

EU Plant Variety Rights in the 21st Century

**Conference on the outcome of the evaluation of the
Community Plant Variety Rights Regime**

The UPOV Convention: an International Standard

Peter Button (Vice Secretary-General, UPOV)

Brussels, October 11, 2011

PREVIEW

- 1. Overview of UPOV**
- 2. Some key provisions of the 1991 Act of the UPOV Convention**
- 3. International harmonization**

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UPOV: INDEPENDENT INTERGOVERNMENTAL ORGANIZATION

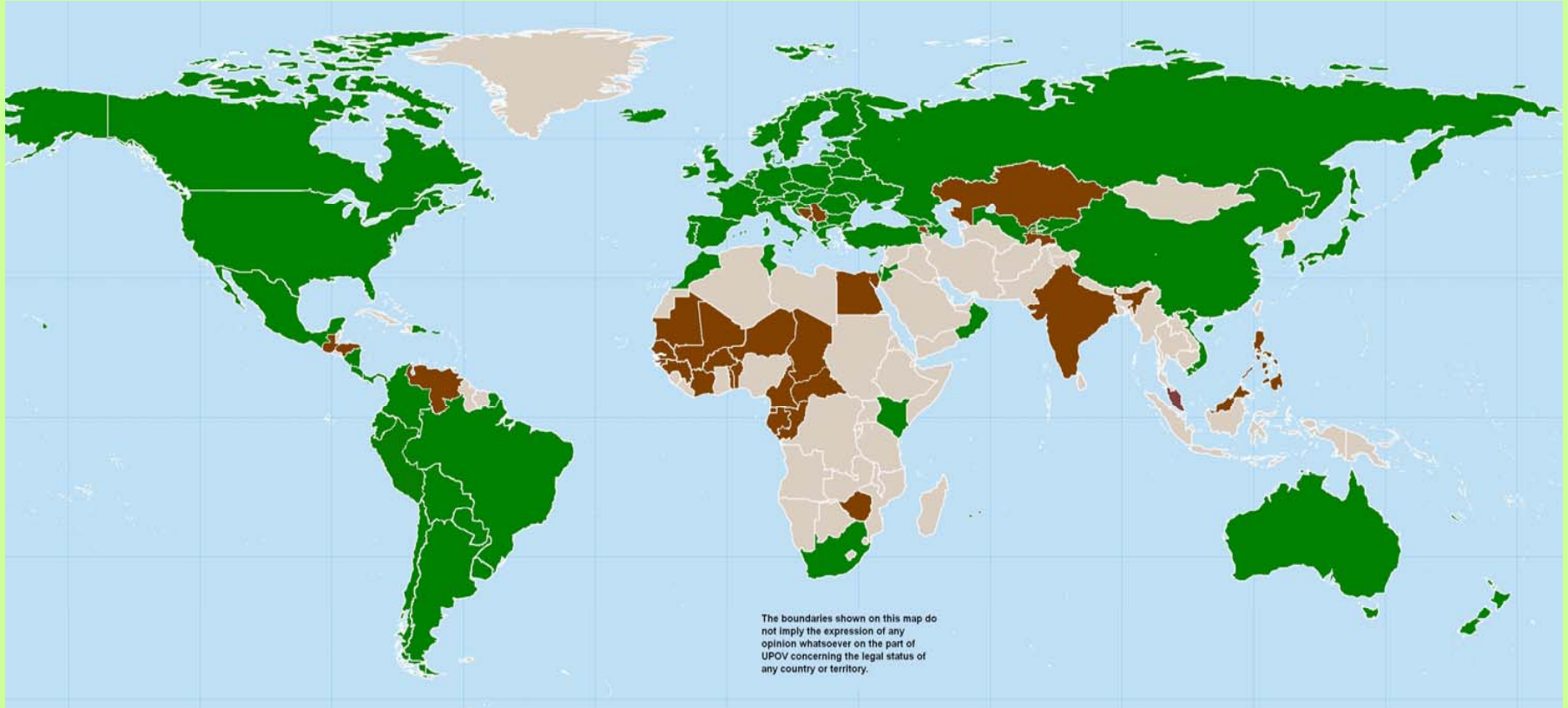
The International **Convention for the
Protection of New Varieties of Plants**

