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## INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

## ADMINISTRATIVE AND LEGAL COMMITTEE

Third Session

Geneva, April 24 and 25, 1979

## UPOV MODEL PLANT BREEDERS' RIGHTS GAZETTE

Document prepared by the Office of the Union

1. At its second session, the Administrative and Legal Committee (hereinafter referred to as "the Committee") agreed on a number of principles regarding the national plant breeders' rights gazettes of member States, and decided in particular on six main chapters which should form part of all of the national gazettes (see document CAJ/II/8, paragraph 6, and Annex III). At its twelfth ordinary session, the Council recommended member States to follow these principles when preparing their gazettes (see document C/XII/15, paragraph 11).
2. Recognizing the value and usefulness of the draft UPOV Model Gazette appearing in Annex I to document CAJ/I/5, the Committee decided at its second session that the Office of the Union should revise it in the light of the above-mentioned principles and should submit the revised version to the Committee at its third session. After completion of the work thereon, the UPOV Model Gazette should be published and, as a first step, should serve as a guide for those States--especially new member States--beginning publication of a plant breeders' rights gazette or of an improved type of gazette (see document CAJ/II/8, paragraph 7).
3. The revised draft of the UPOV Model Plant Breeders' Rights Gazette appears in the Annex to this document. Part I contains a General Introduction to the UPOV Model Plant Breeders' Rights Gazette, Part II Proposals for the Presentation of Information Within Each Table, Part III Proposals for Further Improvement of the Transparency of Gazettes for Foreign Users and Part IV the annotated text of the Model.
4. As to the proposals in Part II of the Annex for the entries to be made in the tables of the national gazettes, the Office of the Union considered that it would be useful to give firm recommendations to those--mostly new member--States wishing to rely on a UPOV document when establishing a national gazette rather than to mention all the possibilities open to them. It wishes to draw the attention of the Committee to the fact that those recommendations might not always be in conformity with the practice of all of the member States.

[Annex follows]

UPOV

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

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UPOV MODEL PLANT BREEDERS' RIGHTS GAZETTE

Guide for the Publication of National Plant  
Breeders' Rights Gazettes

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\* A first draft of a Model Plant Breeders' Rights Gazette was contained in document ICE/VIII/5, and a second draft in document CAJ/I/5.

PART I

GENERAL INTRODUCTION TO THE  
UPOV MODEL PLANT BREEDERS' RIGHTS GAZETTE

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Purpose of the UPOV Model Plant Breeders' Rights Gazette

1. Article 30(1) of the International Convention for the Protection of New Varieties of Plants (hereinafter referred to as "the Convention") provides that each member State of the Union shall adopt all measures necessary for the application of the Convention, and, in particular, "ensure that the public is informed of matters concerning [the] protection [of new varieties of plants], including as a minimum the periodical publication of the list of titles of protection issued." The normal way of informing the public is to publish a plant breeders' rights gazette (hereinafter referred to as "gazette"). The member States of UPOV, some of which have now been publishing a gazette for more than a decade, have already acquired wide experience in this field. By establishing a UPOV Model Plant Breeders' Rights Gazette (hereinafter referred to as "Model Gazette") they wish to share that experience with those States intending to start the publication of a gazette, or of an improved type of gazette.

Contents and Layout of the Model Gazette

2. The Convention requires the periodical publication of the titles of protection issued only. The gazettes of the present member States usually contain additional information. In general, it can be said that these gazettes include the following types of information:

(i) information the publication of which is required by law;

(ii) information the publication of which is in the public interest and contributes to the efficient working of the system of plant variety protection, and sometimes information concerning related systems.

3. The Model Gazette, as proposed in Part IV of this guide, consists of a number of chapters comprising one or more tables in which information on the different steps of plant variety protection is to be entered. These tables are followed by a chapter in which official notices are to be published. Chapters and tables are summarized in the Table of Contents which is in line with the Provisional Rules of Procedure for the Exchange of Variety Denominations, adopted by the UPOV Council (document C/V/33) and which state that "the chapters in the Bulletins [Gazettes] shall be summarized in a table of contents...". The headings of the main chapters also reflect decisions of the UPOV Council adopted for the sake of harmonizing the presentation of the national gazettes.

4. The Model Gazette contains tables only for such information as is likely to be published by all UPOV member States. The Table of Contents of the Model Gazette lists, however, in square brackets a number of additional table headings for those tables which might, according to present experience, be considered necessary or desirable in some--present or future--UPOV member States.

Recommended Use of the Model Gazette

5. The Council of UPOV has recommended the member States to use, in their national gazettes, the same headings and numbering for the first six main chapters, and thus the same sequence of these chapters. The headings and the numbering of the chapters agreed upon by the Council are used in the Model Gazette. States which base their national gazettes on this Model are expected to use, in addition to the headings and the numbering of the first six chapters, also the headings provided in the Model Gazette for the tables as well as the headings and the numbering of the columns used in the tables of the Model Gazette. They are, however, not expected to use the numbering of the tables, envisaged in the Model Gazette, within each chapter, i.e. to use the same Arabic numbers of the tables used in that Model.

