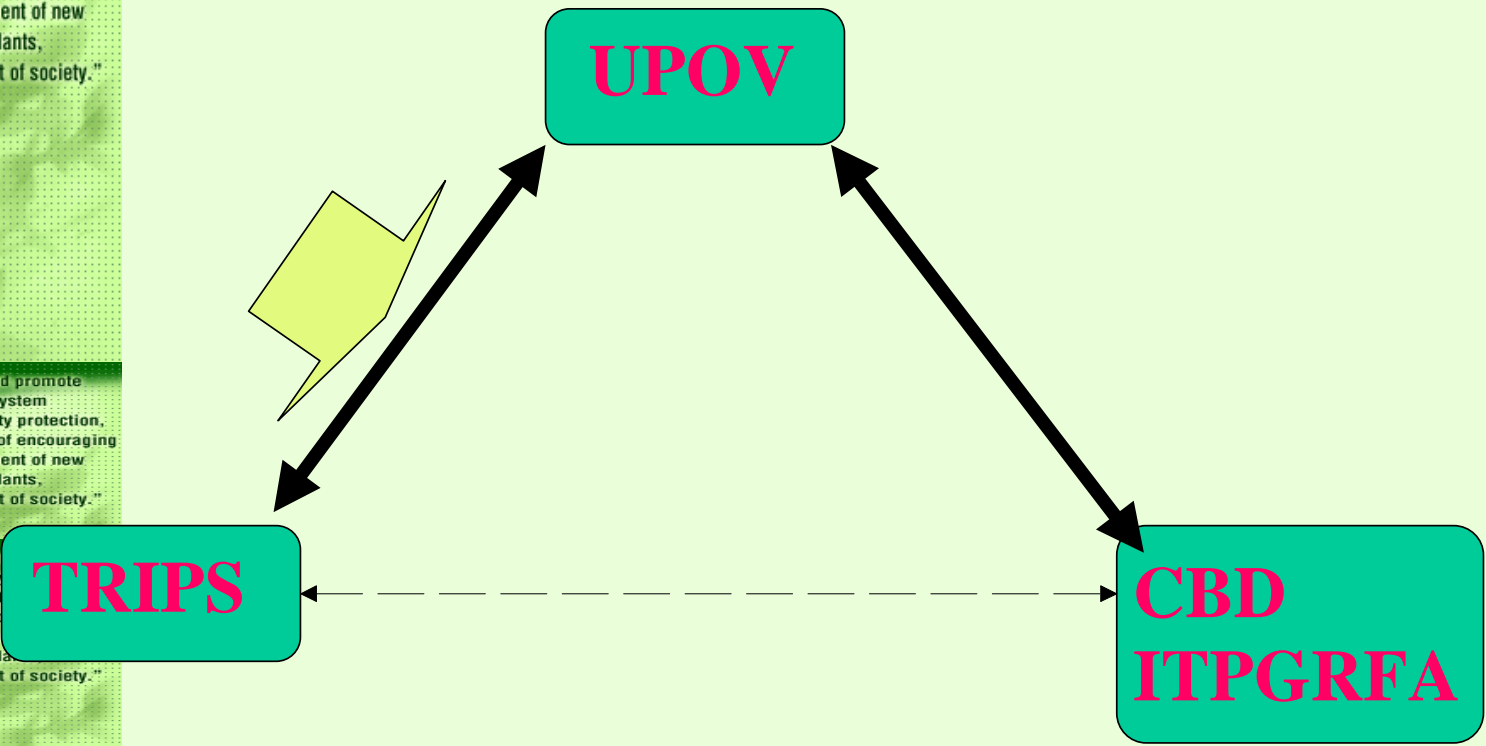
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