

Annual report 2001

Community Plant Variety Office



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A great deal of additional information on the European Union is available on the Internet.

It can be accessed through the Europa server (<http://europa.eu.int>).

Cataloguing data can be found at the end of this publication.

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INTRODUCTION BY BART KIEWIET, PRESIDENT OF THE CPVO



- **The state of the Community plant variety rights system**

As indicated in the statistics in the chapter entitled 'Developments in the technical sector' of this annual report, the number of applications in 2001 rose compared with the previous year. Although a further rise is certainly not out of the question — the extension of the territorial coverage of the Community plant variety right on the enlargement of the European Union makes the system even more attractive — it is my belief that future growth will be relatively modest. I am sure, however, that the Community Plant Variety Office (CPVO) will be able to run the Community system on a sound financial basis with the number of applications at around the present level.

During the year, apart from routine activities, three subjects demanded the special attention of the members of the CPVO staff and, at a later stage, the Administrative Council: the cost calculation project, the external assessment of the Office by Deloitte & Touche and the drafting of test guidelines.

- **The cost calculation project**

The decisions of the CPVO on applications for Community plant variety rights are based on technical assessments of candidate varieties aimed at establishing whether they meet the requirements of distinctness, uniformity and stability. These examinations are performed on behalf of the CPVO by examination offices selected by the Administrative Council. During the first years of the existence of the CPVO, the level of remuneration to be paid to an examination office was fixed at the level of the appropriate examination fee payable to the CPVO by the applicant. During the year covered by this report, the examination offices were invited to calculate the costs of these examinations, on the basis of methods adopted by the Administrative Council, to enable the CPVO to pay them on the basis of the actual costs involved. This exercise was carried out under the supervision of the CPVO and has resulted in the establishment of cost levels for the main species or groups of species. As from 1 January 2002, remuneration for technical examinations will be based on these levels. Consequently, the costs of technical examinations performed on behalf of the CPVO will increase considerably. This development necessitates a modification of the levels of the examination fees payable to the CPVO and, accordingly, a draft amendment of the fees regulation will be prepared in 2002. Until the entry into force of this legislation, the shortfall will be financed out of the reserve of the CPVO.





The 'Hotel Bordeaux-Montrieux', premises of the CPVO in Angers (F) (front and back views)

- **The external assessment of the CPVO**

This assessment, undertaken by Deloitte & Touche, took place mainly in the first part of the year. An executive summary of the results of this exercise can be found in the chapter of this report entitled 'External assessment of the CPVO by Deloitte & Touche'. Although the Deloitte & Touche assessment contained some critical remarks, the overall picture is rather positive. The observation that 'applicants were satisfied to very satisfied with the operation of the office' is a sign that the performance of the CPVO meets the expectations of its 'clients'.

- **Test protocols**

The technical examinations mentioned above are performed in compliance with test protocols adopted by the Administrative Council. These protocols are based on the test guidelines established in the framework of UPOV, but adapted to the specific needs of the Community plant variety rights system. Recent Commission legislation obliges Member States to base their assessment of varieties on the characteristics listed in the relevant CPVO protocols when testing varieties for registration in their national catalogues and subsequent inclusion in the common catalogues. I consider this an important development, which could signal the beginning of a more prominent involvement of the CPVO in the common catalogue system in the European Community.

It remains for me to thank all those who have contributed to the sound performance of the CPVO during 2001 for their continued efforts.

Bart Kiewiet

President of the CPVO

FOREWORD

BY CARLOS PEREIRA GODINHO, CHAIRMAN OF THE ADMINISTRATIVE COUNCIL



The year 2001 saw the process of consolidating and improving the Community system for the protection of plant breeders' rights take yet another important step. There was further annual growth in the number of applications lodged at the Community Plant Variety Office. Although this is a positive and encouraging sign, a certain stabilisation at this level may now be expected.

Looking back over the many events of 2001, there are two particular activities of the CPVO that I wish to highlight. One was the decision taken by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry to adopt the examination guidelines on distinctness, uniformity and stability (DUS) testing, approved by the Administrative Council of the CPVO, for the official acceptance of varieties to be included in the common catalogue. The decision taken by the standing committee is a reflection of the rigour and quality of the technical and scientific work of the technical department of the CPVO, which forms one of the cornerstones of the Community system for the protection of plant breeders' rights. The other matter to which I would like to refer is the renewal of the terms of office of both the President and the Vice-President of the CPVO, in accordance with the procedure referred to in Article 43 of Council Regulation (EC) No 2100/94. This was, undoubtedly, a decision of great importance for the continuity of the process of strengthening the system and guaranteeing the stability required to fulfil successfully the important immediate objectives of the Office. Reference ought to be made, *inter alia*, to the conclusion of the exercise analysing the costs of DUS testing and their implications, and the outlook for the system following the future enlargement of the European Union.

Finally, I wish to thank all those people who helped the CPVO achieve its good results in 2001, and, especially, the whole team at the CPVO and my colleagues in the Administrative Council for their excellent work.

Carlos Pereira Godinho

Chairman of the Administrative Council



THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM

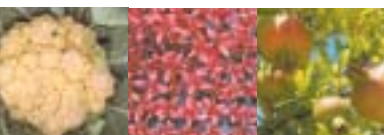
On 27 April 1995, the substantive and procedural parts of Council Regulation (EC) No 2100/94 (hereinafter 'the basic regulation') came into force introducing a Community plant variety protection system. Prior to that date, a breeder seeking protection for a new variety in the whole of the territory of the European Union was obliged to make separate applications in each individual Member State. Now, on the basis of a single application to the Community Plant Variety Office (hereinafter 'the Office'), a breeder may be granted protection guaranteeing him exclusive exploitation rights for his variety throughout the EU.

The new system is not intended to replace or even harmonise national systems but rather to exist alongside them as an alternative; indeed, it is not possible for the owner of a variety simultaneously to exploit a Community plant variety right (CPVR) and a national right or patent in relation to that variety. Where a CPVR already exists in relation to a variety, any national right or patent granted for that variety will be ineffective. Where a CPVR is granted in relation to a variety for which a national right or patent has already been granted, the national right or patent is rendered ineffective for the duration of the CPVR.

On receipt of an application for a CPVR, the Office must establish that the variety is novel and that it satisfies the criteria of distinctness, uniformity and stability (DUS). The Office may arrange for a technical examination to determine DUS, to be carried out by the competent offices in Member States or by other appropriate agencies outside the European Community. In order to avoid unnecessary duplication of work, where such a technical examination is being, or has already been, carried out in relation to a variety for official purposes, the Office may, subject to certain conditions, accept the results of that examination.

Anyone may lodge an objection to the grant of a CPVR with the Office, in writing and within specified time limits. The grounds for objection are restricted to allegations either that the conditions laid down in Articles 7 to 11 of the basic regulation are not met (distinctness, uniformity, stability, novelty or entitlement) or that the proposed variety denomination is unsuitable due to one of the impediments listed in Article 63. Objectors become parties to the application proceedings and are entitled access to relevant documents.

Except in two specific instances where a direct action against a decision of the Office may be brought before the European Court of Justice, a right of appeal against such a decision lies with a **board of appeal** consisting of a chairman, appointed by the Council and two other members selected by the chairman from a list compiled by the Administrative Council. The addressee of a decision, or another person to whom its content is of direct and individual concern, may appeal against it. After examining the appeal, the board may exercise any power within the competence of the Office or





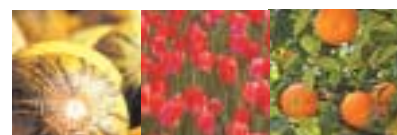
Hippeastrum DUS trials

remit the case to the Office, which is bound by the board's decision. Actions against decisions of the board may be brought before the European Court of Justice.

The table in the Annex (see page 54) shows the number of notice(s) of appeal lodged with the CPVO, since the beginning, and the decisions reached by the **board of appeal**.

Once granted, the duration of a CPVR is 25 years, or 30 years in the case of potato, vine and tree varieties. These periods may be extended by legislation for a further five years in relation to specific genera or species. The effect of a CPVR is that certain specified activities in relation to variety constituents or harvested material of the newly protected variety require the prior authorisation of the holder of the right. This authorisation may be made subject to conditions and limitations. Infringement of a CPVR entitles the holder of the right to commence civil proceedings against the perpetrator of the infringement.

Registers, which are open to public inspection, contain details of all applications received and all CPVRs granted by the Office. Every two months, the Office publishes its *Gazette of the Community Plant Variety Office*, which also provides this information as well as other material.



THE ADMINISTRATIVE COUNCIL

The Office is supervised by an Administrative Council comprising a representative from each Member State and one from the European Commission, and their alternates.

The Administrative Council monitors the activities of the Office. In particular, it is responsible for examining the management report of the President, adopting the budget of the Office, and granting discharge to the President in respect of its implementation. In addition, it may provide advice, establish rules on working methods within the Office and issue guidelines on technical examinations, committees of the Office and general matters.

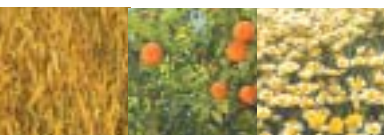
The Administrative Council met three times in 2001, on 14 and 15 March, on 20 and 21 September and on 13 and 14 November. The session of 20 and 21 September was held in Lisbon at the invitation of the Portuguese Ministry of Agriculture, following the election of the new Portuguese Chairman, Mr Carlos Pereira Godinho, in 2000.

At the **meeting of 14 and 15 March**, the first meeting chaired by Mr Carlos Pereira Godinho, the accounts for the financial year 2000 were presented along with the draft budget for 2002. The members of the Administrative Council granted discharge to the President of the CPVO for the implementation of the 1999 budget. They also gave their backing to the research project on DUS testing of poinsettias by the Danish Institute and to the project for a memorandum of mutual cooperation with the OAPI (African Intellectual Property Organization). Lastly, several important matters were discussed at the meeting. These included:

- the progress of the project for EU accession to the UPOV (International Union for the Protection of New Varieties of Plants), which would enable the European Union to become a full member of the UPOV;
- the progress of the application (planned for no later than 30 July 2000) of Directive 98/44/EC on the legal protection of biotechnological inventions by the Member States;
- the role of the CPVO in the possible inclusion of the Community protection of new varieties of plants in Council Regulation (EC) No 3295/94 of 22 December 1994 laying down measures to prohibit the release for free circulation or counterfeit goods.

Lastly, various technical matters were discussed, including the evaluation of the DUS test system for maize in France, the nomination of new examining centres and the revision of the list of examining centres for species having more than one examining centre.

At the **meeting held on 20 and 21 September in Lisbon**, those members of the Administrative Council who were present and entitled to vote adopted unanimously the second draft amending budget for 2001. Furthermore, the AC adopted an opinion





The members of the Administrative Council of the CPVO at the Lisbon meeting (September 2001)

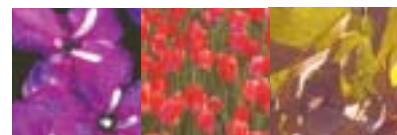
authorising the CPVO to establish contacts with the Directorate-General for the Internal Market and to create a working party on denominations of varieties in cooperation with the European Commission.