6. In addition, it is recommended that States following the Model Gazette when establishing their national gazettes ensure that the Table of Contents remains unchanged in each issue, so that all headings of chapters and tables will be repeated, whether or not any information concerning a particular chapter or table is available for every single issue. Where there is no information for the period to be covered by a particular issue, that fact could be specially indicated by adding the word "nil" or some similar word or sign. This would facilitate the use of the gazettes and would have the additional advantage that the Table of Contents would not have to be changed for each issue: apart from the page numbers, it would be identical in each issue. These advantages would compensate for the additional space used.

PART II

PROPOSALS FOR THE PRESENTATION OF INFORMATION  
WITHIN EACH TABLE

Presentation of Data

7. General. The tables of the Model Gazette appearing in Part IV of this guide contain example entries for illustration purposes. However, no rigid system is proposed. Each State should establish the system which is best suited to its own needs and adapted to certain constraints arising, for instance, from the format of its gazettes, from its budgetary possibilities, from the competent authority's printing facilities and from national practice in publishing official gazettes. Nevertheless, it is recommended that the basic principles stated below should always be followed in order to facilitate the use of the gazette, particularly by foreign readers.

8. Naming of Species. The names of the species should be aligned to those used in the pertinent national legislation. However, both the common name used in the State concerned and the Latin name of each species should be indicated,<sup>1</sup> the common name being best understood by readers in the country and the Latin name<sup>1</sup> offering to foreign readers the possibility of finding the desired information more easily. Where several common names are used in a country for one species, only the one which is best known should be indicated, but all should be indicated where they relate to well-defined types within such species (for instance cucumber and gherkin in the case of *Cucumis sativus* L.)

9. Order of Species. The Model Gazette does not envisage the use of a special order of species for the entries to be made in the various tables. The following systems, each having their merits, may be envisaged:

(i) alphabetical order of Latin names;

(ii) alphabetical order of common names;

(iii) grouping of the species according to their use (agricultural crops, vegetables, fruit crops, etc.), possibly with subdivisions (in the case of agricultural crops: cereals, grasses, etc.); in each group or subgroup, entries should be made by applying either one of the above-mentioned alphabetical orders.

10. In certain languages, the use of the alphabetical order of common names would make it necessary to apply special measures to prevent the separation of related items. In English, for instance, care ought to be taken to ensure that "winter wheat" and "spring wheat" are classified under "wheat."

11. Order and Numbering of Entries. Entries in a table under the name of a species may be made in the order of

(i) the application numbers or the grant numbers, as the case may be; or

(ii) the dates on which the procedural steps announced were taken.

In certain cases all announcements which relate to the same applicant (within a certain division or subdivision) may be combined in one group.

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<sup>1</sup> The Provisional Rules of Procedure for the Exchange of Variety Denominations (document C/V/33, Annex I) provide as follows: "All varieties of the same species shall be kept together in each chapter. The species shall be indicated by their Latin (botanical) names, which may be put in brackets after the common names."

12. The decision on the system to be adopted may vary from table to table. Account should be taken, on the one hand, of the speed and reliability of the procedure for establishing the tables and, on the other hand, of the efficiency of the system for the retrieval of the information and the legibility of the gazette.

13. Entries in each table should be numbered in order to facilitate reference. The numbers should be listed in the first column of each table, the column itself being unnumbered.

14. Addresses. The following procedure is recommended:

(i) Country names would be preceded by a sign corresponding to an internationally agreed letter code (car registration code or ISO<sup>1</sup> two-letter or three-letter code) or replaced by such code.

(ii) Full addresses may be replaced in tables by codes consisting, for example, of the initial of the most important part of the name, followed by a number, it being understood that in each issue a list is added in which the codes are explained. Such coding is of value where many entries refer to the same persons and in the case of computerization. It is already in use in one of the UPOV member States.

15. Variety Denominations. The printed characters used should allow all details of variety denominations, including accents or similar signs, to be reproduced.

16. Where in a member State of UPOV a variety has to be given a denomination other than that already registered in another member State of UPOV, the already existing synonym should be indicated between brackets and the word "synonym" --written in full or abbreviated--and possibly also the State in which that synonym is used should be added.

17. Dates. Dates should be indicated according to the Gregorian calendar:

(i) in Arabic numerals;

(ii) by a four-digit number for the year and by two-digit numbers for the month and the day (e.g., the year 1979 would be referred to by "1979," the month of May by "03," and the fourth day in a month by "04");

(iii) in the order of the year, the month and the day;<sup>2</sup>

(iv) the year, the month and the day being separated by hyphens (e.g., 1979-03-04)<sup>3</sup>.

#### Announcements Concerning "National Listing"

18. In national gazettes of those member States of UPOV where the same authority is entrusted with the implementation of both legislation on plant variety protection and legislation on production, certification and marketing of seed and propagating material, there are sometimes entries concerning the "national list" or "catalogue" of varieties admitted for commercialization as seeds. These entries are of use to the reader who is usually also interested in the progress of a variety towards inclusion in the national list or catalogue. Where the announcements are to be made in a special table, that table should follow those of Chapters I to VI mentioned in this guide and may be given a number higher than VI if numbered at all. Where entries are made in the tables for the first six chapters, they should be clearly identified as referring to matters other than plant breeders' rights. This identification could be achieved by printing in a different manner or by adding a special sign.