established in 1961

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

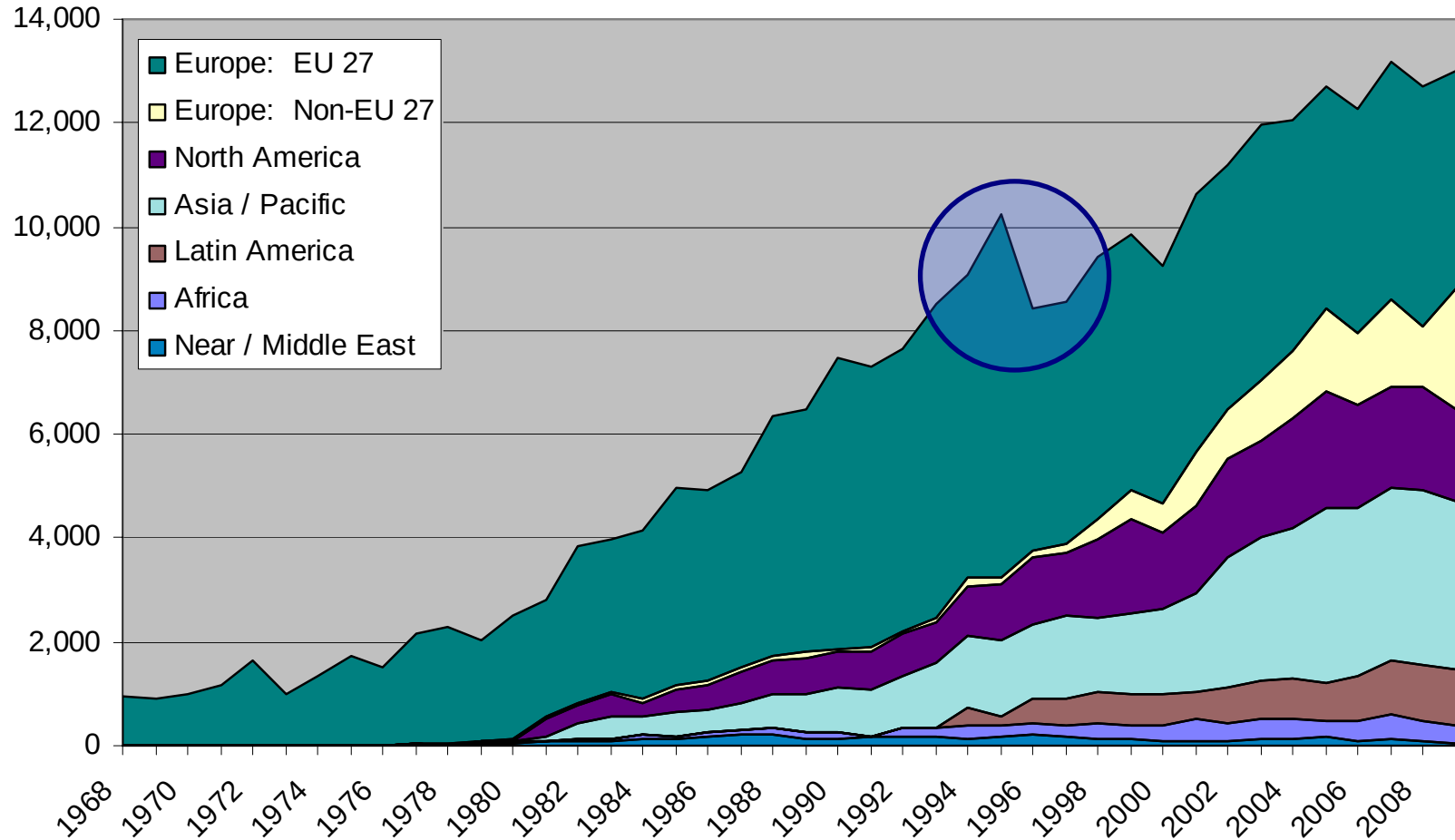
**Union internationale pour la
protection des obtentions végétales**

Members of UPOV (green): 70
Initiating States (15)
& organizations (1) (brown)