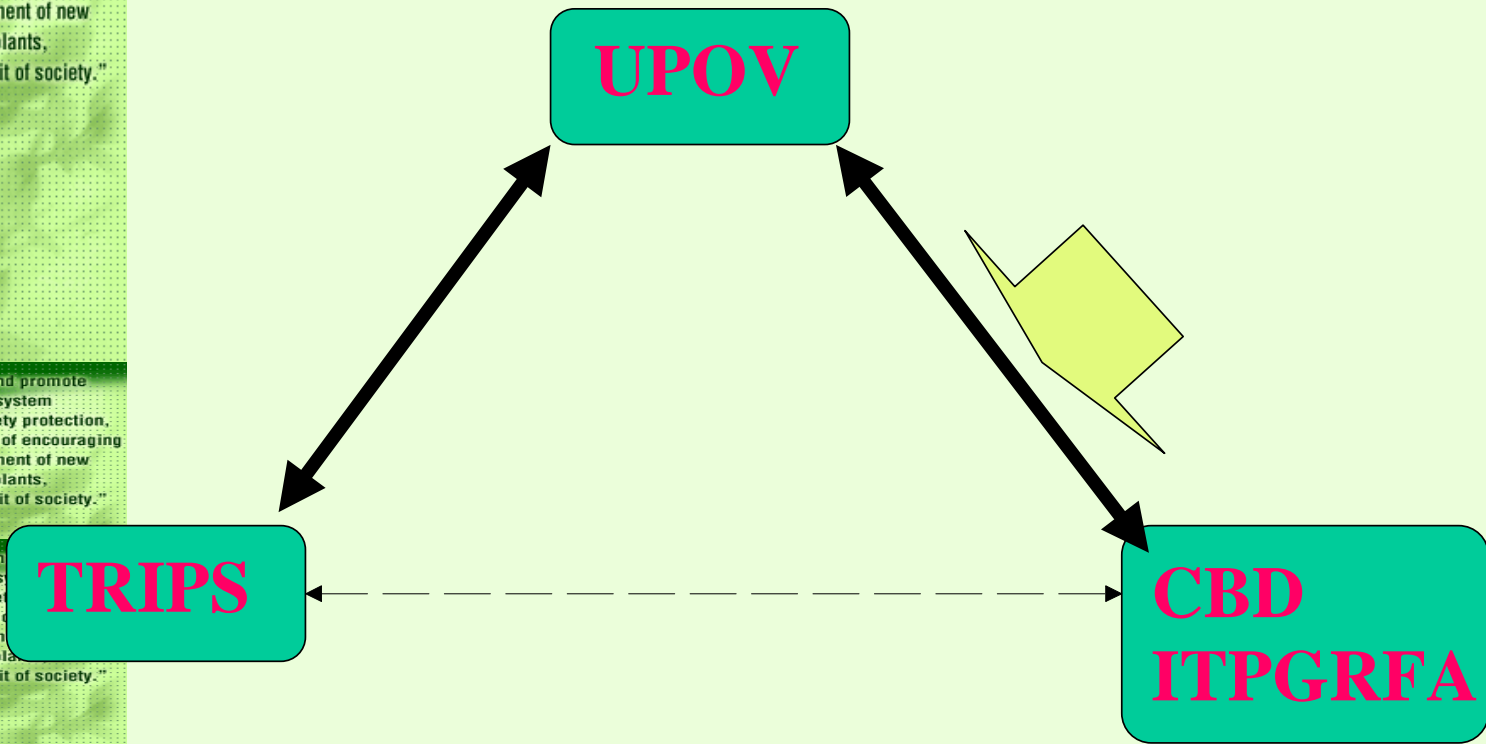
### TRIPS Article 27 Patentable subject matter