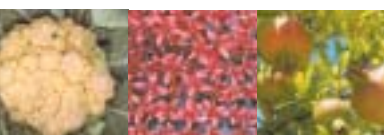
The progress of the cost calculation project was discussed, which, once in place, should enable the 'in/out' principle (whereby fees for technical examinations received from applicants are simply paid over to the examination offices in their entirety regardless of the actual cost of those examinations) to be replaced by a system based on real costs.

At the **meeting of 13 and 14 November**, the Administrative Council adopted:

- the budget for 2002;
- the technical protocols of the CPVO for maize (*Zea Mays* L.), sugar beet (components) (*Beta vulgaris* L. ssp. *vulgaris* var. *altissima* Döll) and six vegetable species, namely cabbage (*Brassica oleracea* L. convar. *capitata* (L.) Alef.), cauliflower (*Brassica oleracea* L. convar. *botrytis* (L.) Alef. Var. *botrytis* L.), French bean (*Phaseolus vulgaris* L.), leek (*Allium porrum* L.), lettuce (*Lactuca sativa* L.) and tomato (*Lycopersicon lycopersicum* (L.) Karst. ex. Farw.).

Furthermore, the results of the first phase of the study on the phytoplasma project were presented by the CPVO. The members of the AC concluded that, if the second phase of the project is to be carried out, it can not be financed by the OCVV. In view of the possible participation of professional organisations of plant breeders at AC meetings as observers, the members of the AC expressed their reservations.





CHAIRMAN OF THE ADMINISTRATIVE COUNCIL:

Mr C. Pereira Godinho(Portugal)

MEMBERS OF THE ADMINISTRATIVE COUNCIL:

- Belgium**Mrs C. Vanslembrouck
Mrs F. Bedoret
- Denmark**Mr H.-J. Andersen
Mrs M. Buus
- Germany**Mr U. Von Kröcher
Mr H.-W. Rutz
- Greece**Mr M. Gavras
Mr T. Kastrissios
- Spain**Mr M. Fernandez De Gorostiza
Mr L. Salaices
- France**Mr B. Mathon
Ms N. Bustin
- Ireland**Mr J. Carvill
Mr G. Rennick (since 25 May 2001)
- Italy**Ms G. Morelli Gradi
Mr P. Mainolfi
- Luxembourg**Mr C. Conter
Mr M. Weyland
- The Netherlands**Mr G. Van Der Lely
Mr C. Van Winden
- Austria**Mr H. Etz
Mr H.-P. Zach (Vice-Chairman)
- Portugal**Mr C. Pereira Godinho (Chairman)
Mrs M.-T. Carrilho
- Finland**Mr A. Vuori
Vacant
- Sweden**Mr G. Karltorp
Mrs M. Sjöblom
- United Kingdom**Mrs H. Hamilton
Mr J. Dix
- European Commission**Mr R. Coleman
Mr D. Obst

STAFF OF THE CPVO

The establishment plan in the 2001 budget, adopted by the Administrative Council at its meeting of 18 and 19 October 2000, provided for a total of 31 posts (14 permanent posts and 21 temporary posts, of which four also appeared as permanent posts pending the outcome of competitions to recruit permanent staff).

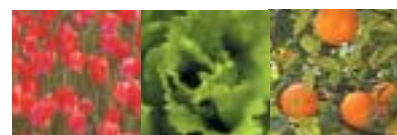
Internal competitions were organised for three permanent posts during the first six months of 2001.

In December 2001, the Office's staff comprised 11 officials, 19 temporary agents, one auxiliary agent and three other agents. Eleven nationalities from the European Union's Member States were represented.

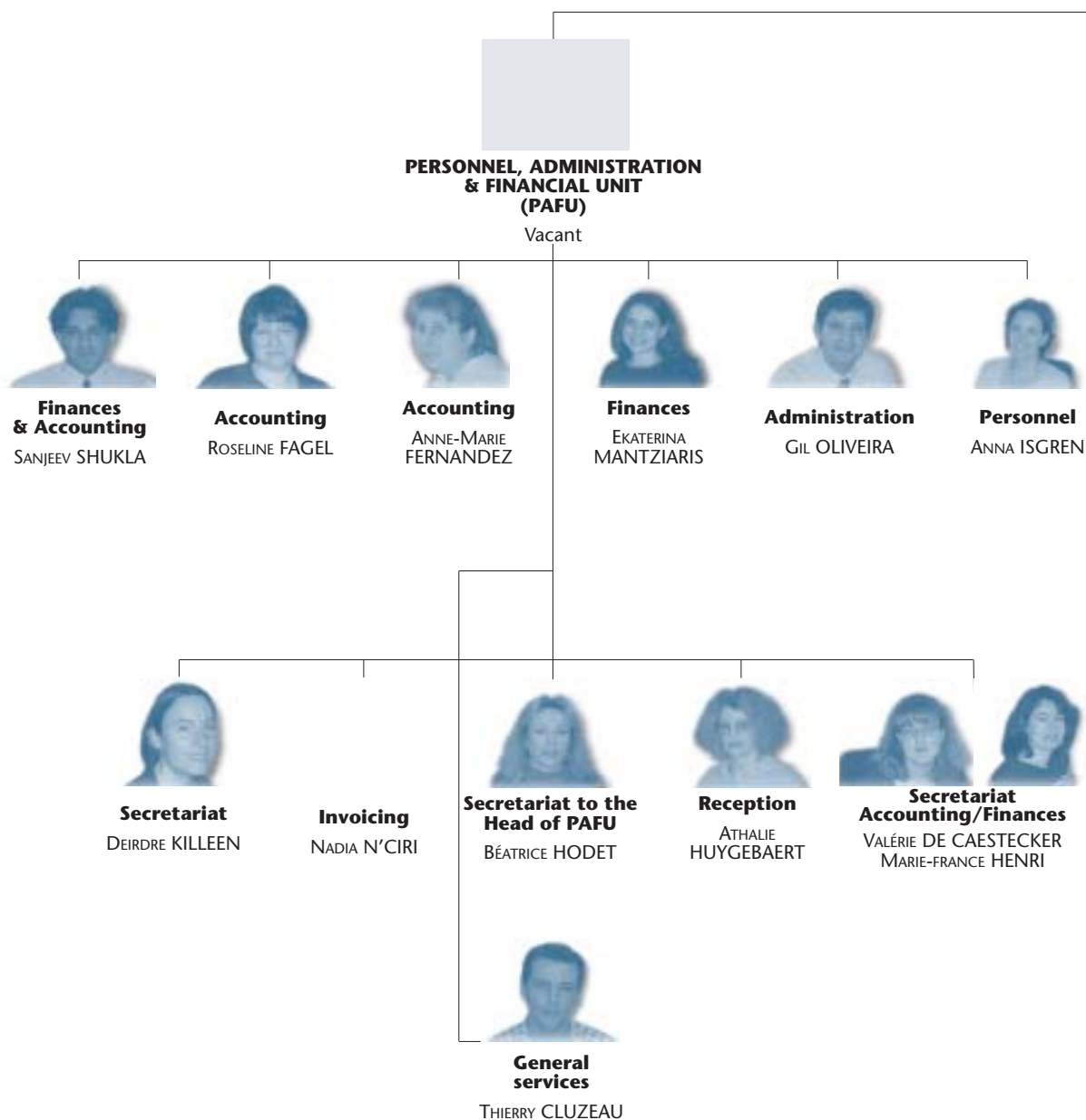
• Organisation of the Office

Under the general direction of its President, the Office is organised internally in three principal units.

- **The Technical Unit**, the principal tasks of which are the following: general coordination of the various technical sectors of the Community protection system; reception and checking of applications for protection; organisation of technical examinations and technical checks on site; maintenance of the registers; purchasing existing technical reports; organisation of variety denomination examinations; preparation for granting of rights; production of official technical publications; relations with applicants, national offices and the sector's international organisations; active participation in international committees of technical experts and cooperation in the development of technical analyses and studies intended to improve the system.
- **The Personnel, Administration and Finances Unit** is active in three areas:
 - **administrative section:** awarding of contracts for goods, services or works in compliance with Community procedures; conclusion, administration and management of contracts; organisation of Community publications; administration, management and monitoring of the Office's inventory of movable property and buildings; administration of requirements in logistical, office automation, computing and operational resources with a view to ensuring the smooth functioning of the Office;
 - **financial section:** commitment, validation, authorisation and payment of expenditure, and in particular that relating to technical matters; recovery of revenue, mainly relating to fees; reimbursement of undue sums; administration of the Office's bank accounts, reserve funds and cash; maintenance of the budget and general accounting and preparation of budgets and financial documents; management of the fees system;



ORGANISATIONAL FLOW CHART OF THE CPVO (1)





PRESIDENT
BART KIEWIET



VICE-PRESIDENT
JOSÉ ELENA



LEGAL UNIT
IAIN FORSYTH



TECHNICAL UNIT (TU)
DIRK THEOBALD



Secretariat Board of Appeal
VÉRONIQUE DOREAU



Information technology
PATRICK LECOQ
JEAN-LOUIS CURNIER



Fruit & Vegetables
SERGIO SEMON



Ornamentals & Denominations
JEAN MAISON



Denominations
TON KWAKKENBOS



Agricultural species
ANNE WEITZ



Register
ANNE GARDENER



Secretariat to the President
Marleen VAN DE MEULEBROEKE



Secretariat to the Vice-President
CYRILLE ANTOINE



Denominations
RUDI CAES



Secretariat to the Head of TU
ALINE NOGUES



Secretariat
GHISLAINE GUILBERT



Register
EUGENIO MAIORINI

(1) The above organisational flow chart comprises those members of the CPVO employed as officials, temporary or auxiliary agents on 31 December 2001.



Senior management meeting at the CPVO

— personnel section: recruitment, administration and management of the Office's human resources; training; reimbursement of expenses relating to the Office's Administrative Council meetings, missions and technical experts' meetings.

- **The Legal Unit** furnishes legal advice to the President and other members of the Office basically on technical matters, although also on questions of an administrative nature. The unit provides legal interpretations and opinions and also draws up draft legislation. It actively participates in various meetings including those of the Consultative Committee on Purchases and Contracts, thus ensuring that Community procedures are respected. It is responsible for the administration of objections to applications for CPVRs and for organising sessions of the Office's board of appeal.
- In addition, **an IT team** was set up in the second half of 1998. It ensures that the Office runs smoothly in computing terms. Its tasks include: analysis of the Office's hardware and software requirements; design, development and installation of new programs specific to the Office, such as PVR (plant variety rights), SI2 (budget compatibility system), a specific invoicing system and a system for administering charge accounts; installation of standard programs; maintenance of the computer installation and its administration; the computer system's security; the help desk; interinstitutional cooperation in computing.