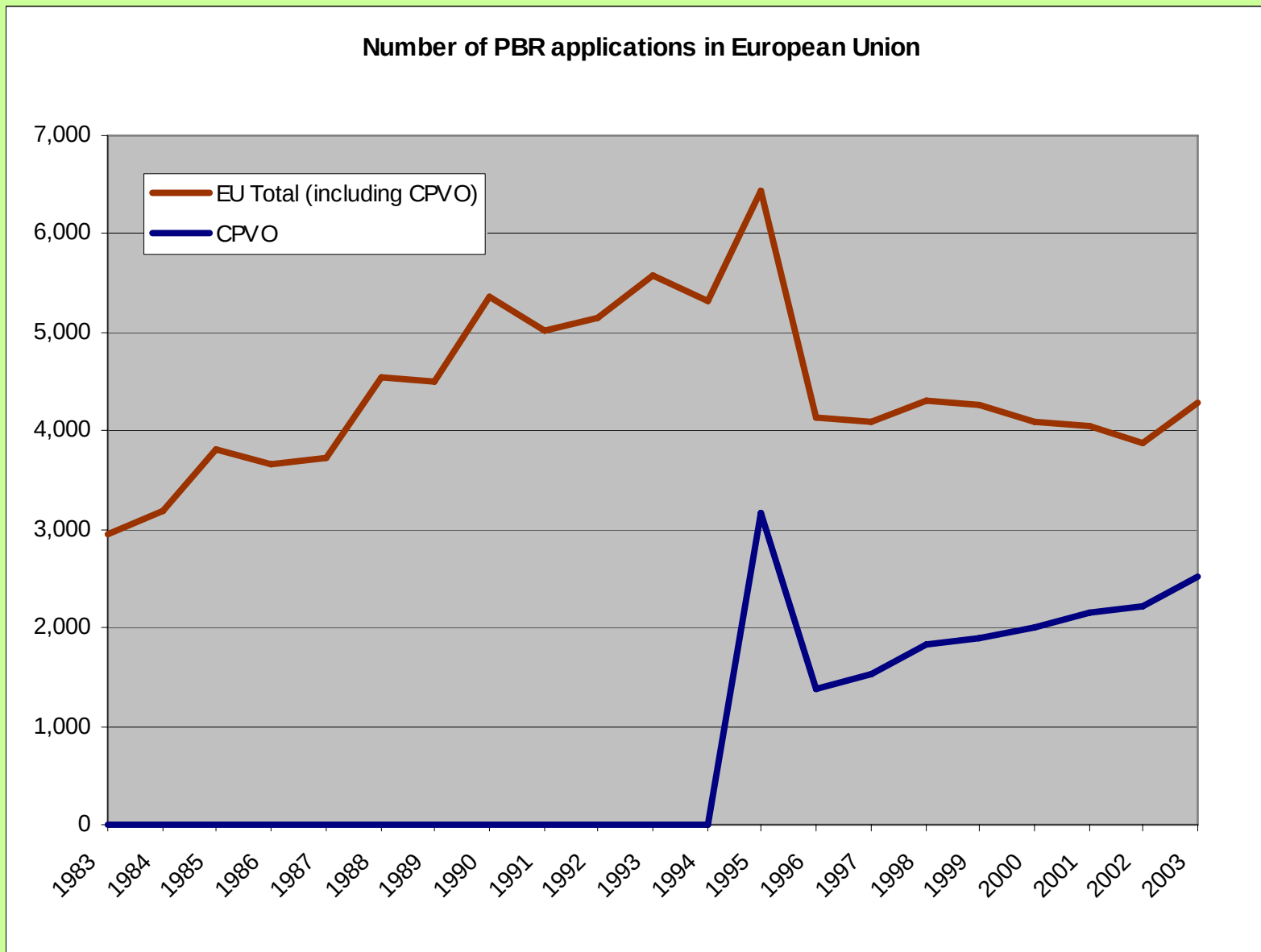


Development of Plant Variety Protection

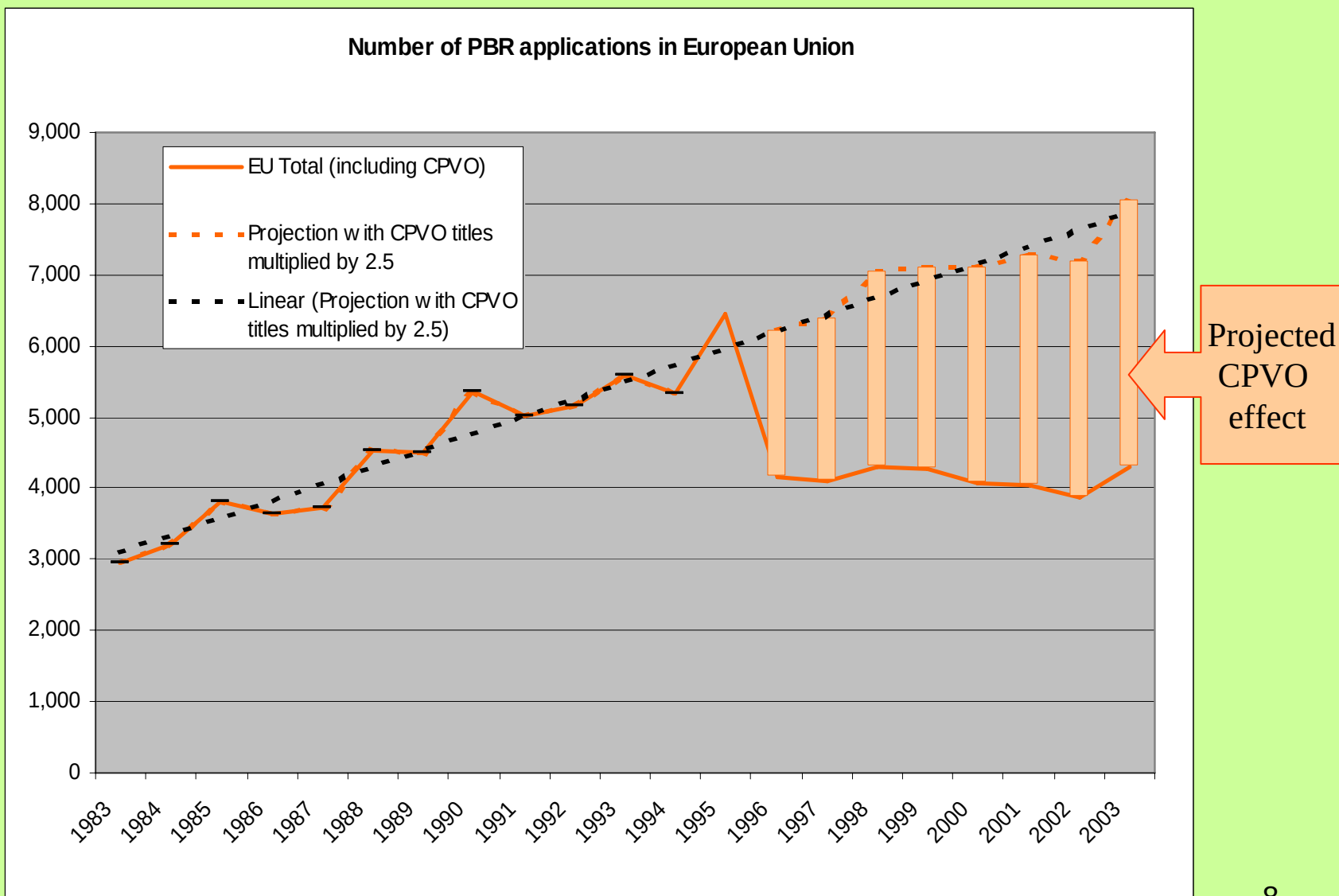
Applications: All UPOV



European Union perspective



European Union perspective



European Union accession to UPOV

INTERNATIONALER VERBAND ZUM SCHUTZ VON PFLANZENZÜCHTUNGEN GENÈVE, SUISSE			INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS GENEVA, SWITZERLAND
	UNION INTERNATIONALE POUR LA PROTECTION DES OBTENTIONS VÉGÉTALES GENÈVE, SUISSE	UNIÓN INTERNACIONAL PARA LA PROTECCIÓN DE LAS OBTENCIONES VEGETALES GINEBRA, SUIZA	

UPOV Press Release No. 65

Geneva, June 29, 2005

EUROPEAN COMMUNITY BECOMES FIRST INTERGOVERNMENTAL ORGANIZATION TO JOIN UPOV

The European Community (EC) became the first intergovernmental organization to join the International Union for the Protection of New Varieties of Plants (UPOV) when it deposited its instrument of accession with the Secretary-General of UPOV, Dr. Kamil Idris, on June 29, 2005. UPOV is an independent intergovernmental organization based in Geneva which administers an international treaty that governs the granting of intellectual property rights to plant breeders to encourage the development of new varieties of plants.

The accession of the EC is a milestone in the history of UPOV and promises to help strengthen the system of plant variety protection around the world and to broaden international cooperation in this area.

Community plant variety rights within the EC are administered by the Community Plant Variety Office (CPVO) in Angers, France. With more than 2,600 applications per year, the CPVO receives the highest number of requests for variety protection among the 59 members of UPOV. The CPVO provides for one application, one examination and one title of protection that is valid and enforceable in all 25 members of the European Union.