- “1. ..., patents shall be available for any invention, ..., provided that they are new, involve an inventive step and are capable of industrial application...
2. Members may exclude from patentability ... (ordre public, morality, life or health, environment) ...
3. Members **may also exclude from patentability**
- (a) ...
- (b) **plants** and animals other than micro-organisms, .... However, Members shall provide for the protection of plant varieties **either by patents** or by **an effective sui generis system** or by any **combination thereof ...”**

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## Key elements contained in CBD/ITPGRFA relevant to UPOV:

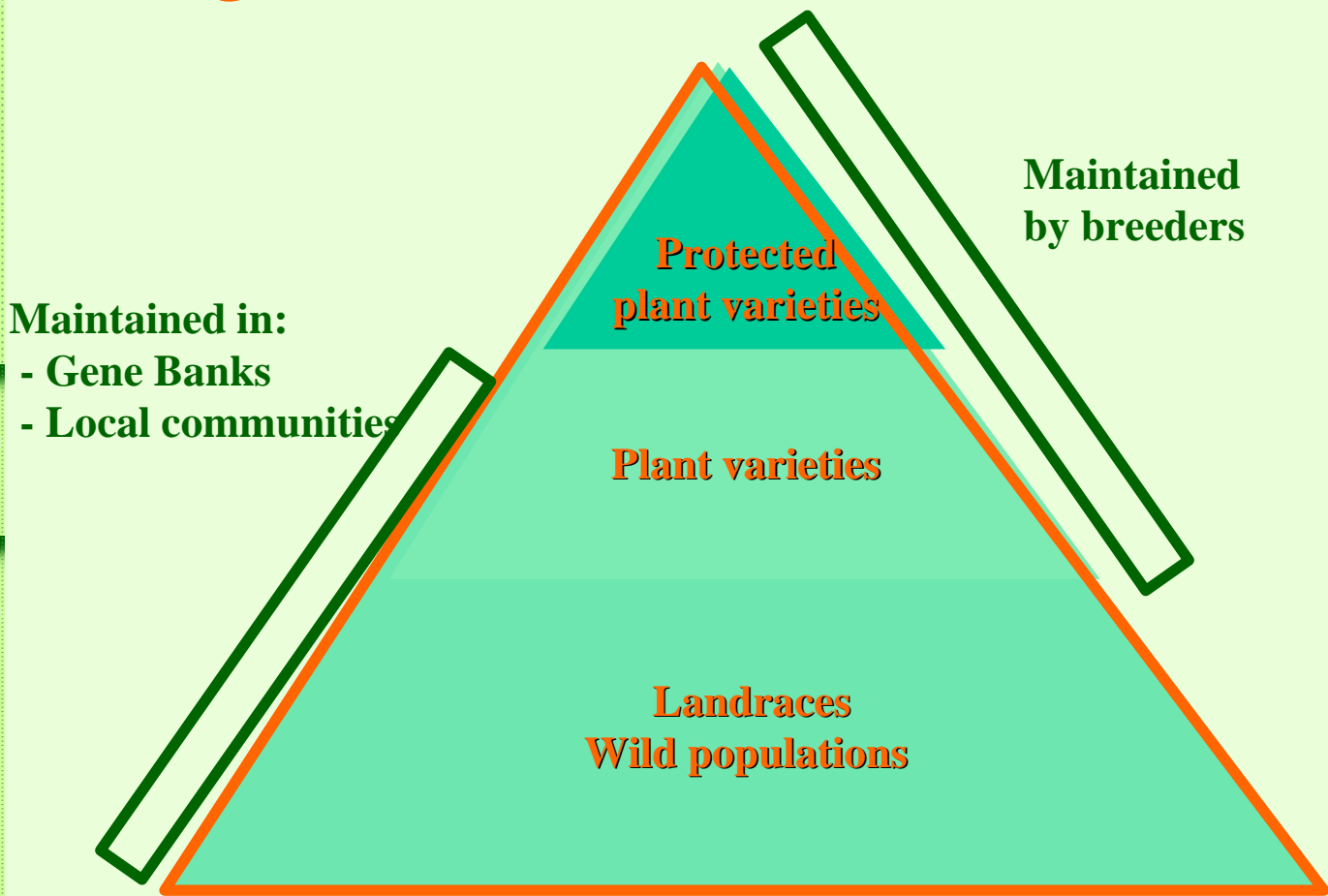
1. conservation of genetic resources
2. access to genetic resources
3. disclosure of the origin of genetic resources
4. prior informed consent (PIC)
5. “benefit-sharing”
6. “farmers’ rights”

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## Plant genetic resources (Gene Pool)



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## CONSERVATION OF GENETIC RESOURCES

- Plant varieties are important genetic resources
- UPOV encourages plant breeding
- Breeding increases the value of genetic resources
- UPOV encourages the maintenance of genetic resources because breeders need to:
  - maintain protection on existing varieties
  - develop successful new varieties

## ACCESS TO GENETIC RESOURCES

- UPOV considers access to genetic resources a key requirement for sustainable and substantial progress in breeding.
  - “Breeders’ exemption” in UPOV Convention: acts done for purpose of breeding other varieties not subject to any restriction.
- ⇒ UPOV view: **breeders need access to all forms of breeding material to sustain greatest breeding progress and, thereby, to maximize the use of genetic resources for the benefit of society.**



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## DISCLOSURE OF ORIGIN

- UPOV encourages information on the origin of plant material, used in breeding a plant variety, to be provided where this facilitates the DUS examination.
  - UPOV Convention does not allow provision of information on the origin to be a condition of protection.
- ⇒ Separate legislation on disclosure and legislation on plant variety protection - but compatible and mutually supportive

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## PRIOR INFORMED CONSENT (PIC)

**CBD:** Prior informed consent for access to genetic resources:

- States have sovereign rights over their own natural resources
- Access is subject to national legislation

**UPOV:**

- Encourages principles of transparency and ethical behaviour
- UPOV Convention does not allow PIC to be a condition of protection
- CBD provides that determination of access to subject to national legislation

⇒ **Separate legislation on PIC and legislation on plant variety protection - but compatible and mutually supportive**<sup>106</sup>