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<sup>1</sup> International Organization for Standardization.

<sup>2</sup> This corresponds to the ISO Standard.

<sup>3</sup> The ISO Standard also allows continuous writing or a space instead of a hyphen.

PART III

PROPOSALS FOR FURTHER IMPROVEMENT OF THE TRANSPARENCY  
OF GAZETTES FOR FOREIGN USERS

19. To make gazettes more understandable to foreign users, one of the following measures should be envisaged:

(i) The headings of all tables and, where possible, also of the columns in each table should be translated in each issue of the gazette into the [other] working languages of UPOV, preferably--in smaller print--in the tables themselves; where this is not possible, such translations should be published in the gazette from time to time, for instance in the first issue each year, or

(ii) a glossary of the main terms used in the national gazette should be published from time to time as an Annex to the gazette.

20. It might also be useful to provide information, by way of a guide, to readers of a gazette on how to use it. Where such guide is published, it should at least appear in the [other] working languages of UPOV.



## PART IV

## THE MODEL GAZETTE WITH COMMENTARIES

21. The following odd-numbered pages contain the text of the Model Gazette, which comprises a Table of Contents, various chapters including one or more tables and one additional chapter. On the even-numbered pages short commentaries are given concerning the part of the Model Gazette, appearing on the opposite (odd-numbered) page.

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## COMMENTARY ON THE TABLE OF CONTENTS

22. The Table of Contents comprises two groups of table headings. The first group is formed by headings of those tables which appear in the gazettes of all member States of UPOV. Models of each of those tables are given on the following odd-numbered pages. The second group consists of headings of tables which are thought to be necessary or useful only in some of the member States and for which no model tables are proposed in this guide. In the Table of Contents the table headings of the second group have been placed in square brackets. Finally, the Table of Contents refers to a chapter in which official notices are to be published.

23. As already stated in the General Introduction (paragraph 5 above), it is envisaged (and recommended by the Council of UPOV) that the headings for the main Chapters I to VI be indicated in all national gazettes by using the same wording. It is, in addition to this, recommended that also the headings of the tables and of the columns of the tables and the numbering of the columns of the national gazettes be established according to the Model Gazette. Eventually it is recommended that each issue of the national gazette should contain the full --national--Table of Contents whether information is published under each individual chapter of that issue or not. Where no information is published, that fact is to be indicated by use of the word "nil" or a similar expression or sign.

Optional Tables

24. Optional tables, which are mentioned in the Table of Contents between square brackets, and which are thought to be necessary or useful only in some of the member States, refer to the following subject matter:

25. Protective Direction. Some legislations provide for a so-called protective direction. This is a special form of provisional protection. Whereas in several member States the applicant for plant variety protection automatically enjoys provisional protection for the period during which the application is pending, a protective direction must be specially applied for, and it is granted only if certain prerequisites are met. Where such a system exists, a number of additional announcements may have to be made in the national gazette. The Model Gazette contains no model table for these announcements, but there are some special headings in the Table of Contents between square brackets, namely for Applications for a Protective Direction (Table I.2), for the Grant of Protective Directions (Table IV.1), for the Refusal to Grant a Protective Direction (Table IV.2) and for the Withdrawal of Protective Directions (Table IV.3).

26. In member States where a protective direction may be granted, applications for that purpose usually have to be made at the same time as the application for protection. In such cases, the fact that a protective direction has been applied for need not be published in a separate table (e.g., Table I.2) but may be indicated in Table I.1:

(i) by adding a sign (\* or +) to the application number in column 1 and explaining the meaning of the sign in a special note, or

(ii) by entering the word "yes" in an additional column entitled "Applications for a Protective Direction."

In both cases the title of the table would of course have to be completed.

27. Should a separate table be considered necessary for applications for a protective direction, it could be restricted to indicating the indispensable data relating to the varieties concerned (e.g., species, applicant, application number and proposed denomination or breeder's reference).

28. It is to be noted that the further procedure relating to the protective direction is independent of the procedure relating to the title of protection and thus requires separate tables (see Tables IV.1 to 3).

29. Approval of Proposed Variety Denominations. In most member States of UPOV, variety denominations are approved simultaneously with the decision on the grant of protection, (i.e., in particular, on the same date). In other member States of UPOV, the variety denomination is approved separately and before the date of the grant of the title; the public is informed on the approval in a separate

TABLE OF CONTENTS

Chapter I\* : Applications

- Table I.1: Applications for Protection  
[Table I.2: Applications for a Protective Direction]

Chapter II\* : Variety Denominations

- Table II.1: Applications for a Variety Denomination  
[Table II.2: Approval of Proposed Variety Denominations]  
Table II.3: Applications for a New Denomination for a Protected Variety  
Table II.4: Approval of New Denominations for Protected Varieties  
[Table II.5: Summary Table of Proposed Variety Denominations<sup>1</sup>]