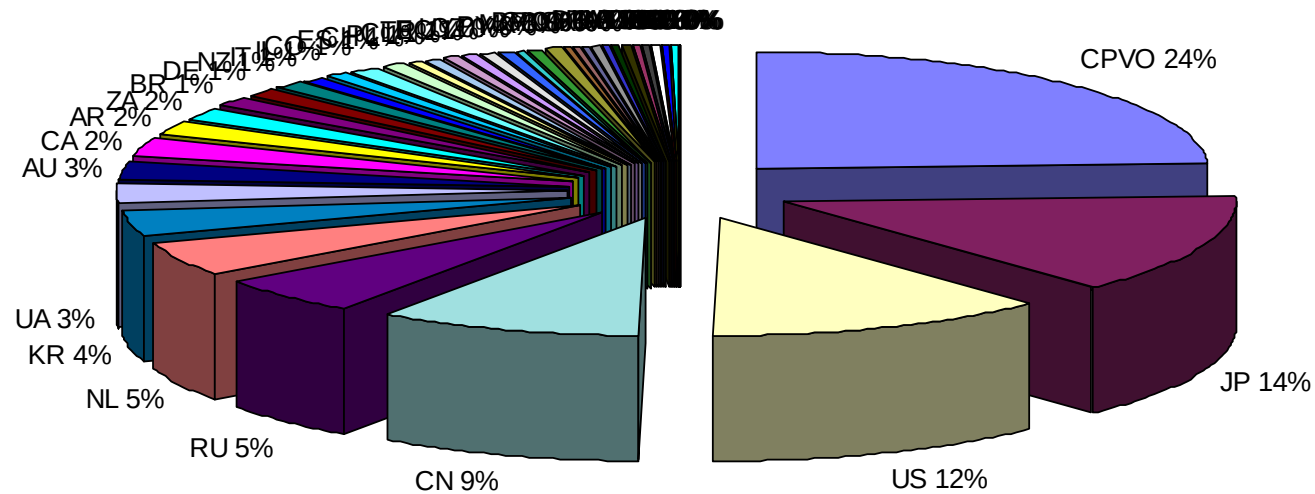
Alphonse BERNIS,
Ambassadeur,
Représentant Permanent du Grand-Duché de Luxembourg
auprès de l'Office des Nations Unies à Genève

Carlo TROJAN,
Ambassadeur,
Chef de la délégation permanente de la Commission européenne
auprès des organisations internationales à Genève

Jacques BRODIN,
Ambassadeur,
Chef du Bureau de liaison du Secrétariat général
du Conseil de l'Union européenne à Genève

Global perspective

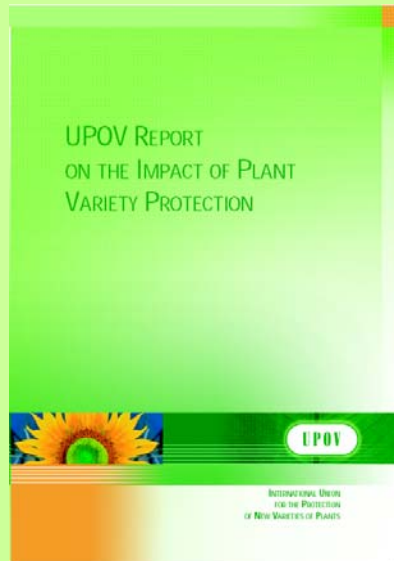
Number of Titles Granted (2009)



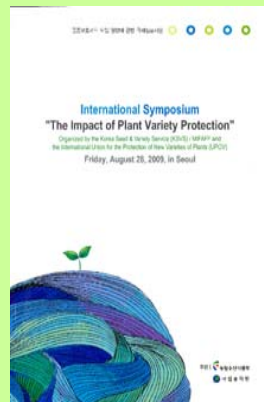
UPOV MISSION STATEMENT

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

UPOV Impact Study



International Symposium "The Impact of Plant Variety Protection" (Seoul, KR)



Second World Seed Conference (FAO, Rome)