- **Financial control**

Finally, the functions of financial controller are performed by the European Commission's Financial Control DG.



FINANCIAL SITUATION

IMPLEMENTATION OF THE 2001 BUDGET AND FINANCIAL ANALYSIS

Revenue

The Office's revenue basically comprises various fees paid by applicants for and holders of Community plant variety rights and revenue from interest on bank accounts. The total revenue collected in 2001 was EUR 8 688 390.22, and revenue still outstanding amounted to EUR 201 592.74.

The principal types of revenue collected in 2001 break down as follows.

- **Fees**

The total amount for fees for 2001 was EUR 7 691 206. This sum is distributed as follows: EUR 1 909 300 in application fees, EUR 1 433 600 in examination fees, EUR 173 900 in report fees, EUR 4 099 300 in annual fees, EUR 31 040 in surcharges, EUR 23 625 in sales of reports, EUR 3 500 in appeal fees and EUR 16 941 in miscellaneous fees.

- **Interest on bank accounts**

EUR 534 607.09 was collected in interest on the Office's bank current accounts.

- **Gifts and bequests**

The French authorities' contribution in 2001 to the purchase and fitting out of the Office's permanent seat was EUR 283 650.91. This concludes the French authorities' contribution to the installation of the permanent seat of the CVPO in Angers.





Sunflowers DUS trials

Expenditure

The total amount for recorded expenditure and appropriation carry-overs was EUR 7 421 524.73.

- **Staff expenditure**

The total amount of staff expenditure, including appropriation carry-overs, was EUR 2 794 514.05. Under the items relating to the calculation of salaries, an average of around 90 % of the amount provided for in the budget was utilised, with the exception of the temporary agents item, of which approximately 60 % was utilised.

- **Expenditure on buildings and movable property and miscellaneous operating expenditure**

The total amount for this expenditure was EUR 705 302.68, comprising EUR 564 758.97 in recorded expenditure and EUR 140 543.71 in appropriation carry-overs.

- **Operational expenditure**

The total amount for this expenditure was EUR 3 921 708.00, comprising EUR 1 048 265.76 in recorded expenditure and EUR 2 873 441.24 in appropriation carry-overs.

Out-turn for the financial year and accumulated reserve fund

The net budget out-turn for the year is the difference between revenue and expenditure, including appropriation carry-overs.

(in EUR)

Out-turn for the year 2001	1 263 442.26	Total
Cancelled appropriation carry-overs from the previous year	1 121 518.16	2 384 960.42
Out-turn for the previous year	8 643 867.60	
Out-turn to be brought forward		11 028 828.02

The reserve fund was therefore **EUR 11 028 828.02** at 31 December 2001.



DEVELOPMENTS IN THE **TECHNICAL SECTOR**

Applications for Community plant variety rights

In 2001, the Office received 2 157 applications for Community plant variety protection. As illustrated in Table 1, this represents a further increase (+ 7.1 %) over the previous year.

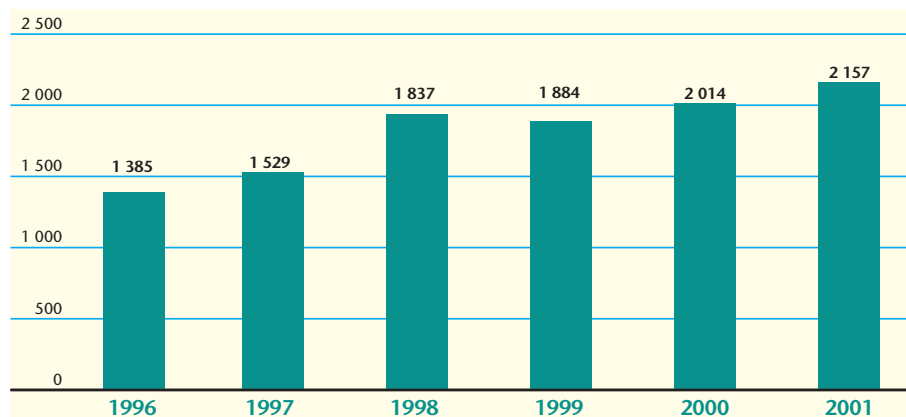


TABLE 1: EVOLUTION OF THE ANNUAL NUMBER OF APPLICATIONS FOR COMMUNITY PLANT VARIETY RIGHTS, 1996–2001

Ornamental varieties, as illustrated in Table 2, show the highest increase.

The agricultural and fruit sectors show a slight increase. The year 2001 was marked by a decrease in applications for vegetable species.





Anthurium DUS trials

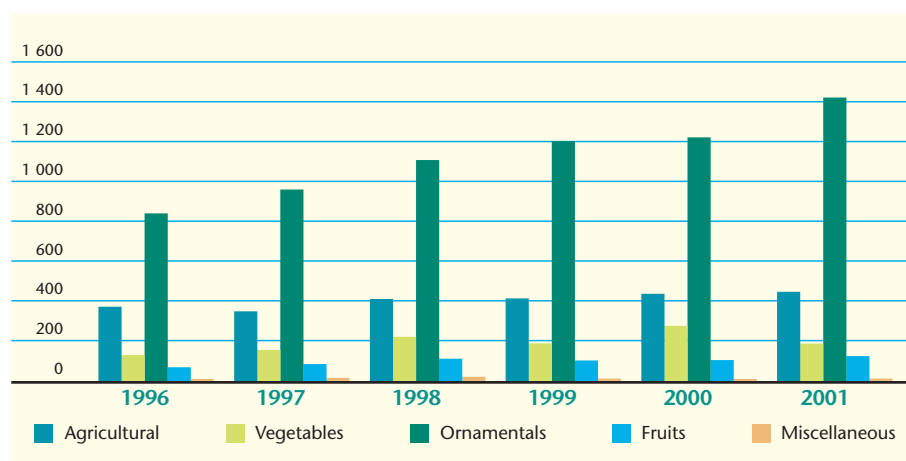


TABLE 2: EVOLUTION OF APPLICATIONS RECEIVED PER CROP SECTOR, 1996–2001

The shares of the main crop sectors show that applications for ornamental varieties represented 65.6 % of all applications.

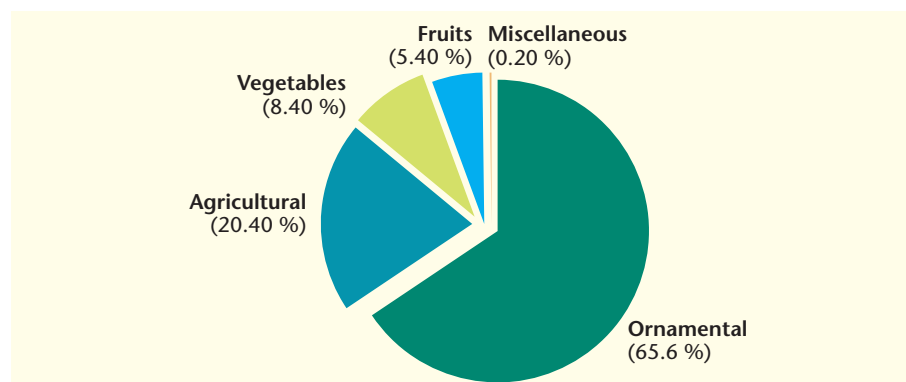
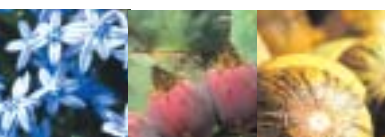
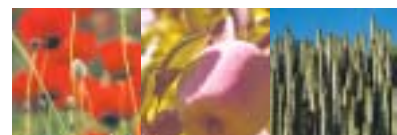


TABLE 3: NUMBER OF APPLICATIONS RECEIVED ACCORDING TO EACH SPECIES GROUP IN 2001

The main species for each crop sector are indicated in the following table.



Ornamental species	
<i>Rosa</i> L.	167
<i>Chrysanthemum</i>	131
<i>Petunia</i> Juss.	74
<i>Lilium</i> L.	64
<i>Anthurium-Andreanum-Hybriden</i>	50
Agricultural species	
<i>Zea mays</i> L.	168
<i>Solanum tuberosum</i> L.	44
<i>Hordeum vulgare</i> L. <i>sensu lato</i>	39
<i>Brassica napus</i> L.	36
<i>Helianthus annuus</i> L.	31
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	31
Vegetable species	
<i>Lactuca sativa</i> L.	40
<i>Phaseolus vulgaris</i> L.	14
<i>Lycopersicon lycopersic.</i> (L.) Karst. ex. Farw.	12
<i>Allium cepa</i> L. var. <i>cepa</i> L.	12
Fruit species	
<i>Prunus persica</i> (L.) Batsch	27
<i>Fragaria x ananassa</i> Duch.	27
<i>Malus</i> Mill.	17
Miscellaneous	
<i>Humulus lupulus</i> L.	2
<i>Angelica</i> L.	1
<i>Origanum vulgare</i> L.	1



The total number of different botanical species for which the Office has received applications since 1995 rose to 697 in 2001.

The origin of the applications received in 2001 is indicated in the following table. Applications originating in the Netherlands accounted for 43 %, followed by Germany and France (18 %). It should be also mentioned that applicants based in non-EU countries filed 16 % of the total number of applications.

1. European Union	
Netherlands	779
Germany	333
France	331
United Kingdom	123
Denmark	78
Italy	74
Belgium	46
Spain	33
Sweden	12
Ireland	5
Austria	1
Total	1 815

2. Non-EU countries	
United States	226
Australia	35
Japan	28
Israel	23
New Zealand	13
Switzerland	7
Others	10
Total	342



Grants of protection

In 2001, the Office granted 1 518 Community plant variety rights. A detailed list of all protected varieties (status at 31 December 2001) is published in the separate annex to this annual report.

On 31 December 2001, 6 867 Community rights were in force. The table below shows the number of rights granted per year from 1996 to 2001 and illustrates the continuous increase of varieties protected under the Community system.

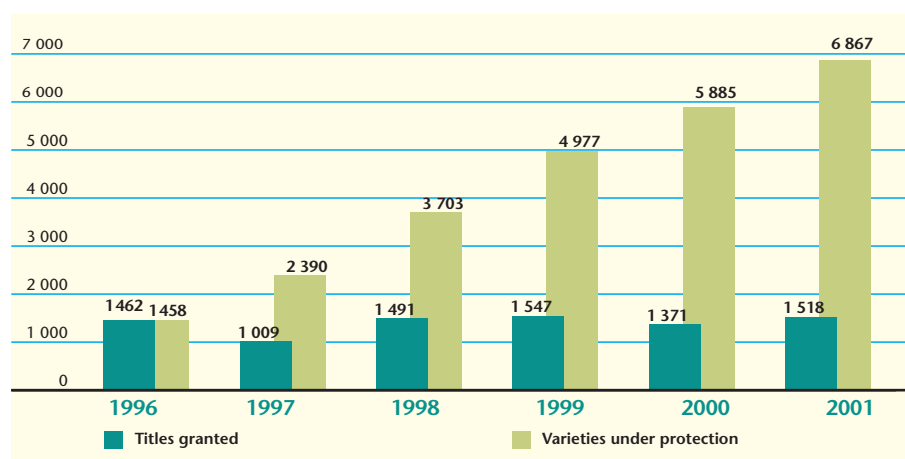


TABLE 4: COMMUNITY TITLES GRANTED PER YEAR, 1996–2001

Technical examinations

In 2001, the CPVO initiated 1 679 technical examinations which were carried out by the different examination offices working on behalf of the Office. A detailed list of examination offices working on behalf of the Office is to be found in the chapter entitled 'Examination offices undertaking DUS testing on behalf of the CPVO during 2001'.