Chapter III\* : Withdrawal of Applications

- Table III.1: Withdrawal of Applications for Protection

Chapter IV\* : Decisions

- [Table IV.1: Grant of Protective Directions]  
[Table IV.2: Refusal to Grant a Protective Direction]  
[Table IV.3: Withdrawal of Protective Directions]  
[Table IV.4: Proposed Grant of Protection and Proposed Rejection of Application for Protection]  
Table IV.5: Grant of Protection  
Table IV.6: Rejection of Applications for Protection

Chapter V\* : Changes in the Person of the Applicant or of the Holder of Protection

- Table V.1: Changes in the Person of the Applicant or of the Agent  
Table V.2: Changes in the Person of the Holder of Protection or of the Agent

Chapter VI\* : Termination of Protection

(Comprising in a single Table VI:

- A : Surrender of Protection  
B : Forfeiture of Protection  
C : Annulment of Protection  
D : Expiration of Period of Protection)

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\* Numbering to be used in all gazettes and to be accompanied by a note drawing the reader's attention to the fact that it has been harmonized within UPOV.

<sup>1</sup> See Appendix to this guide.

table appearing in the national gazette. The Model Gazette takes account of this system in the Table of Contents, by providing, between square brackets, for a separate table for this purpose entitled "Approval of Proposed Variety Denominations" (Table II.2).

30. Summary Table of Proposed Variety Denominations. At least one member State of UPOV publishes in each issue of its national gazette a table summarizing the proposed variety denominations published in the same issue. The Appendix to this guide contains an example of that table. Such a table is of great value to readers using the gazette mainly for checking the proposed variety denominations, for instance, national plant variety protection authorities, or private persons checking variety denominations against their own rights to see whether there is a threatened infringement of those rights. The Model Gazette has no table of this kind, but its Table of Contents contains a special heading for it in square brackets (Table II.5).

31. Proposed Grant of Protection and Proposed Rejection of Application for Protection. The legislation of one member State of UPOV requires the authority of that State to publish its intention either to grant protection or to reject an application for protection. This gives the parties having a substantial interest in the result of the application for protection the chance to make representations and to adduce evidence in favor of or against the proposed decision. It is furthermore possible to provide that such representation or such submission of evidence is only admissible after the notice of the proposed decision on that application is published in the gazette. Any State providing for such a system needs a special table in their gazette for such notices. For this reason, the Table of Contents of the Model Gazette provides, between square brackets, for a table "Proposed Grant of Protection and Proposed Rejection of Application for Protection" (Table IV.4).

32. Licenses. The Model Gazette contains no table for indications concerning licenses, but six table headings concerning licenses are listed, in square brackets, in Chapter VII of the Table of Contents. This procedure has been followed since the need and usefulness of publishing indications concerning licenses is disputed. States wishing that such information be published, or even being obliged to do so under their law, may include such tables in their gazette.

[Chapter VII : Licenses]

- [Table VII.1: Grant of Exclusive Licenses]
- [Table VII.2: Licenses of Right]
- [Table VII.3: Applications for the Grant of a Compulsory License]
- [Table VII.4: Withdrawal of Applications for the Grant of a Compulsory License]
- [Table VII.5: Rejection of Applications for the Grant of a Compulsory License]
- [Table VII.6: Grant of Compulsory Licenses]

Chapter VII

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Chapter VIII: Official Notices

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## COMMENTARY ON TABLE I.1 (AND ON TABLES IN GENERAL)

33. Contents and Number of the Table. Applications for protection are to be entered in this table. While it can be expected that this table is the first one in each national gazette and thus will bear the same number in each State, the numbering of the following tables will probably differ in view of the fact that there will be a need for more or less tables according to the various national legislations.

34. Numbering of columns. Table I.1 and the subsequent tables are composed of a series of columns which are numbered. Such numbering makes it easier to refer to a particular column, especially when corrections or additions have to be published in subsequent issues of the gazette. Where a table covers several pages, the numbering system also allows the column heading to be omitted on all pages of the table except the first. To facilitate retrieval of information for foreign users, it is recommended that, in establishing a national gazette, the headings and numbers of columns of the Model Gazette are used.

35. Indications on Horizontal Lines rather than in Columns. Certain indications, for instance the name of the species, are given in this table and in the subsequent tables horizontally on a single line and not vertically in a column. This improves the legibility of the table. Other indications given horizontally on a single line rather than vertically in a column are those which are of a certain length, such as the indication of an application whose priority is claimed. In the case of a priority application, this system can also be justified by the fact that it avoids the need to provide for a special column which may only occasionally contain data.

36. Variety Denomination and Breeder's Reference. In this table and some other tables, one column is to contain an indication which may be either the denomination proposed by the applicant or the breeder's reference for the variety. Since these indications have to be clearly distinguished in a gazette, the Model Gazette provides that a proposed variety denomination should be underlined (or, when printed, should be in italics). In order to draw the reader's attention to the system used for distinguishing, the same system is also used in the column headings.