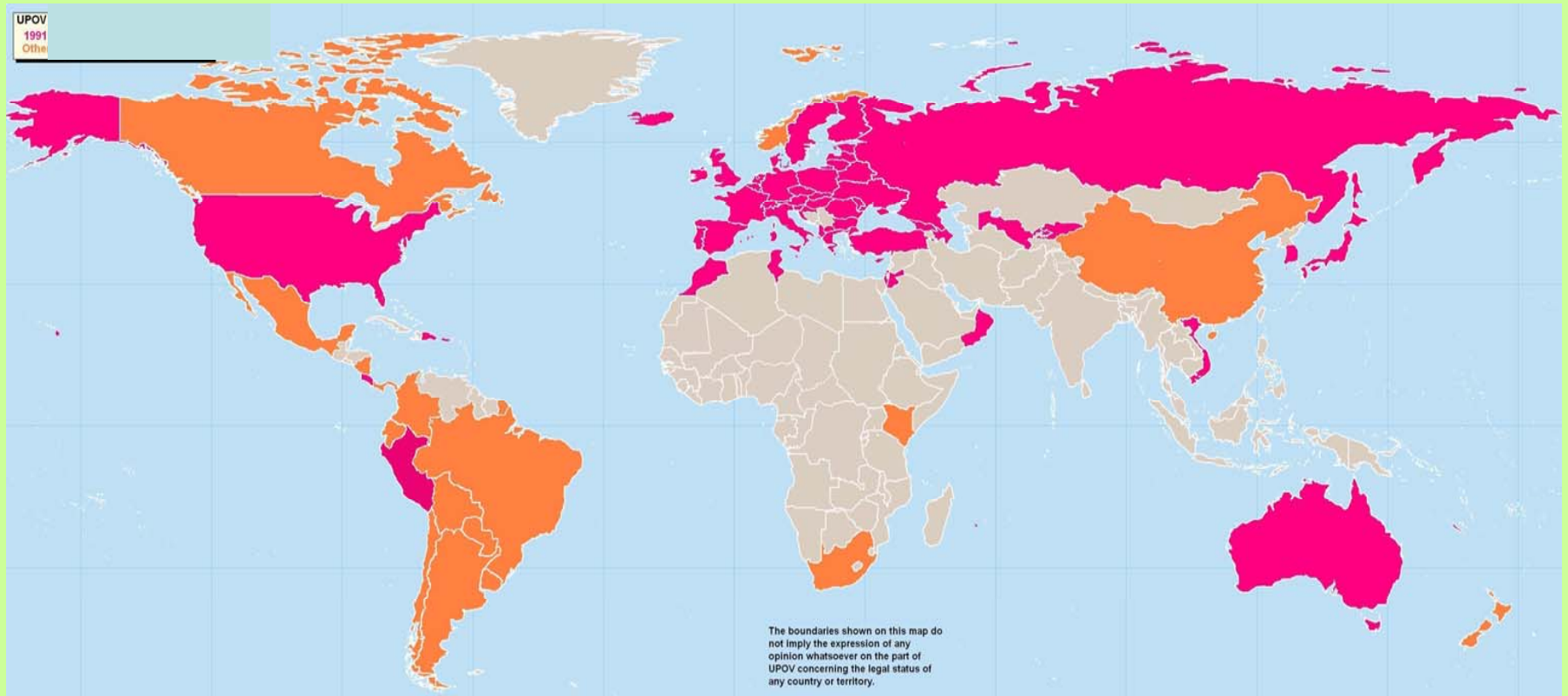


Canada: 10 Year Review

PREVIEW

1. Overview of UPOV
2. **Some key provisions of the 1991 Act of the UPOV Convention**
3. International harmonization

UPOV Membership: territories covered



Other Acts

1991 Act

SOME KEY PROVISIONS OF THE UPOV CONVENTION (1991 Act)

- (a) Conditions of protection
- (b) Breeder's right
- (c) Exceptions to the breeder's right

CONDITIONS FOR GRANTING A BREEDER'S RIGHT

Criteria to be satisfied

- NOVELTY
- DISTINCTNESS
- UNIFORMITY
- STABILITY
- VARIETY DENOMINATION
- FORMALITIES
- PAYMENT OF FEES

NO OTHER CONDITIONS!

SOME KEY PROVISIONS OF THE UPOV CONVENTION (1991 Act)

- (a) Conditions of protection
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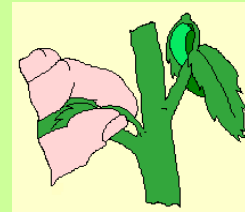
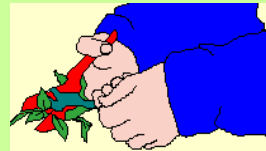
Authorization of breeder required for:

- Production or reproduction (multiplication)
- Conditioning for the purpose of propagation
- Offering for sale
- Selling or marketing
- Exporting
- Importing
- Stocking for any of the above purposes

.... for any protected variety

MATERIAL COVERED

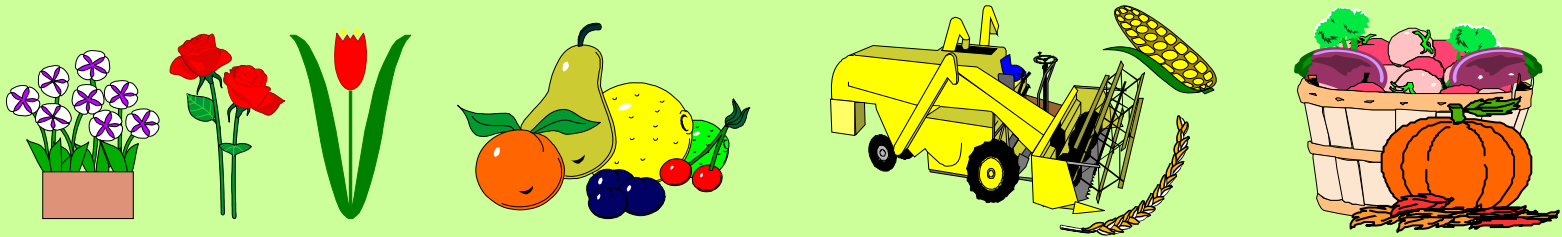
- All propagating material



- Harvested material under certain conditions
- Certain products (optional)

MATERIAL COVERED

- All propagating material
- Harvested material



if obtained through **unauthorized use** of propagating material **unless**, reasonable opportunity for breeder to exercise his right

- **Certain products (optional)**

VARIETIES COVERED

VARIETIES:

- **not clearly distinguishable** from the protected variety
- whose production **requires the repeated use** of the protected variety
e.g. hybrids
- which are **essentially derived** from the protected variety
...

VARIETIES COVERED

ESSENTIAL DERIVATION

PURPOSE:

to ensure sustainable plant breeding development by:

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

VARIETIES COVERED

Essentially Derived Varieties

May be obtained for example by:

- **selection** of a natural or induced **mutant**
- **selection** of a **somaclonal variant**
- **selection** of a **variant individual** from plants of the initial variety
- **back-crossing**
- transformation by **genetic engineering**

VARIETIES COVERED

...a variety shall be deemed to be **essentially derived from** another variety (“the **initial variety**”) **when**

(i) it is **predominantly derived from the initial variety**, or from a variety that is itself predominantly derived from the initial variety, while **retaining the expression of the essential characteristics** that result from the genotype or combination of genotypes **of the initial variety**,

(ii) it is **clearly distinguishable** from the initial variety and

(iii) except for the differences which result from the act of derivation, it **conforms to the initial variety** in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