DEVELOPMENTS IN THE IT SECTOR

In 2001, the IT sector focused its activities according to needs.

A description of the tasks performed over the year is listed below.

- **Development of the new database of plant protection applications (PVR)**

The development of the new software for dealing with plant protection applications was completed in September 2001. The software was tested by users up until the end of 2001. All the tests yielded positive results and the software will be installed in the first weeks of 2002.

This new software uses an Oracle database and will enable applications for protection to be dealt with more efficiently. We also expect the new software to provide greater data security and traceability.

- **Security**

The number of virus-infected e-mails received at the CPVO increased significantly in 2001 reaching a maximum of over 100 viruses received in one day.

In order to tackle this problem, the CPVO has had an antivirus application installed in every PC and the server in the Agency.

Furthermore, the CPVO has purchased antivirus software from France Telecom which enables messages which are directly infected in our Internet access provider to be filtered before they reach our electronic mailbox.

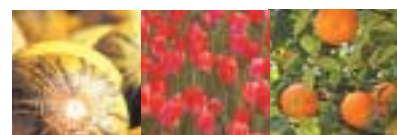
- **Equipment**

Given the volume of work in the Office's local network, it has been decided to replace the current server with a more powerful one. Similarly, 11 PCs which have become obsolete have been replaced. The Office plans to change the communications server in 2002.

- **Software**

With a view to replacing the software currently used by the general accounts department, the finance sector and the IT team carried out the necessary research in order to choose new software, which was installed at the end of the year.

The Office continued to participate in the common support service meetings for SI2 (the software used for the budget accounts).

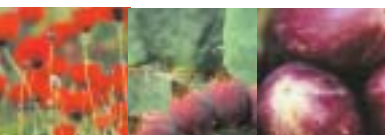




Lettuce DUS field trials

- **Communication**

The Office launched a procedure to obtain access to TESTA II, the private interinstitutional network set up by the European Commission for the Community administration and the national administrations of the Member States. The necessary equipment was installed and, as a result, the Office will have access to different Community databases.



EXTERNAL CONTACTS

Annual meeting with the examination offices

During the fifth annual meeting with the examination offices, questions related to reference collections and standard samples were discussed. Under that topic, the CPVO provided a first draft for a code of conduct as a basis for discussion. The document tried to define the respective responsibilities of the CPVO and the examination offices in respect of the maintenance of reference collections and the keeping of standard samples. A revised working document will be prepared by the CPVO for the 2002 meeting, taking into account the comments of participants.

Furthermore, an exchange of views on the testing of GM varieties took place; the CPVO presented a working programme for the development of its own technical protocols; a discussion was held on the possible consequences of the presence of external factors such as phytoplasma in varieties for the testing system; and the status of the information given in the technical questionnaire was considered.

It should be mentioned that, in addition to the technical experts from the EU Member States, all countries that are candidates for accession to the EU were invited by the CPVO to attend the meeting as well as representatives of Norway and Switzerland. Representatives of the European Commission and UPOV were present as well.

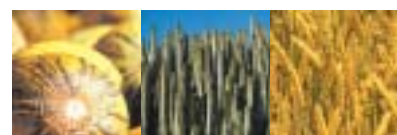
Ornamental experts meeting

A group of ornamental experts from Denmark, Germany, France, the Netherlands and the United Kingdom reviewed the existing list of species tested by each examination office in order to try to centralise DUS testing in cases where more than one examination office is doing work on the same species. A proposal was prepared for approval by the Administrative Council.

Furthermore, the group prepared draft technical protocols for impatiens and pelargonium and worked on general technical questionnaires for pot plants, cut flowers, perennials and woody ornamentals.

Vegetable experts meeting

Experts from Germany, France, the Netherlands and the United Kingdom as well as two representatives from the European Seed Association started work on technical protocols for several vegetable species. Protocols for lettuce, French bean, pea, cauliflower, cabbage, tomato and leek were concluded for presentation to the CPVO's Administrative Council. Furthermore, the group discussed the possible centralisation of the





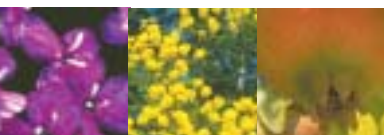
Strawberry DUS field trials

testing of parent lines and of disease resistance testing, the reduction of seed quantities required for testing and the possibility of only one year's testing for vegetatively propagated varieties.

Annual meetings with professional organisations

In accordance with its policy of maintaining frequent contact with, and consulting, stakeholders, the CPVO organised two meetings with professional organisations.

- **ESA:** The meeting took place in Brussels on 6 September 2001. The main items discussed were:
 - accounts and financial situation of the Office,
 - the cost calculation project and the possible consequences for the fees payable by breeders,
 - DUS testing issues: rapeseed, GM varieties, sugar beet lines, French maize testing system, eventual centralised testing for vegetable inbred lines,
 - linking DNA markers to variety descriptions for protected varieties,
 - modification of Article 29 of the basic regulation as a consequence of the EU biotech directive,
 - interest in the possible addition of the Community plant variety right to the EC customs regulations,
 - experience of breeders with the new denominations rules,
 - layout of the CPVO Official Gazette.
- **Ciopora:** The annual meeting with Ciopora International was held in The Hague, the Netherlands. Main topics of this annual exchange of views were:
 - the financial situation of the CPVO, statistics of applications and grants,
 - cost calculation and possible consequences,
 - the status quo of the phytoplasma project,
 - experience of breeders with the new denominations rules,
 - consequences of EU enlargement.



UPOV meetings

Although the European Community has not yet acceded to the International Union for the Protection of New Varieties of Plants, cordial relations exist between the CPVO and the secretariat of UPOV. Members of the CPVO staff participated as observers in meetings of the organs of UPOV, such as the Council, the Legal and Administrative Committee, the Technical Committee and the technical working parties. The Vice-Secretary-General of UPOV attended meetings of the Administrative Council of the CPVO.

- **BMT subgroups**

In early 2001, UPOV organised several subgroup meetings under the umbrella of the UPOV-BMT group (biochemical and molecular techniques); experts of the CPVO participated in these meetings. The subgroups dealt with the species: wheat, maize, oilseed rape, tomato and rose. In respect of the different species, discussion centred on the construction of possible application models for these new techniques, the identification of outstanding technical problems in their application and the assessment of the possible impact on protection. The subgroup meetings will continue in 2002.

Further activities

- **Sugar beet day**

On 23 August 2001, the CPVO invited breeders of sugar beet components and technical experts who are involved in the DUS examination of these varieties to the Statens Utsädeskontroll (SUK) at Svalöv in Sweden. SUK is the centralised examination office of the CPVO for the DUS examination of sugar beet components. The main aim of this meeting was to visit the DUS trials of sugar beet components and to discuss the draft CPVO technical protocol for sugar beet components in order to present a final version for adoption to the Administrative Council of the Office.

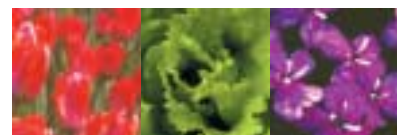
- **Experts meeting on maize**

On 27 July 2001, the Office held a meeting in cooperation with GEVES at La Minière to discuss the French maize testing system. The group was set up by technical experts to examine the technical aspects of the French system and, as a result of this evaluation, to advise the Administrative Council of the Office on the possible acceptance by the CPVO of DUS examination results for parental lines of maize, obtained in the framework of applications for national listing. The group of experts concluded that, from the technical point of view, after minor modifications, the French system complies with the requirements of the Community plant variety rights system. At its meeting in September 2001, the Administrative Council of the Office followed this advice so that, from 2003 on, results obtained under the French system can be taken over by the CPVO.

- **Phytoplasma research project**

The CPVO set up a small research project on phytoplasma in poinsettia varieties. The practical part of the project was carried out by the Danish Institute of Agricultural Sciences, Department of Crop Protection, under the guidance of the CPVO.

The project was mostly based on a literature study, but interviews with experts in the field (poinsettia breeders and scientists) were also carried out either by written correspondence or by visits.



NEW SPECIES IN THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM

Community Plant Variety Office, Angers, France

Introduction:
The Community plant variety rights system has been in existence since 1 September 1994, when Council Regulation (EC) 2100/94 came into force. Since that date it has been possible to apply for Community plant variety rights for varieties of all botanical genera and species including, *inter alia*, hybrids between genera or species.

Rights shall be granted for varieties that are:

- distinct,
- uniform,
- stable and
- new

New species
The CPVO has received applications for over 400 different ornamental hybrid groups, species and genera.

Technical examination
In order to entrust an examination office with responsibility for a new species, an inventory is sent to the examination offices of the 15 member states three or four times per year.

An examination office is entrusted with such responsibility by the Administrative Council of the CPVO on the basis of the following criteria:

- experience
- willingness to perform the trial
- the geographical origin of the variety
- the existence of bilateral contracts between member states

Total number of applications received for Community plant variety rights (April 1994 to April 2001)

Category	Percentage
Agricultural species	37%
Vegetables	20%
Ornamentals	12%
Fruit species	8%
Miscellaneous	2%

Now ornamental species/genera for which one or more Community applications were filed in the year 2000:

species	species	species
<i>Abies mariesii</i> Mill.	<i>Fuchsia</i> -hybrids	<i>Papaver rhoeas</i> L.
<i>Adiantum</i>	<i>Gardenia jasminoides</i> Ellis	<i>Phlox paniculata</i> Var.
<i>Agrimonia eupatoria</i> (Fernald) Benth. et Hook. f. (Fernald)	<i>Gaura lindheimeri</i> Engelm. B.S.P. Grey	<i>Platanus orientalis</i> L.C. Rost.
<i>Amaranthus</i> spp. (2 varieties)	<i>Gnaphalium</i> L.	<i>Physalis alkekengi</i> L.
<i>Angelica Herb. B. Bong.</i>	<i>Hibiscus</i> L.	<i>Platanus latifolia</i> Swartz. Ex. Benth.
<i>Arundo donax</i> L. (var. <i>donax</i>)	<i>Cyrtanthus</i>	<i>Passiflora</i>
<i>Aster</i>	<i>Helianthus</i> L.	<i>Thalictrum flavum</i> (L.) Guss. Ex. Mill. (L.)
<i>Aster novi boraci</i> L. (quadrifid)	<i>Isodea</i>	<i>Potentilla</i> L.
<i>Aspidistra filifolia</i> L.	<i>Laciniaria</i>	<i>Sarracenia</i> L.
<i>Bacopa</i> Aubl.	<i>Lobelia</i> L.	<i>Sinningia</i> Jacq.
<i>Calluna vulgaris</i> (L.) D. Don	<i>Microseris</i> L.	<i>Solanum elaeagnifolium</i> Mill.
<i>Callieranthus</i> (L.) G. Don	<i>Myrica</i> L.	<i>Solanum elaeagnifolium</i> (Hook.) Guss.
<i>Chamaecyparis obtusa</i> (Thunb.) Link & DC.	<i>Nepenthes</i> L.	<i>Solanum elaeagnifolium</i> (L.) Guss.
<i>Cypripedium</i> L.	<i>Nerandzeya</i> (L.) Guss.	<i>Taxus baccata</i> Mill.
<i>Cystopteris</i> L.	<i>Nicotiana</i> L.	<i>Thalictrum flavum</i> (L.) Guss.
<i>Echinops</i> L.	<i>Oenothera</i> L.	
<i>Echinops</i> L.	<i>Ornithogalum</i> L.	