37. Applicant, Breeder, Agent. The names and the addresses of the applicant, the breeder and the agent are listed in the same column. They are distinguished by the letters a, b and c. To avoid confusion, the name and the address of the agent are also preceded by the letter c in some tables where the breeder is not mentioned, i.e., where there is no line preceded by a letter b. In tables in which it is not the applicant but the holder of the title of protection that is to be indicated, the name and the address of the holder are also preceded by the letter a in view of the fact that it is normally the applicant who is granted the title of protection.

38. The indication of the name and the address of the agent is provided for since it might be more convenient, in the case of certain announcements, for a user of the gazette to correspond with the agent than with the applicant. This will be the case particularly where the address of the applicant is in a foreign State.

39. Identification of the Application. Each table contains as many indications concerning the application as are possible in view of the space available. All model tables contain the following indications: species to which a variety belongs; application number (or grant number); designation of the variety (proposed or approved variety denomination or breeder's reference); applicant (or holder of the title of protection). In the model tables relating to Chapters I to IV, the breeder of the variety is also mentioned. In many States this is not only required by law and understood as a recognition of the merits of the breeder, but it is also of practical importance for the identification of the variety where the right to apply for protection is assigned to different persons in different countries. It is recalled that in many cases the breeder applies for protection in his own country while, for legal or for practical reasons, he assigns his variety to other persons for foreign countries so that such other persons may apply for protection there. The common link of the "family" of applications or titles concerning the same variety in different States is thus often the breeder and not the applicant.

CAJ/III/3  
Annex, page 15

## CHAPTER I: APPLICATIONS

TABLE I.1: APPLICATIONS FOR PROTECTION

Application Number	a: Applicant b: Breeder (if different from a) c: Agent	Proposed Denomination/ Breeder's Reference	Short Description
Date			
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. E 250 1977-08-30	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72 c: Jim Proxy Postbus 5, NL-Wageningen	T 33	Winter type; ear emergence 2 days later than 'Trita'; pith thin; ear white; awns and scurs absent; grain white
2. E 251 1977-08-30	See No. 1	<u>Dabo</u>	Spring type; ear emergence 1 day earlier than 'Estiva'; pith thick; ear black; scurs present; grain red
3. E 252 1977-08-30	a: See No. 1 c: See No. 1	T 34	Half alternative type; ear emergence 3 days later than 'Rouget'; pith thick; ear brown; awns present; grain red
4. E 253 1977-08-31	a: Charles Breeder King's Street, UK-Ashford, Kent	<u>Klim</u>	Winter type; ear emergence 1 day earlier than 'Trita'; pith thin; ear white; awns and scurs absent; grain white
Priority of Application No. 01281 filed in F on 1976-12-24 claimed.			
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
5. C 12 1977-08-15	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern c: Olle Ombud S-171 73 Solna	<u>Queen</u>	Flower single; ray floret white; disc floret tubular
Priority of Application No. 01111 filed in F on 1976-09-11 claimed.			
6. C 13 1977-08-15	See No. 5	<u>Prinzessin</u>	Flower single; ray floret pale yellow; disc floret tubular
Priority of Application No. 01112 filed in F on 1976-09-11 claimed.			
7. C 14 1977-08-15	See No. 5	<u>Marquise</u>	Flower single; ray floret dark yellow; disc floret tubular
Priority of Application No. 01113 filed in F on 1976-09-11 claimed.			

40. Short Description. The legislation of some States requires the inclusion in the national gazette of a short description of the variety based on the information supplied by the applicant. Table I.1 takes account of this requirement in providing for a separate column for short descriptions. The short description is particularly useful for classifying the varieties and will assist a reader of the gazette to determine his potential interest in the published variety. Such assistance might be of practical value where a wide taxonomic unit comprises a great number of species (e.g. the family of Orchidaceae) or where a smaller unit either shows a wide range of variation (e.g., roses or chrysanthemum) or comprises different types of varieties (e.g., maize).

41. Where UPOV Test Guidelines exist, the short descriptions which may be included in this table should be established on the basis of those Test Guidelines, particularly where the description to be furnished by the applicant is based on the Technical Questionnaire attached to the Test Guidelines. If possible, the short description should also be coded according to the Test Guidelines.

42. Protective Direction. As already mentioned in the Commentary on the Table of Contents (paragraph 26 above), the fact that a protective direction has been applied for may be indicated in Table I.1:

(i) by adding a sign (\* or +) to the application number in column 1 and explaining the meaning of the sign in a special note, or

(ii) by entering the word "yes" in an additional column entitled "Applications for a Protective Direction."

In both cases the title of the table would of course have to be completed.



## COMMENTARY ON TABLE II.1

43. Contents. The table concerning applications for a variety denomination would normally contain all applications for a variety denomination filed prior to the grant of the right.

44. A different system may be adopted in countries where, as a result of the national law or national practice, most applicants file the application for protection and the application for a variety denomination at the same time. In such a case, the table could be restricted to applications for a variety denomination which are not connected with an application for protection, that is, which relate to an application for protection already published in an earlier issue of the gazette. If this possibility, which allows the size of the gazette to be fairly reduced, is preferred, it will be indispensable to draw the reader's attention to the fact that he must also take account of Table I.1 (Applications for Protection) with respect to the proposed variety denominations. Under such a system, it would be useful to include in the gazette a table summarizing the proposed variety denominations<sup>1</sup>.