SOME KEY PROVISIONS OF THE UPOV CONVENTION (1991 Act)

- (a) Conditions of protection
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EXCEPTIONS TO THE BREEDER'S RIGHT

Compulsory

Acts done:

- privately and for non-commercial purposes
- for experimental purposes
- breeding other varieties (breeder's exemption")

Optional

Farm-saved seed

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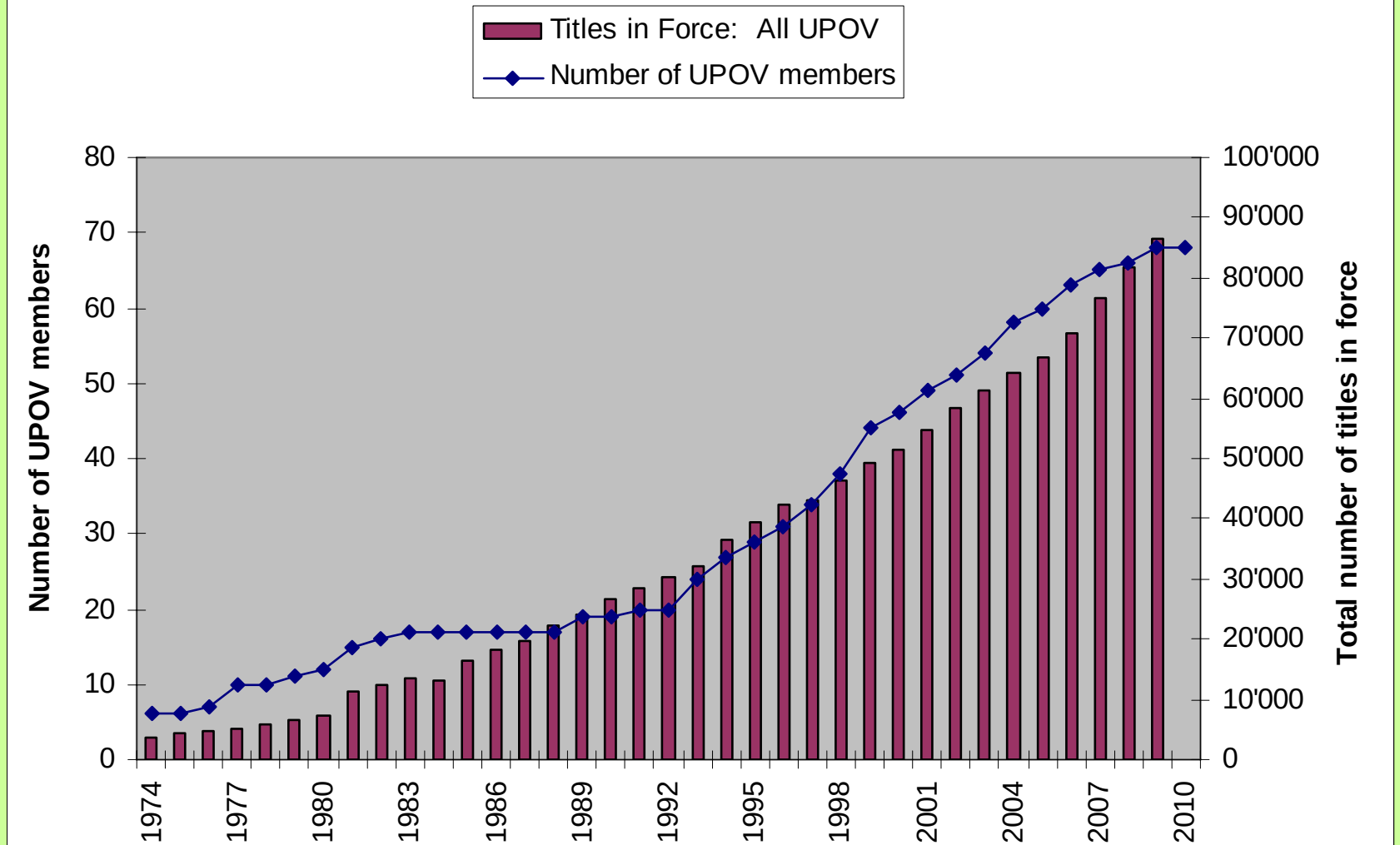
REQUIREMENT TO BECOME A MEMBER OF UPOV

**State/Intergovernmental Organization
must:**

- **Have a law which conforms to the UPOV Convention**
- **Ask advice of the Council of UPOV**
- **If advice positive: deposit instrument of accession**