The main conclusions of the study were that phytoplasma cannot be regarded as being part of the plant genome and can be eliminated from poinsettia varieties.

The outcome of the research project was presented to the Offices' Administrative Council and to the industry. As a result of the conclusions, the testing system for varieties of *Euphorbia pulcherrima* will be modified so that, for all applications with an application date on or after 1 January 2003, the requested samples will have to be free of phytoplasma.



Participants in the TAIEX seminar

- **TAIEX seminar**

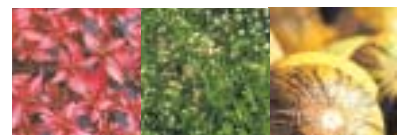
In cooperation with the **Technical Assistance Information Exchange Office (TAIEX)** of the Commission, the CPVO organised a seminar in Angers with the EU accession candidate countries. The intention was to provide information on the functioning of the Community system. Officials from 11 candidate countries attended that meeting.

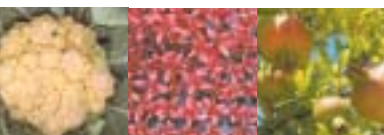
- **Eucarpia congress, Ghent**

A representative of the CPVO participated in the Eucarpia 20th international symposium: 'Strategies for new ornamentals' that was held in Ghent, Belgium. During the meeting, a poster was presented by the Office: 'New species in the Community plant variety rights system'. An extract of the poster is presented in this annual report (see previous page).

- **Participation in international fairs**

The CPVO organised, in collaboration with the GEVES, a joint stand on the occasion of the ISTA congress in Angers. The CPVO informed the participants from all over the world about the Community system and the procedures to be followed when filing an application for Community plant variety rights.





RELATIONSHIP WITH OTHER **EC INSTITUTIONS**

Article 30 of the basic regulation states that the Office shall be a body of the Community and shall have legal personality. Although it is clear from various provisions of the basic regulation that the Office enjoys a considerable degree of independence within the overall framework of the Community, it does of course have dealings, both formal and informal, with other institutions.

- **The Council**

As the basic regulation is a Council instrument, any amendment thereto must be made by that body. The Council is also responsible for the appointment (and dismissal) of the President and Vice-President of the Office and exercises disciplinary authority over them.

- **The Commission**

The rules implementing the basic regulation in accordance with Articles 114 and 115 thereof (relating essentially to proceedings before the Office, the agricultural exemption and the fees payable to the Office) are Commission instruments.

Under Article 44 of the basic regulation, the Commission is entrusted with the control of the legality of those acts of the President in respect of which Community law does not provide for such control by another body and the acts of the Administrative Council relating to the budget of the Office.

Working relations with the Commission are numerous and diverse. As regards the core business of the Office, the main point of contact is the Directorate-General for Health and Consumer Protection. The Commission representatives on the Administrative Council are drawn from this directorate-general, which is thus kept abreast of contacts between the Office and other directorates-general. In particular, there are frequent dealings with the Directorate-General for Personnel and Administration, the Directorate-General for the Budget and the Directorate-General for Financial Control.

The Office is maintaining contact with the Directorate General for Research (science, research and development) to ensure involvement in the evaluation of projects submitted for financial support which relate to the Office's sphere of activity.

The Office regularly liaises with the Secretariat-General on horizontal issues relating to all satellite bodies of the Community.

- **The Court of Auditors**

Pursuant to Article 111 of the basic regulation, the Court of Auditors examines the accounts of the total revenue and expenditure of the Office for the preceding year in accordance with relevant provisions applicable to the general budget of the European



Communities. The Administrative Council awaits the outcome of this examination before giving a discharge to the President in respect of the implementation of the budget.

- **The European Parliament**

The legislation establishing and governing the Office does not provide a formal role for the European Parliament in the way that the equivalent legislation of many other satellite agencies does. Since the Office is self-financing and consequently receives no subsidy from the Commission, the European Parliament does not exercise even indirect influence over the financial affairs of the Office through its powers in relation to the Commission's budget.

Nevertheless, drafts of the budget and accounts are sent to the European Parliament for comment. The financial situation of the Office is referred to in the reports of the Parliamentary Committee on the Budgets of the Satellite Agencies. The President of the Office is invited to participate in the annual meetings of the Parliament's rapporteur with representatives of the agencies.

- **Others**

The Office also makes considerable use of the services of the Translation Centre for bodies of the European Union and the Office for Official Publications of the European Communities.



EXTERNAL ASSESSMENT OF THE CPVO BY DELOITTE & TOUCHE

EXECUTIVE SUMMARY

The project is an evaluation of the work of the Community Plant Variety Office (CPVO) after five years of operation. The initiative for this evaluation came from the President of the CPVO.

The key areas of the study were as follows:

- the quality of organisation — structure, managerial staff, methods,
- appropriateness of procedures,
- efficiency of operation (including issues such as time limits and wastage),
- appropriateness of resources (including human resources) — level, acquisition and allocation,
- degree of compliance with the legislative framework.

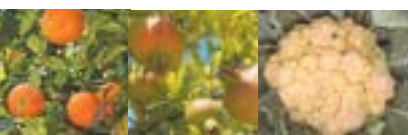
The second area of investigation dealt with the question of user satisfaction, covering the main stakeholders.

The system for the protection of plant variety rights was established by Community legislation. It allows intellectual property rights, valid throughout the Community, to be granted for plant varieties. Through a single application to the Community Plant Variety Office (CPVO) a breeder may be granted protection guaranteeing him exclusive exploitation rights for his variety throughout the EU. This protection is commonly known as a Community plant variety right (CPVR).

The CPVR system is not intended to replace or harmonise the national systems but rather to exist alongside them as an alternative. The CPVO implements and applies this scheme. The CPVO is a Community institution with independent legal status and has been operating since 27 April 1995. It is a wholly self-financing agency, funded by the fees paid by the breeders for obtaining and keeping the CPVR. The CPVO is located in Angers (France).

In carrying out this study we undertook a number of activities to observe the processes in action and to consult with the key stakeholders. Our work plan consisted of a number of key phases.

1. Understand the organisation (dialogue, clarification of evaluation issues, data availability).
2. Design conceptual framework.





Visit of experts to DUS trials

3. Core analysis (detailed analysis of workflows, critical incidents and user satisfaction).
4. Reporting and synthesis.

The CPVO currently has approximately 30 staff. It is managed by its President, nominated by the Council of the European Union, whose duties include taking all necessary steps to implement the budget and ensure the smooth running of the CPVO within the framework of the powers entrusted to it under the Community regulations. The President is assisted by a Vice-President to whom he has delegated some duties.

The CPVO consists of three separate units: the Technical Unit, the Personnel, Administrative and Finances Unit and the Legal Unit. Broadly speaking, the Technical Unit deals with all aspects of the registration of variety rights; the Personnel, Administrative and Finances Unit (known internally as UPAF) deals with financial and administrative matters; and the Legal Unit gives advice on legal issues of both a technical and a horizontal nature. There is currently a vacancy for the Head of UPAF and the responsibilities are shared between the President, the Vice-President and the Head of the Legal Unit. How the Head of UPAF should be replaced was an area this study was asked to address specifically.

A board of appeal has been set up to hear appeals.

The CPVO is governed by the Administrative Council. It advises the CPVO. It comprises a representative of each Member State and a representative of the European Commission and their deputies. It advises the CPVO, formulates guidelines (general and on technical examinations) and policies and issues opinions. It also constitutes the budget authority for the CPVO and scrutinises and monitors its activities and those of its President.

In terms of the effectiveness of the internal organisation, a number of issues emerged.

- There is a perceived division between technical and non-technical staff. This grew up for historical reasons, and was reinforced by physical separation of the units into two different buildings. Active steps have been taken to reduce this but there remains an underlying feeling of separateness.
- The Office has recruited many of its staff through use of interim staff, and has been criticised for not advertising widely enough. It feels that it does not have the necessary resources for dealing with a full open competition on the Commission model.
- Possibly as a corollary of the split mentioned above, there is a feeling of discrimination in the application of internal rules





- The financial regulation is not well adapted to the needs of a fee-generating organisation, which causes tensions, and inefficiencies in operations.

As part of the study, the procedures of the Office were examined in detail to ensure a full understanding of the operating environment. The main areas arising were as follows.

- It is possible to file an application in any Community language. However, the technical forms do not always exist in all the languages. The main users of the form, apart from the Office, which can cope with most languages, are the examination centres, which may lead to a need for translation and the possibility of loss of information or confusion. To date this has not been a major issue, but it may become so with the addition of new languages in the course of enlargement.
- The need for consistency of procedures and decisions was cited as a key issue by the users.
- Communication with users, while relatively good, could be further improved, e.g. by better notification when new forms are made available.
- The procedures for the payment of fees lead to a great deal of work on the part of the Office which could be avoided, and sometimes to frustration for the users. Improvement of the current account system and promotion of this to users could help alleviate this problem.

Generally the main criticism lies in the fact that the procedures are seen as too heavy.

In terms of efficiency, although some gains could be made, these would not have a significant impact on the overall speed of the process, which is governed by external factors including test cycles and growing seasons.

The main area where significant improvements could be made is in the area of the financial procedures, which is a relatively weak area due to complexity of the procedures and the poor integration of the supporting IT systems.

In terms of the appropriateness of the resources, generally the level of staff is in proportion to the workload (taking into account the need for coverage during peak times) and there is no shortage of skills. The IT systems are not very well integrated, but progress is being made on this front. The financial resources of the Office are adequate, indeed it has a significant surplus, which needs to be prevented from becoming any greater, implying a revision of the fee structure.