45. Mention of the Breeder. Under the present arrangements within UPOV, national gazettes serve as a basis for the exchange of information between national authorities on proposed variety denominations. Since varieties are frequently assigned to other persons as far as foreign States are concerned, the same denomination is often proposed by different applicants in different States. Mentioning the breeder in the gazette would enable the Office of a member State in such cases to assess with some certainty whether a variety denomination submitted to that Office and an identical variety denomination published in the gazette of another member State refer to the same variety or not.

46. Modifications. The use of the footnotes, as envisaged in the model table, would avoid the need to provide for special tables, indicating modifications concerning an approved denomination before protection is granted.

47. Date of Proposal of a Variety Denomination. The date should be indicated only where, in a given State, legal consequences derive from that date.

48. Date of Approval. In States where the procedure for the approval of a variety denomination is independent of the main procedure for the grant of protection, a Table II.2 would have to appear in the gazette, that would differ from Table II.1 only with respect to column 4, which would be entitled "Approved Denomination - Date of Approval." Here, as in the present Table II.1, the use of the footnotes, if necessary, would avoid the need to provide for special tables indicating modifications concerning an approved denomination before protection is granted.

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<sup>1</sup> See Appendix to this guide.

## CHAPTER II: VARIETY DENOMINATIONS

TABLE II.1: APPLICATIONS FOR A VARIETY DENOMINATION

Application Number	a: Applicant b: Breeder (if different from a) c: Agent	Previous Proposed Denomination (if different from 4)/ Breeder's Refer- ence	Proposed Denomination  Date of Proposal
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
E 250	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72 c: Jim Proxy Postbus 5, NL-Wageningen	T 33	Tatu 1977-09-19
E 251	See No. 1	<u>Dabo</u> *	Daboce 1977-09-19
E 252	a: See No. 1 c: See No. 1	T 34	Kali 1977-09-23
E 253	a: Charles Breeder King's Street, UK-Ashford, Kent		Klim 1977-09-19
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
C 14	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern c: Olle Ombud S-171 73 Solna	<u>Marquise</u> *	Baronne 1977-09-05

If it is felt necessary to give indications on the fate of the previous proposed denomination, reference would be made to one of the three following footnotes (or to footnotes 1 and 3):

"1 Already approved

"2 Rejected

"3 Withdrawn."

## COMMENTARY ON TABLE II.3

49. This table follows the same pattern as Table II.1. The observation in paragraph 47 above also applies to this table.

TABLE II.3: APPLICATION FOR A NEW DENOMINATION FOR A PROTECTED VARIETY

Grant Number	a: Holder b: Breeder (if different from a) c: Agent	Present Denomination	Proposed New Denomination  Date of Proposal
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
100	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72 c: Jim Proxy Postbus 5, NL-Wageningen	Tatu	Jupiter 1979-01-13
102	a: See No. 1 c: See No. 1	Kali	Apollo 1979-01-13
103	a: Charles Breeder King's Street, UK-Ashford, Kent	Klim	Klima 1979-01-15
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
110	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern c: Olle Ombud S-171 73 Solna	Queen	Impératrice 1979-01-06

## COMMENTARY ON TABLE II.4

50. This table follows the same pattern as Table II.3. Like Table II.3 it would have to form part of the gazette of all States since the procedure for the approval of new denominations for protected varieties is always independent of the procedure for the grant of protection.

TABLE II.4: APPROVAL OF NEW DENOMINATIONS FOR PROTECTED VARIETIES

Grant Number	a: Holder b: Breeder (if different from a)	Previous Denomination	New Denomination  Date of Approval
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. 100	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72	Tatu	Jupiter 1979-04-09
2. 102	a: See No. 1	Kali	Apollo 1979-04-09
3. 103	a: Charles Breeder King's Street, UK-Ashford, Kent	Klim	Klima 1979-04-09
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
4. 110	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern	Queen	Impératrice 1979-04-09

## COMMENTARY ON TABLE III.1

51. Where the procedure for the approval of the variety denomination is independent of the main procedure for the grant of protection and where it is felt useful or necessary to indicate the approved denominations separately, this may be done in a footnote.

## CHAPTER III: WITHDRAWAL OF APPLICATIONS

TABLE III.1: WITHDRAWAL OF APPLICATIONS FOR PROTECTION

Appli- cation Number	a: Applicant b: Breeder (if different from a)	<u>Proposed Denomination/ Breeder's Reference</u>	Date of Withdrawal
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. E 250	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72	T 33	1977-09-15
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
2. C 13	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern	<u>Prinzessin</u>	1977-09-08



## COMMENTARY ON TABLE IV.5

52. Some member States of UPOV find it useful or even indispensable to indicate for each grant of protection the duration of the protection or the envisaged date of termination of protection. Such information might be of particular interest where the national law provides for different periods of protection for the various species or where protection is granted under the terms of Article 35<sup>1</sup> of the Convention (Transitional Limitation of the Requirement of Novelty). It may be given in an additional column.