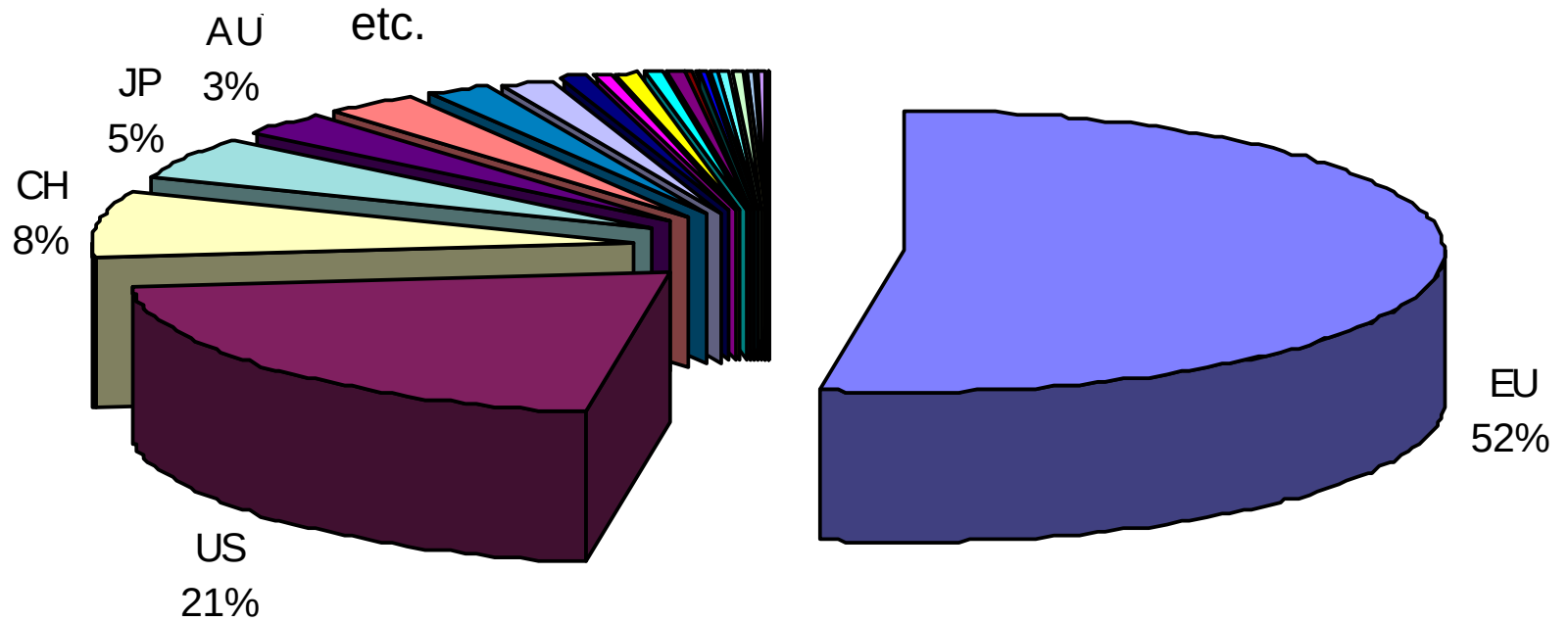
Development of Plant Variety Protection

PBR Titles in Force: All UPOV



Global perspective

Number of Applications by Non-Residents



UPOV Collection

(launch in connection with 50th Anniversary)

- (a) UPOV Convention
- (b) UPOV/INF document series
- (c) Explanatory notes on the UPOV Convention
- (d) General Introduction
- (e) TGP documents
- (f) Test Guidelines (website link)
- (g) UPOV Collection of Laws and Treaties (website link)
- (h) List of UPOV members (website link)
- (i) Addresses of Plant Variety Protection Offices (website link)
- (j) UPOV Organigram (website link)
- (k) Databases and information (website link)
 - List of the Taxa Protected by the Members of the Union
 - Cooperation in Examination
 - List of Species in which practical technical knowledge has been acquired or for which National Guidelines have been established
- (l) Plant Variety Database (website link)
- (m) GENIE Database (website link)

UPOV Collection

- **UPOV Convention**
- **UPOV/INF document series**
(e.g. INF/6 Guidance for the preparation of laws
 INF/12 Variety denominations)
- **Explanatory notes on the UPOV Convention**

UPOV Collection

DUS Examination

- **General Introduction**
- **TGP documents**
- **Test Guidelines**
 - **267 Test Guidelines** adopted

UPOV Test Guidelines: CPVO Technical protocols

UPOV

TG/2/7
ORIGINAL: English
DATE: 2009-04-01

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

MAIZE *

UPOV Code: ZEAAA_MAY

Zea mays L.

GUIDELINES
FOR THE CONDUCT OF TESTS
FOR DISTINCTNESS, UNIFORMITY AND STABILITY

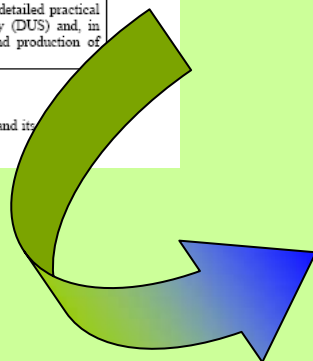
Alternative Names:*

Botanical name	English	French	German	Spanish
<i>Zea mays</i> L.	Maize, Corn	Mais	Mais	Mais

The purpose of these guidelines ("Test Guidelines") is to elaborate the principles contained in the General Introduction (document TG/1/3), and its associated TGP documents, into detailed practical guidance for the harmonized examination of distinctness, uniformity and stability (DUS) and, in particular, to identify appropriate characteristics for the examination of DUS and production of harmonized variety descriptions.

ASSOCIATED DOCUMENTS

These Test Guidelines should be read in conjunction with the General Introduction and its TGP documents.



CPVO-TP/002/3 Final
English
Date: 11/03/2010



CPVO • OCVV
Community Plant Variety Office
Office Communautaire des Variétés Végétales

PROTOCOL FOR DISTINCTNESS, UNIFORMITY AND STABILITY TESTS

Zea mays L.