In terms of the compliance with the legislation there are three areas where the Office does not strictly comply.

- The forms are not translated into all the languages, as mentioned above.
- The system of takeover of existing DUS reports is questionable as the period of permission to do this has not yet been extended by the Commission, although it is a cost-effective and efficient manner of operating.
- The verification and maintenance of rights is an area where there is little activity or agreement on what should be done. However, this work is technically part of the justification of the annual fee and this issue could be re-examined in that light.

In the area of fees there are two issues — the fees paid to the Office and the cost of examinations. In general the fee structure is relatively complex and could benefit from simplification.

User satisfaction was tested through the circulation of a questionnaire to a group of the main users of the CPVO in terms of applicants, including follow-up contact with some of these, and through face-to-face or telephone discussions with the main professional organisations and with the national offices.

In general, the applicants were satisfied to very satisfied with the operation of the Office.

This satisfaction covers all areas of operation, although there are some minor differences. Most of the suggestions for improvement were in the field of testing, where there were a number of issues raised as to the selection of test centres and the speed of the selection process. Several queries were also raised in the field of variety denomination, especially regarding discrepancies between European, UPOV and national variety denomination guidelines.

Some suggestions for the improvement of procedures were also raised, such as, for example, with regard to annual fees, the proposal that the Office should send out a reminder each year asking whether the applicant wishes to continue with the CPVR and issuing an invoice on receipt of a positive response. Timing of notification is sometimes awkward leading to complexities in the accounting system, issuing of credit notes, etc. However, some kind of trigger as suggested might be helpful.

The only area of significant dissatisfaction was with notification of changes in CPVO policy and procedures, indicating an area where work could be done to improve communication.

In comparison with national offices (bearing in mind the limited number covered by the sample) the CPVO scored well, being rated at least about the same level on all areas.

The fundamental conclusion is that the CPVO is achieving its basic objective of establishing and operating the Community plant variety system. One can go beyond this and say that the system itself is successful, as evidenced by the level of take-up, and the fact that this seems to be still increasing.

The main recommendations are grouped into areas of action as follows.

Users

- Communication with users generally could be improved. For the moment, the processes are designed from a regulatory perspective rather than a customer focused one, so there is an opportunity to adjust these in some areas to improve the level of support or clarity offered to the users.
- Action should be taken to monitor service levels and response times, to see if they meet the targets laid down in the code of conduct, and the underlying systems revised to enable this to take place.
- Clarity of various forms and processes should be improved. The 'R' form and 'No' forms should be combined and the process further automated to provide clearer input for applicants.
- Users should be given more reminders of important deadlines (automated process). Specifically they should be reminded before the anniversary of a CPVR to enable them to decide whether to withdraw it or not.





- Users should be given a better understanding of how the CPVO operates, so they understand the requirements better.
- A system of monitoring user satisfaction could be implemented to monitor areas in the process which could be improved or where users need more information.
- Clear non-administrative language should be used in all communications with users.

Internal structure

- The CPVO needs to continue its actions to improve the communication between the two buildings/main departments.
- Internal procedures should be consolidated in a procedures manual, available for everyone. The Office needs to continue its current efforts in informing the units of each other's working methods.
- Job rotation within units and between units could be set up on a limited scale, thus improving the knowledge of the Office and improving job satisfaction.
- The Office should open recruitment more widely for specific posts without going to the extent of a formal competition as carried out by the Commission. The potential of combination with other agencies could be explored.
- An effort should be made to communicate the developments in human resource management so the staff has a better understanding of the activities.
- The Office should take the necessary steps to align the structure of the job descriptions and make them available in both French and English for all functions.

UPAF

- Rather than recruiting a new Head of UPAF, the highly hierarchical structure could be reduced, improving communication and reducing fragmentation.
- We would recommend the creation of the post of financial manager (A grade), with the tasks of coordination of the activities of the finance personnel and acting as initiator and supervisor for finance-related improvement projects. However, this is unlikely to be a full-time responsibility. Therefore we also recommend that this person should have the responsibility of financial controller, currently exercised for the Office within the Commission. We feel that sufficient separation of roles can be achieved for this to be a viable option.
- General services reporting to the Vice-President would group the remaining horizontal functions. He would represent them in the Senior Staff Committee, but we recommend the Office should continue to invite non-senior staff to the Senior Staff Committee on 'delicate' subjects (this is also true for the Staff Committee).

Financial systems

- The integration of the financial systems should be prioritised.
- The system of registering invoices should be changed such that all invoices are registered, so that the Office knows what invoices are due and can make the necessary cash flow projections.
- Applicants should be sent an invoice for their application fee to enable them to maintain satisfactory financial records on their side. These can be clearly marked 'paid'.
- The system of charge accounts should be reviewed and updated. Charge account limits should be based more effectively on the volume of transactions from individual applicants, and the system promoted more widely. A more general use of charge accounts would permit the Office to optimise the invoicing of the annual fee. This would require adopting a system where the annual fee for all applications would cover the same fixed period, e.g. 1 January to 31 December. Each applicant/user/breeder would under such system receive one invoice a year, covering all varieties in his name, thus reducing the number of invoices and the number of allocations of payments considerably.

Fees restructuring

- In order to reduce the fee level so that income and expenditure are more in balance, we would recommend that changes in the fees be focused on the annual fee, reflecting the actual level of work entailed and simplifying the system.
- The fees for changes to the register as currently applied are biased against smaller applicants. A lower level per change should be set, reflecting the cost of the actual work involved.
- The system of full cost fees for examinations is hard to justify. Offices should be required to take a more market-based approach to ensure that the Office achieves the best value for money for its applicants.

Legal compliance

The Office does not comply with the strict letter of the regulation on several issues.

- **Technical verification**

This is not currently done, and it is questionable whether it is necessary given other control measures. The Office should not try to implement this, but should reduce the annual fee to reflect this. Some changes to the regulation may be required.

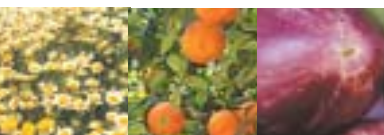
- **Takeover of examination reports**

Although an efficient and cost-effective measure, this has no legal base. Some amendment to the regulation may be advisable to ensure the system can continue effectively.



- **Testing centres**

There is a move to centralisation of testing. While this has certain advantages, for example ease of administration, maintenance of reference collections, etc., it also results in a lack of competition, which may not be the most desirable outcome for the users. At least two test centres should be available for all species to minimise these problems.



THE CONSEQUENCES OF THE **ENLARGEMENT** OF THE EUROPEAN UNION FOR THE **COMMUNITY PLANT VARIETY RIGHTS SYSTEM**

The EU will soon be enlarged. This will have an important impact on the Community plant variety protection system and hence on the work of the Office.

THE ACCESSION PROCEDURE

At the end of 2001, 12 countries are actively involved in the negotiation procedure for accession to the EU. Eleven have presented their respective negotiation positions in relation to 'Agriculture: veterinary and phytosanitary legislation', in which plant variety rights appear. The EU is also preparing a common position following a Council procedure.

The Community plant variety rights system is enshrined in a directly applicable Council regulation. Thus, in the absence of any derogation or transitional arrangements, it will apply from the date of accession in the territories of the new Member States without the need for implementation.

The terms of accession of the 12 candidate countries are not yet known. Negotiations are still under way.

ISSUES TO BE ADDRESSED

In trying to forecast the impact of enlargement on the CPVR system, certain general consequences may be identified. More particularly, in relation to the extension of the CPVR system, both legal/procedural and technical considerations arise.

General consequences

The extension of the territorial coverage of the Community plant variety right to the territories of 27 Member States will make protection much more attractive for breeders.

The CPVR system will benefit from the technical expertise of the candidate countries in the DUS examination of certain species.

It is rather difficult to forecast accurately the final effect of enlargement on our system. Clearly, enlargement promises benefits for the holders of Community plant variety rights. On the other hand, the operational costs of the CPVO look set to rise.





Vegetables DUS trials

Legal and procedural issues

• Definitions

Article 2 of Council Regulation (EC) No 2100/94 (hereinafter 'the basic regulation') states that Community plant variety rights shall have uniform effect within the territory of 'the Community'. On accession, the meaning of 'Community' in relation to the *acquis communautaire*, of which the regulation forms part, will be changed. The term 'Member State' (of the Community), where used in those instruments, would be construed accordingly.

1. Rights granted after accession

Thanks to the new definition of 'Community', rights granted after accession will apply throughout the territories of both the 'new' and current Member States.

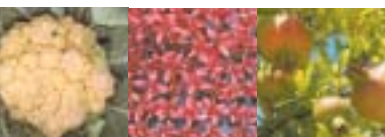
2. Rights in force prior to accession

However, will the automatic consequence of the new definition of 'Community' be that Community plant variety rights in force **prior** to the date of accession would extend, as of that date, to the territories of the new Member States (at no extra cost to the holders of those rights and with no formalities)? Ideally, this question will be resolved by a specific provision dealing with the future scope of these rights. In order to avoid two classes of rights, the Office would like to see a free territorial extension of existing rights.

3. Applications

In relation to **applications** for Community plant variety rights ongoing on the date of accession, it will need to be considered whether, as of that date:

- (a) the stipulation in Article 82 of the basic regulation that an applicant from outside the territory of the Community must use a procedural representative who is based in that territory should cease to apply to applicants in the new Member States;
- (b) the provisional protection conferred (from the date of publication of the application) by Article 95 of the basic regulation would extend to the territories of the new Member States; and
- (c) a property right applied for in a (non-UPOV) country which becomes a Member State on accession can be the basis of a priority claim (probably not).



- **Transitional arrangements**

1. *Novelty*

Since the term 'Community' will acquire its new meaning only with effect from the date of accession, the four-year (or six-year) period of grace applicable under Article 10(1)(b) of the basic regulation (in relation to marketing **outside** the territory of the Community) will apply to a sale or disposal of a variety in the territory of a candidate country that took place before accession. Accordingly, the need for transitional arrangements on the lines of Article 116 of the regulation will not be necessary.

2. *Royalties*

Certain plant varieties protected under the Community system are no doubt currently under cultivation in the candidate countries. At present, there is no requirement for persons growing these protected varieties to pay royalties. However, when the territorial scope of Community plant variety rights granted prior to accession is extended to the candidate countries, these varieties will no longer be freely available. Royalties would have to be paid.

- **Conflict between national rights and extended Community rights**

1. *For the same variety — Article 92 of the basic regulation*

Article 92 prohibits the cumulation of national rights or patents with Community plant variety rights. Essentially, when a Community plant variety right is granted, no national right should be granted ⁽¹⁾ and any national right already granted can no longer be invoked.