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<sup>1</sup> Article 38 of the text as revised in 1978.

## CHAPTER IV: DECISIONS

TABLE IV.5: GRANT OF PROTECTION

Appli- cation Number	a: Holder b: Breeder (if different from a) c: Agent	Denomination	Grant Number  Date
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. E 250	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72 c: Jim Proxy Postbus 5, NL-Wageningen	Tatu	100 1977-09-15
2. E 251	See No. 1	Daboce	101 1977-09-15
3. E 252	a: See No. 1 b: See No. 1	Kali	102 1977-09-15
4. E 253	a: Charles Breeder King's Street, UK-Ashford, Kent	Klim	103 1977-09-15
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
5. C 12	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern c: Olle Ombud S-171 73 Solna	Queen	110 1977-09-20
6. C 13	See No. 5	Prinzessin	111 1977-09-20
7. C 14	See No. 5	Baronne	112 1977-09-20

## COMMENTARY ON TABLE IV.6

53. This table follows the same pattern as Table III.1 and the considerations in paragraph 51 above apply also to this table.

54. Where it is found necessary to indicate the ground for rejection, this could be done as shown in the last line of the model table.

TABLE IV.6: REJECTION OF APPLICATIONS FOR PROTECTION

Appli- cation Number	a: Applicant b: Breeder (if different from a)	Proposed Denomination/ Breeder's Reference	Date of Rejection
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. E 251	a: John Smith 11 London Street, UK-Cambridge CB3 0LF b: a and J. Müller Rathausstrasse 1, D-3000 Hannover 72	Daboce	1978-10-31
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
2. C 14	a: Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles b: Karl Züchter Mattenhofstr. 5, CH-3003 Bern	Baronne	1978-10-31

## COMMENTARY ON TABLE V.1

55. Should it be decided not to mention the agent at all in the gazette, the title of this table would be "Changes in the Person of the Applicant" and columns 2 and 3 would be headed "Previous Applicant" and "New Applicant."

56. As proposed in previous tables, the fact that the variety denomination has already been approved may be mentioned in a footnote.

CHAPTER V: CHANGES IN THE PERSON OF THE APPLICANT  
OR OF THE HOLDER OF PROTECTION

TABLE V.1: CHANGES IN THE PERSON OF THE APPLICANT OR OF THE AGENT

Application Number	Previous	New	Date of Change
<u>Proposed</u> <u>Denomination</u> / Breeder's Reference	a: Applicant b: Agent	a: Applicant b: Agent	
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. E 250 T 33	a: John Smith 11 London Street UK-Cambridge CB3 0LF  c: Jim Proxy Postbus 5 NL-Wageningen	a: J. Müller Rathausstrasse 1 D-3000 Hannover 72  c: None	1977-09-11
2. E 251 <u>Dabo</u>	a-c: See No. 1	a-c: See No. 1	1977-09-11
3. E 252 T 34	a: See No. 1 c: See No. 1	c: Jan Kweker Postbus 13 NL-Amsterdam	1977-09-11
4. E 253 <u>Klim</u>	a: Charles Breeder King's Street UK-Ashford, Kent  c: None	c: Jim Proxy Postbus 5 NL-Wageningen	1977-09-13

## COMMENTARY ON TABLE V.2

57. The observations in paragraph 55 apply mutatis mutandis to this table.

TABLE V.2: CHANGES IN THE PERSON OF THE HOLDER OF PROTECTION OR OF THE AGENT

Grant Number	Previous	New	Date of Change
Denomination	a: Holder c: Agent	a: Holder c: Agent	
1	2	3	4
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
1. 100 Tatu	a: John Smith 11 London Street UK-Cambridge CB3 0LF	a: J. Müller Rathausstrasse 1 D-3000 Hannover 72	1978-10-14
2. 101 Dabo	a: See No. 1	a: See No. 1	1978-10-24
3. 102 Kali	a: See No. 1 c: Jim Proxy Postbus 5 NL-Wageningen	c: Jan Kweker Postbus 13 NL-Amsterdam	1978-10-24
4. 103 Klim	a: Charles Breeder King's Street UK-Ashford, Kent c: None	c: See No. 3, column 2	1978-10-30



## COMMENTARY ON TABLE VI

58. This table is based on the assumption that it is necessary or useful to indicate the different forms of termination of protection. If these different forms are not to be indicated, the table would be simplified. The following possibilities of simplification are mentioned here:

(i) The items "Surrender" and "Forfeiture" would form one item under which the cases of expiration of the period of protection might also be indicated. This item could be called "Termination Except for Annulment." The item "Annulment" would be included as a separate item in view of the different legal consequences (retroactive [ex tunc] effect).

(ii) The table would not be subdivided into items in view of the fact that annulments are rare; where annulments occur, they could be marked by a special sign explained in a footnote.

59. Column 4 contains the date on which the termination of protection becomes effective, and not the date on which the decision to terminate is taken. Consequently, in the case of annulment, the date to be indicated is the date of the grant of the title of protection.