MAIZE

UPOV Species Code: ZEAAA_MAY

Adopted on 11/03/2010

Entry into force on 01/01/2010

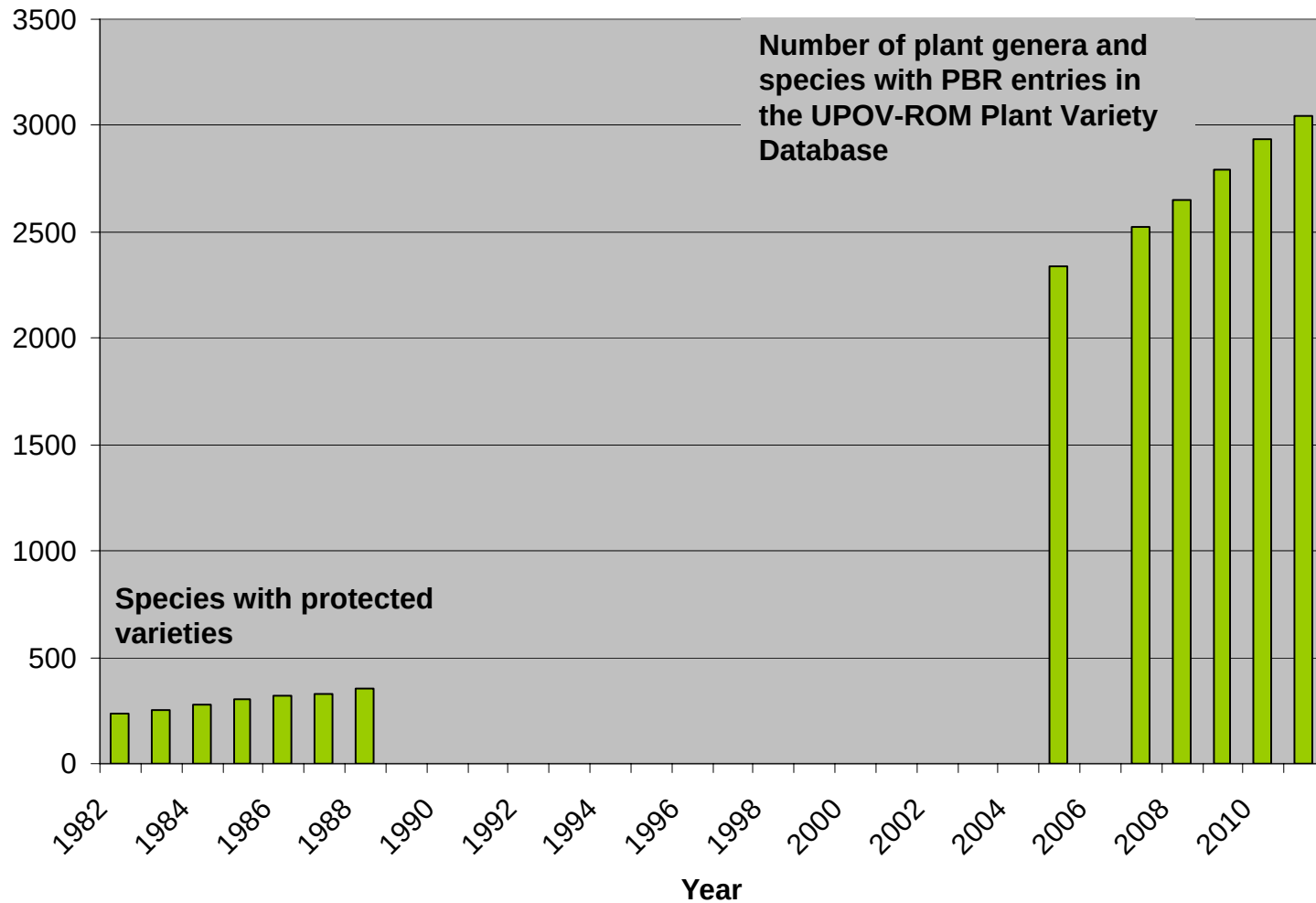
Test Guidelines

- **267 Test Guidelines** adopted

but...

- **3,000 genera and species** with varieties examined for PBR

Number of plant genera and species for which protection sought (UPOV Members)



Organization of the DUS Examination

Cooperation between Authorities

can involve:

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

COOPERATION



*Number of genera/species
for which varieties
protected by members of
the Union: > 3,000*

*(>10,000 titles granted
/annum)*

*Practical DUS
experience offered
for >2,600 genera
and species*

*Agreements for
cooperation between
members of the Union:
> 1,400*

Organization of the DUS Examination

Cooperation between Authorities

DOCUMENT TGP/5

**“EXPERIENCE AND COOPERATION IN DUS
TESTING”**

Section 1:

**Model Administrative Agreement
for International Cooperation in the Testing of Varieties**

Article 2

**Where the Council of UPOV has adopted Guidelines for
the Conduct of Tests for Distinctness, Uniformity and
Stability (“Test Guidelines”) for a genus or species covered
by this Agreement, the examination shall be conducted
according to those Test Guidelines. ...**

UPOV Collection

Databases and information

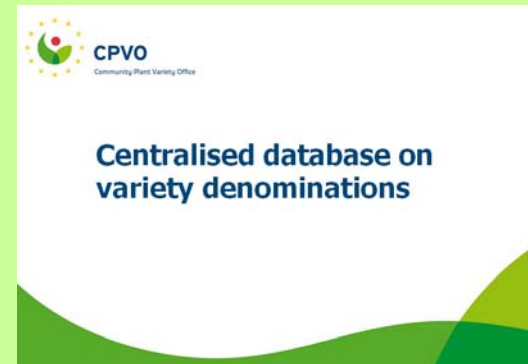
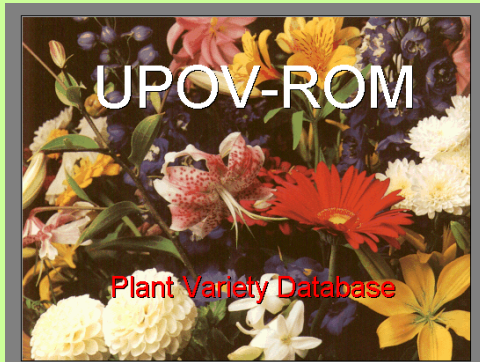
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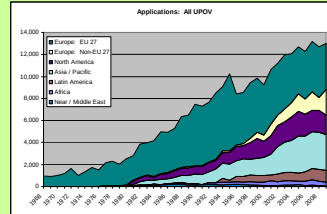
- Plant Variety Database



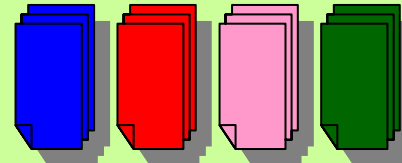


SUMMARY

1. Overview of UPOV



2. Some key provisions of the 1991 Act of the UPOV Convention



3. International harmonization



THANK YOU