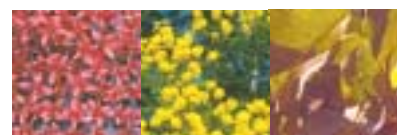
Conflict could arise between national rights granted in a candidate country and an extended Community right relating to the same variety. This is because the breeder of a new plant variety has the entitlement to apply for plant variety rights in many different systems throughout the world. Rather than applying for a Community plant variety right, the breeder may have assigned his entitlement to do so, whilst retaining (and exercising) the right to apply under the national systems in the candidate countries.

A solution must be found — perhaps by expressly limiting any extension of the Community right where the breeder of the variety, or his successor or assignee, has obtained (or is still entitled to obtain) conflicting intellectual property rights in the new territory.

2. *For different (but not distinct) varieties*

What of the case where one variety is protected at national level in a candidate country and another, separate but indistinct variety is protected under the Community system, the scope of which is then extended to the candidate country?

Eight of the 12 candidate countries are members of UPOV. Cyprus, Latvia, Lithuania and Malta are not. In the UPOV countries no such conflict should arise between extended Community rights and national rights. This is because, in order to obtain protection for a variety at national level, the variety must be distinct from all other varieties in common knowledge at the date of application. Once a variety acquires plant



⁽¹⁾ If a national right is granted, it is ineffective.

variety rights it is deemed to be in common knowledge. Accordingly, it should not be possible to obtain national protection in a candidate country for a variety already protected under the Community system — and vice versa. If double protection **has** occurred, the error can and should be sorted out under existing rules.

In the non-UPOV candidate countries (Cyprus, Latvia, Lithuania and Malta), the Office believes that conflict is unlikely simply because it is improbable that any national intellectual property right will have been accorded in relation to a plant variety.

- **Procedural consequences**

1. *Languages*

At present the Office is obliged to work in all 11 languages of the Community. If, as expected, the languages of the candidate countries acquire official status, an additional burden will be placed on the Office in terms of translation (and interpretation) costs.

2. *Composition of the Administrative Council*

Article 37 of the basic regulation provides that the Administrative Council of the Office shall be composed of one representative of each Member State and one representative of the Commission and their alternates. At present this usually means that some 32 representatives of the Member States and the Commission attend at least two meetings per year of the Administrative Council. An increase to around 50 persons will inevitably involve considerable extra cost (larger meeting room, travel and subsistence expenses, interpretation etc.) and could hamper the effectiveness of meetings.

Technical issues

From a technical viewpoint, the period following enlargement will be similar to the period after the entry into force of the basic regulation in 1995. On this basis, it is possible to identify some technical implications.

From a qualitative and quantitative point of view, immediately following enlargement the Office will be able to cover its technical examination needs using the present network of examination offices. Later on, the Office could consider asking the Administrative Council to designate offices or institutions in the new Member States as new examination offices, particularly if the Office receives applications for varieties of species where those States have special expertise.

In order to decide to what extent DUS reports resulting from proceedings for the grant of national plant variety rights in the new Member States could be used as a basis for granting a CPVR, the Office would need to know the details of the DUS protocols used, how those protocols were applied, the content of the reference collections, etc., for all species, in all countries concerned.

By attending the bilateral screening meetings (1999–2000) and through technical missions organised in the past, the Office has received some technical information, but not enough to decide on the use of available DUS reports for the granting of CPVR. To do so, it would be necessary to carry out a comprehensive information gathering exercise in relation to the DUS procedures in the new Member States.

Past experience has shown that, in the technical field just as in others, providing full information to candidate countries has facilitated their smooth accession. Accordingly, the Office has invited technical experts from the candidate countries to participate in its annual meetings with the examination offices (2000 and 2001). In addition, in

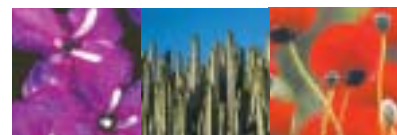


cooperation with TAIEX, the Office organised seminars for officials of the candidate countries in 1997 and earlier this year.

The following actions are proposed in the technical field and will be presented to the Administrative Council in 2002:

- maintain the present policy to invite participation in annual meetings with the examination offices;
- organise, if possible with financial support from TAIEX or other Commission services, information seminars and other activities; the target group must be officials involved in variety registration and plant variety rights;
- improve and complete information on relevant species, particularly:
 - the DUS test procedures
 - technical protocols
 - details of the reference collections
 - existing facilities
 - expert staff.

To accomplish this task the Office will need to make use of external expertise in some areas.



EXAMINATION OFFICES UNDERTAKING **DUS TESTING** ON BEHALF OF THE CPVO DURING 2001

Species	Examination office	Testing centre
<i>Abies</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Aconitum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Actinidia</i>	Istituto Sperimentale per la Frutticoltura (I)	ISF, Rome
<i>Adenium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Aechmea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Agapanthus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Agastache mexicana</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ageratum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Aglaonema</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ajania pacifica</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Allium ascalonicum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Allium cepa</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Allium cepa</i>	OEW (E)	OEV, Valencia
<i>Allium porrum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Alstroemeria</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Amaranthus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
A <i>Amaryllis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Angelonia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Anisodouthea capensis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Anthrinum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Anthurium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Apium graveolus dulce</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Apium graveolus vapaceum</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Argyranthemum frutescens</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Asclepias</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Asparagus officinalis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Aster</i>	ARO (IL)	Volcani center, Bet Dagan
<i>Astilbe</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Astrantia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen



Species	Examination office	Testing centre
<i>Baccharis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Begonia-Elatior-Hybriden</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Beta vulgaris</i>	GEVES (F)	GEVES, La Minière
<i>Beta vulgaris</i> L. ssp. <i>vulgaris altissima</i> Döll	Statens Växsortnämnd (S)	SUK, Svalöv
<i>Beta vulgaris</i> L. ssp. <i>vulgaris altissima</i> Döll	Bundessortenamt (D)	Bundessortenamt, Olvenstedt
<i>Bidens ferulifolius</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Bougainvillea</i>	Plantedirektoratet (DK)	RCA, Aarslev
B <i>Brachyscome</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Brachyscome multifida</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Bracteantha bracteantha</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica napus</i>	Plantedirektoratet (DK)	Dias, Tystofte
<i>Brassica napus</i>	GEVES (F)	GEVES, La Minière
<i>Brassica napus</i>	Bundessortenamt (D)	Bundessortenamt Scharnhorst
<i>Brassica napus</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Brassica oleracea alba</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea botrytis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea botrytis</i>	GEVES (F)	GEVES, Brion
<i>Brassica oleracea cymosa</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea gemmifera</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea gongylodes</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Brassica oleracea pekinensis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea rubra</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Brassica oleracea sabauda</i>	Plant Variety Rights Office (UK)	SASA, Edinburgh
<i>Brassica oleracea sabellica</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Bromeliaceae</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Buddleia</i>	GEVES (F)	GEVES, Brion
<i>Brunnera macrophylla</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Calathea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Calibrachoa</i>	Bundessortenamt (D)	Bundessortenamt, Marquardt
<i>Callisia elegans</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Calluna vulgaris</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Campanula</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
C <i>Campanula carpatica</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Campanula persicifolia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Capsicum annuum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Carex</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Catharanthus roseus</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Celosia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Centradenia variegata</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cheiranthus cheiri</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Chenopodium quinoa</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen

Species	Examination office	Testing centre
<i>Chlorophytum comosum</i>	Raad v/h Kwekersrecht (NL)	Plant research international, Wageningen
<i>Chrysanthemum</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Cichorium endiva</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cichorium intybus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cissus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Citrullus lanatus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Citrus</i>	OEW (E)	IVIA, Valencia
<i>Clematis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Clematis</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Codiaeum variegatum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Coprosma</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Cordyline</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cornus albus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cotynus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Crambe abyssinica</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ctenanthe</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ctenanthe oppenheimiana</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cucumis melo</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cucumis melo</i>	GEVES (F)	GEVES, Cavaillon
<i>Cucumis sativus</i>	GEVES (F)	GEVES, Cavaillon
<i>Cucumis sativus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cucumis sativus</i>	OEW (E)	OEV, Valencia
<i>Cucurbita pepo</i>	GEVES (F)	GEVES, Cavaillon
<i>Cucurma</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Cupressocyparis</i>	GEVES (F)	GEVES, Brion
<i>Cupressus glabra</i>	GEVES (F)	GEVES, Cavaillon
<i>Cupressus macrocarpa</i>	GEVES (F)	GEVES, La Minière
<i>Cynara</i>	GEVES (F)	GEVES, Cavaillon
<i>Dahlia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Daucus carota</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Daucus carota</i>	GEVES (F)	GEVES, Brion
<i>Delphinium</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Dendrobium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
D <i>Dianthus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Diascia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Digitalis</i>	Bundessortenamt (D)	Bundessortenamt, Marquardt
<i>Dieffenbachia</i> Schott.	GEVES (F)	GEVES, La Minière
<i>Diosma</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Distichlis spicata</i>	OEW (E)	OEV, Seville
<i>Dodecathion</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Dracaena</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Echinacea</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge

Species	Examination office	Testing centre
<i>Epipremnum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Eryngium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
E <i>Euonymus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Euphorbia fulgens</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Euphorbia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Euphorbia mili</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Euphorbia pulcherrima</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Euryops</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Evolvulus glomeratus</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Exacum</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Festuca rubra</i>	GEVES (F)	GEVES, La Minière
<i>Ficus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Foeniculum vulgare</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
F <i>Forsythia</i>	GEVES (F)	GEVES, Brion
<i>Fragaria</i>	GEVES (F)	GEVES, Brion
<i>Fragaria</i>	Bundessortenamt (D)	Bundessortenamt, Wurzen
<i>Fragaria</i>	Cenarve (P)	Cenarve, Escaroupim
<i>Freesia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Fuchsia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Gardenia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Gazania rigens</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Gentiana</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Geranium cinereum</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Geranium</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
G <i>Geum rivale</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Gerbera</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ginkgo Biloba</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Gladiolus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Globba</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Glycine max</i>	GEVES (F)	GEVES
<i>Gossypium</i>	Variety Research Institute of Cultivated Plants (GR)	VRICP, Sindos Thessaloniki
<i>Gossypium</i>	OEV (E)	OEV, Seville
<i>Guzmania</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Gynostema pentaphyllum</i>	Bundessortenamt (D)	Bundessortenamt, Bamberg
<i>Gypsophila</i>	ARO (IL)	Volcani Center, Bet Dagan
<i>Hatiora x graeseri</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Hebe</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Hedera</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
H <i>Helenium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Helianthus annuus</i>	GEVES (F)	GEVES, La Minière
<i>Helianthus annuus</i>	OEV (E)	OEV, Seville