## CHAPTER VI: TERMINATION OF PROTECTION

TABLE VI: TERMINATION OF PROTECTION

Grant Number	Holder	Denomination	Date of Protection Termination
1	2	3	4
<u>Surrender of Protection</u>			
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
100	John Smith 11, London Street, UK-Cambridge CB3 0LF	Tatu	1978-09-19
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
112	Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles	Baronne	1978-09-21
<u>Forfeiture of Protection</u>			
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
102	John Smith 11, London Street, UK-Cambridge CB3 0LF	Kali	1978-09-21
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
111	Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles	Prinzessin	1978-09-24
<u>Annulment of Protection</u>			
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
101	John Smith 11 London Street, UK-Cambridge CB3 0LF	Daboce	1977-09-15
<u>Chrysanthemum</u> ( <i>Chrysanthemum</i> spp.)			
110	Rosier et Cie 36, rue de Stassart, B-1050 Bruxelles	Impératrice	1977-09-20
<u>Expiration of Period of Protection</u>			
<u>Wheat</u> ( <i>Triticum aestivum</i> L. emend. Fiori et Paol.)			
103	Charles Breeder King's Street UK-Ashford, Kent	Klim	1978-09-27

## COMMENTARY ON CHAPTER VII OR VIII\* (OFFICIAL NOTICES)

60. General Information on Plant Variety Protection Matters. The chapter entitled "Official Notices" might contain inter alia information on:

- (i) national legislation;
- (ii) the procedure before the national authorities (for instance: place where plant material has to be delivered; type, quantity and quality of plant material; deadlines for the delivery of the material);
- (iii) licenses (where not announced in special tables);
- (iv) decisions of authorities or courts.

61. This chapter might also comprise:

- (i) annual lists of protected varieties (possibly in conjunction with similar information relating to national listing);
- (ii) a list of variety denominations proposed solely in connection with the national listing procedure, in view of the importance of such information for the purposes of the examination of variety denominations;
- (iii) notes on events in the field of plant variety protection in other States;
- (iv) references to interesting publications in the gazettes of other States;
- (v) references to publications in the UPOV Newsletter.

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<sup>1</sup> If Chapter VII contains tables on licenses.

CHAPTER VII )  
CHAPTER VIII ) OFFICIAL NOTICES

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(See proposals in commentary on opposite page)

[Appendix follows]

EXAMPLE OF SUMMARY TABLE OF THE PROPOSED  
VARIETY DENOMINATIONS

(taken from the French Gazette)

V - TABLEAU RECAPITULATIF DES DENOMINATIONS VARIETALES  
PROPOSEES PAR LES OBTENTEURS ET PUBLIEES DANS LE PRESENT  
BULLETIN POUR OBSERVATIONS OU OBJECTIONS EVENTUELLES  
(U.P.O.V.)

Ces dénominations sont répertoriées :

- pour les groupes d'espèces pour lesquelles la recommandation sur les dénominations variétales adoptée par l'U.P.O.V. a prévu des classes, selon ces classes ;
- pour les autres espèces, selon l'ordre alphabétique.

CLASSE 1 = Avena, Hordeum, Secale, Triticum

ABO, ACHILLE, ARCOLE, ARTUS  
ECHO  
FREGATE  
GALA, GAMIN  
HIGHBURRY, MORBIT, HUQUIN  
KIDUR, KINSMAN  
MARENGO, MIKADO

CLASSE 3 = Sorghum, Zea

Constituants généalogiques :  
F 2 F, F 3 F  
F 2 x CM 7, F 2 x CM 174, F 2 x CO 120, F 2 x W 117

CLASSE 20 = Malus, Pyrus

CAMSPUR

CLASSE 21 = Solanum tuberosum L.

JULIVER  
POSMO

Begonia elatior

SIRENE

Chrysanthemum spp.

AMBER BOSTON, APRICOT MEY  
BLUE BIRD, BONPERA, BRANDY STAR, BRANDY WESTLAND  
FREEDOM, FROST  
GOLDEN MEY, GOLDEN WESTLAND, GREGAFEU

JADE  
LILAC STAR  
PINK MEY, PLUME  
RUBY  
SCINTALIZER, SIMPATIA, SNOW WESTLAND, SOPHISTICATE  
VALLEE DE L'ISLE, VIEUX WESTLAND  
WINTER WESTLAND

Dianthus caryophyllus L.

KLEMGORI, KLEREPOLA  
OTELLO  
SAN MARCO, SUSY

Fragaria L.

FAVETTE

Linum usitatissimum L.

REGINA

Pisum sativum L.

SPIRE

Prunus persica L.

FIRERED  
KEARNEY  
REDCAL  
SHE FAIR

Rosa sp. Hort.

BARKO, BEKOLA, BERGME, BUCBI  
GRETA  
MEIBIRANDA, MEIGAVESOL, MEIGRONURI, MEIRIANOPUR, MEIRIDORIO  
MEITULANDI, MEIVILANIC, MEIVILIBOR, MEIVIVARA, MY VALENTINE  
PINTURNIA  
WEZEIP

Saintpaulia ionantha

ANGELA  
CORNELIA  
EVELYN

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