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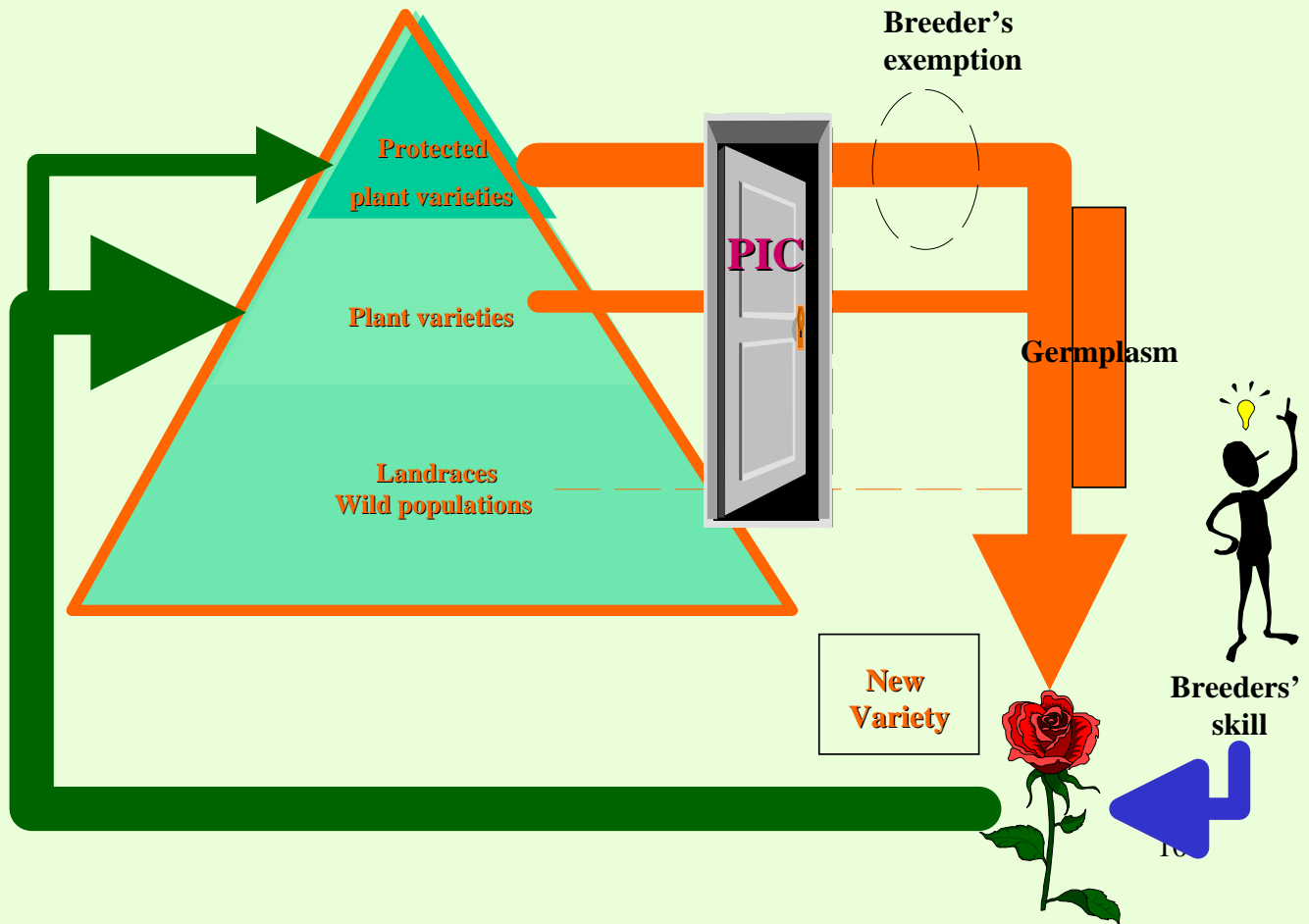
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# THE BREEDING CYCLE OF PROGRESSION



## BENEFIT-SHARING

- UPOV: Breeder's exemption
- ITPGRFA:
  - recognizes the concept of the breeder's exemption, in that breeders are excepted from financial benefit-sharing whenever their products are "available without restriction to others for further research and breeding ..."  
*(ITPGRFA Article 13(d)(ii))*

## FARMERS' RIGHTS

### ITPGRFA:

Farmers' right to save, use, exchange and sell farm-saved seed / propagating material, **subject to national law and as appropriate.**

⇒ No conflict with national legislation implementing UPOV Convention

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## UPOV

- Subsistence Farmers

activities of subsistence farmers, where these constitute acts done privately and for **non-commercial purposes**, are excluded from the scope of the breeder's right.

- Farm-saved seed

“Farmer’s privilege”: optional benefit-sharing mechanism provided by the UPOV Convention, under which UPOV members may permit farmers, on their own farms, to use part of their harvest of a protected variety for the planting of a further crop - subject to reasonable limits and requires that the legitimate interests of the breeder are safeguarded, to **ensure there is a continued incentive for the development of new varieties of plants**, for the benefit of society.

# UPOV

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**UPOV**

**CBD and ITPGRFA  
can be implemented  
in harmony with  
UPOV**

**TRIPS**

**CBD  
ITPGRFA**

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**THANK YOU**