Species	Examination office	Testing centre
<i>Helichrysum apiculatum</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Helichrysum bracteatum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Helleborus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Heuchera</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Heucherella</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Hibiscus</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Hibiscus rosa-sinensis</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Hippeastrum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Hordeum vulgare</i>	Plantedirektoratet (DK)	Dias, Tystofte
<i>Hordeum vulgare</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Hordeum vulgare</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Hordeum vulgare</i>	GEVES (F)	GEVES, La Minière
<i>Hosta</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Humulus lupulus</i>	Bundessortenamt (D)	Bundessortenamt, Hassloch
<i>Hyacinthus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Hydrangea</i>	GEVES (F)	GEVES, La Minière
<i>Hypericum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Hypericum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Hypericum perforatum</i>	Bundessortenamt (D)	Bundessortenamt, Dachwig
<i>Ilex</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Impatiens</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Impatiens</i> New Guinea hybrid	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Impatiens walleriana</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Itea virginica</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Iris</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Ixora</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Jasminum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Jasminum polyanthum</i>	Danmarks JordbrugsForskning (DK)	RCA, Aarslev
<i>Juglans regia</i>	GEVES (F)	INRA, Bordeaux
<i>Juncus</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Juniperus</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Kalanchoë</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Kalanchoë blossfeldiana</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Lachenalia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Lactuca sativa</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Lactuca sativa</i>	GEVES (F)	GEVES, Brion
<i>Lactuca sativa</i>	OEW (E)	OEW, Valencia
<i>Lantana</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Lavandula stoechas</i>	GEVES (F)	GEVES, La Minière
<i>Lavendula</i>	GEVES (F)	GEVES, Cavaillon
<i>Leea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Leptospermum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover



Species	Examination office	Testing centre
<i>Leucanthemum</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Leycesteria</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Lilium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Limonium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Limonium latifolia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Limonium sinensis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Limonium sinuatum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Linum usitatissimum</i>	GEVES (F)	GEVES, La Minière
<i>Linum usitatissimum</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Linum usitatissimum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Lobelia erinus</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Lolium multiflorum</i>	Bundessortenamt (D)	Bundessortenamt, Scharnhorst
<i>Lolium perenne</i>	Plant Variety Rights Office (UK)	Dardni, Belfast
<i>Lonicera</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Lupinus luteus</i>	Bundessortenamt (D)	Bundessortenamt, Scharnhorst
<i>Lycopersicon lycopersicum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Lycopersicon lycopersicum</i>	GEVES (F)	GEVES, Cavailon
<i>Lycopersicon lycopersicum</i>	OEVV (E)	OEVV, Valencia
<i>Mahonia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
M <i>Malus</i>	GEVES (F)	INRA, Angers
<i>Malus</i>	Bundessortenamt (D)	Bundessortenamt, Wurzen
<i>Malus</i>	Plant Variety Rights Office (UK)	National Fruit Collections, Brogdale
<i>Mandevilla</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Medicago sativa</i>	GEVES (F)	GEVES, Le Magneraud
<i>Melitis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Myrthus communis</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Monarda</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Nemesia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
N <i>Neoregelia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Nepenthes</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Nierembergia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Nigella</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Nolana</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Ocimum basilicum</i>	Bundessortenamt (D)	Bundessortenamt, Bamberg
<i>Oenothera</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
O <i>Olea europea</i>	OEVV (E)	CIFA, Seville
<i>Ornithogalu</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Oryza sativa</i>	ENSE (I)	ENSE, Milan
<i>Osteospermum ecklonis</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Paeomia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Papaver</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pastinaca sativa</i>	Plant Variety Rights Office (UK)	SASA, Edinburgh

Species	Examination office	Testing centre
<i>Pelargonium grandiflorum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Pelargonium peltatum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Pelargonium zonale</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Pennisetum orientale</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Pentas</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pereskia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Perovskia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Petunia</i>	Bundessortenamt (D)	Bundessortenamt, Marquardt
<i>Persea americana</i>	ARO (Israel)	Volcani Center, Bet Dagan
<i>Petroselinum crispum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Phalaenopsis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Phaseolus coccineus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Phaseolus vulgaris</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Phaseolus vulgaris</i>	GEVES (F)	GEVES, Brion
<i>Philodendron</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Phlox</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Photinia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Physalis alkekengi</i>	Bundessortenamt (D)	Bundessortenamt, Marquardt
<i>Pinus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pisum sativum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pisum sativum</i>	GEVES (F)	GEVES, Beaufort en vallée
<i>Pisum sativum</i>	Bundessortenamt (D)	Bundessortenamt, Scharnhorst
<i>Pisum sativum</i>	PVRO (UK)	PVRO, Edinburgh
<i>Pittosporum tenuifolium</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Platycodon</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pleioblastus variegatus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Poa annua</i>	Bundessortenamt (D)	Bundessortenamt, Scharnhorst
<i>Pogonatherum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Populus</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Prostanthera</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Primula</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Prunus armeniaca</i>	GEVES (F)	INRA, Avignon
<i>Prunus avium</i>	GEVES (F)	INRA, Bordeaux
<i>Prunus cerasifera</i>	OEW (E)	DGA, Zaragoza
<i>Prunus domestica</i>	Bundessortenamt (D)	Bundessortenamt, Marquardt
<i>Prunus insititia</i>	OEW (E)	DGA, Zaragoza
<i>Prunus laurocerasus</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Prunus persica</i>	GEVES (F)	INRA, Bordeaux
<i>Prunus persica</i>	OEW (E)	DGA, Zaragoza
<i>Prunus persica</i>	Istituto Sperimentale per la Frutticoltura (I)	ISF, Rome
<i>Prunus pumila</i>	Bundessortenamt (D)	BSA, Marquardt



Species	Examination office	Testing centre
<i>Prunus salicina</i>	Istituto Sperimentale per la Frutticoltura (I)	ISF, Forli
<i>Prunus salicina</i>	GEVES (F)	INRA, Avignon
<i>Pulmonaria</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Pteris</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Pyrus communis</i>	GEVES (F)	INRA, Angers
<i>Pyrus communis</i>	Plant Variety Rights Office (UK)	National Fruit Collections, Brogdale
<i>Pyrus pyrifolia</i>	GEVES (F)	INRA, Angers
<i>Rhaphanus sativus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Rhipsalidopsis</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Rhododendron</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Rhododendron Simsii-Hybriden</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Rosa</i> (cutflower:greenhouse)	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Rosa</i> (garden)	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Rosa</i> (garden)	GEVES (F)	GEVES, La Minière
R <i>Rosa</i> (garden)	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Rosa</i> (potplant)	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Rosa</i> (rootstock)	GEVES (F)	GEVES, Sophia Antipolis
<i>Rosa</i> (rootstock)	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Rosmarinus officinalis</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Rubus idaeus</i>	Bundessortenamt (D)	Bundessortenamt, Wurzen
<i>Rubus subgenus eubatus</i>	Bundessortenamt (D)	Bundessortenamt, Wurzen
<i>Rudbeckia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Saintpaulia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Salix</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Salvia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Salvia officinalis</i>	Bundessortenamt (D)	Bundessortenamt, Bamberg
S <i>Sambucus nigra</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Sanvitalia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Satureja douglasii</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Scaevola</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Schefflera</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Schlumbergera</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Scutellaria</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Secale cereale</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Sedum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Setaria</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Sinningia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Solanum difflorum</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Solanum melongena</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Solanum rantonnetii</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Solanum tuberosum</i>	OEV (E)	OEV, Aranjuez

Species	Examination office	Testing centre
<i>Solanum tuberosum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Solanum tuberosum</i>	Plant Variety Rights Office (UK)	SASA, Edinburgh
<i>Solanum tuberosum</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Solidago</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Solidaster</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Sorghum bicolor</i>	GEVES (F)	GEVES, Le Magneraud
<i>Spathiphyllum</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Spathoglottis</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Spinacia oleracea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Speraea</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Stromanthe sanguinea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Sutera</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Symphoricarpos</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Syngonium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Tacca</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
T <i>Tagetes erecta</i>	GEVES (F)	GEVES, Brion
<i>Tanacetum</i> (seed)	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Thuja</i>	Plantedirektoratet (DK)	RCA, Aarslev
<i>Tiarella</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Tibouchina urvilleana</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Torenia</i>	Bundessortenamt (D)	Bundessortenamt, Hanover
<i>Trachelium</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Tradescantia</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Trifolium pratense</i>	Bundessortenamt (D)	Bundessortenamt, Scharnhorst
<i>Triticum aestivum</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Triticum aestivum</i>	GEVES (F)	GEVES, La Minière
<i>Triticum aestivum</i>	OEJV (E)	OEJV, Aranjuez
<i>Triticum durum</i>	GEVES (F)	GEVES, Le Magneraud
<i>Triticum durum</i>	OEJV (E)	OEJV, Aranjuez
<i>Triticum spelta</i>	MCMA (B)	Departement production végétale, Gembloux
<i>Triticum spelta</i>	Bundessortenamt (D)	Bundessortenamt, Rethmar
<i>Tulipa</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
U <i>Ulmus</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Valerianella locusta</i>	GEVES (F)	GEVES, Brion
<i>Verbena</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Veronica</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
<i>Vicia faba</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
V <i>Vicia narbonensis</i>	ENSE (I)	ENSE, Battipaglia
<i>Vicia sativa</i>	GEVES (F)	GEVES, La Minière
<i>Viola</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Vitis</i>	Istituto Sperimentale per la Viticoltura (I)	ISV, Conegliano



Species	Examination office	Testing centre
<i>Vitis</i>	Bundessortenamt (D)	Bundessortenamt, Hassloch
<i>Vriesea</i>	Raad v/h Kwekersrecht (NL)	Plant Research International, Wageningen
W <i>Weigelia</i>	GEVES (F)	GEVES, La Minière
<i>Zantedeschia</i>	Plant Variety Rights Office (UK)	NIAB, Cambridge
<i>Zea mays</i>	Bundessortenamt (D)	Bundessortenamt, Haßloch
Z <i>Zea mays</i>	GEVES (F)	GEVES, La Minière
<i>Zea mays</i>	OEV (E)	OEVV, Seville

ANNEXNOTICES OF APPEAL RECEIVED AT THE CPVO AND DECISIONS REACHED
BY THE BOARD OF APPEAL SINCE THE START OF ITS ACTIVITIES

Number of notices of appeal received at the CPVO	Reasons to appeal	Number of decisions reached by the board of appeal	Decision number and date	Publication date in the Official Gazette of the CPVO
1996				
0	N/A	0	N/A	N/A
1997				
2	Variety denomination and novelty	0	N/A	N/A
1998				
2	Variety denomination and novelty	0	N/A	N/A
1999				
2	Distinctness and novelty	1	A 2/98 of 14.9.1999	15.4.2000
2000				
8	Distinctness (1), Article 55(4) of the basic regulation (3), non-payment of annual fees (4)	2	A 1/99 of 25.1.2000 A 2/99 of 19.5.2000 (interim decision)	15.4.2000 15.8.2000
2001				
1	Article 8 of the basic regulation (1)	2	A 2/00 of 27.3.2001 A 4/00 of 6.12.2001	15.6.2000 15.4.2002

N/A = non-applicable.

Community Plant Variety Office

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