

Ornamentals Production Committee Report:
September 2021 – January 2022

Report Sparring Partner Group Novelty Protection and IP August 21- January 2022

Author: M. Buma, Advisory to Sparring Partner Group (SPG) Novelty Protection and IP

General:

On **22 October 2021** the second virtual SPG meeting took place. AIPH invited keynote speaker **Dr Axel Metzger**, Professor of Civil law and Intellectual Property at Humboldt-University in Berlin, Germany, to present ***the principle of harvested material in the UPOV system*** (UPOV= International Union for the Protection of New Varieties of Plants). Knowing this issue will be one of the important discussion points within UPOV in 2022, the insight Dr Metzger presented on how UPOV's rather complicated principle of harvested material works out in jurisprudence, was very welcome to the audience. The principle, which defines the scope of PBR-protection in favour of the breeder, does affect the growers/producers position directly.

In September 2021, **Tim Edwards** gave an interesting and refreshing presentation in CIOPORA's webinar ***Breeding for a changing climate***. The speakers from the breeders side focused on what species of plant and trees will survive in several European areas, accepting that climate change is a fact. Tim -as a nurseryman- focussed on the consumer. This different point of view gave the audience a more informed insight.



In conclusion, Tim Edwards said, "Asking what plants will be best-suited to a changing climate is a valuable exercise and it's vital if gardens of the future are to be healthy, interesting and beautiful. But we also need to examine the sales methodology that these days takes a plant to market, and right now I think there are

fundamental flaws in that methodology that will slow down the process of taking a new product, ideal for a changed climate, to market."

The **UPOV seminar on *Strategies and policies involving the role of plant variety protection***, did not include technical juridical issues, but focused on the effects and role of plant breeders rights (PBR)-systems in society. UPOV's next (virtual) seminar about the PBR effects in society will be on the topic: ***'Explore the role of plant breeding and plant variety protection in enabling agriculture to adapt to, and mitigate, climate change'***. AIPH has worked in close cooperation with CIOPORA to send proposals to UPOV for specialised speakers, who are able to talk about these issues from our industry's perspective. AIPH waits to see how UPOV will respond.

In the SPG-community we said goodbye to Mr. Tim Edwards, who has been our chair for many years. We are grateful for his coaching and support. We welcomed in his place Mr. Jack Goossens as new chair of AIPH's Ornamentals Production Committee. Also, a farewell to George Franke because of his retirement. George followed the SPG-activities with great interest and gave input to the SPG-work. As new members of the SPG, we welcomed Mr. Wojciech Wroblewski, representative of the Board of Polish Nurserymen Association, and Mr. Luigi di Primio, representing ANVE (Italy).

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AIPH focussed and/or took action in the following important issues in relation to the international PBR field:

1. UPOV's seminar *Strategies and policies involving the role of plant variety protection (20-10-21)*.

Examples of themes in this seminar were to achieve the UN's Sustainable Development Goals and to improve the Intellectual Property plans and strategies, realising and clarifying which important role plant breeders' rights and plant variety protection could contribute to today's challenges. For example, how to feed the growing world population, and how to maintain biodiversity? For agricultural crops, UPOV develops guidance concerning smallholder farmers in relation to private and non-commercial use of propagating material. In clarifying this, the UPOV system can bring benefits to smallholder farmers.

Several UPOV-members gave very good and interesting presentations. To mention some of them: Canada, China, EU, USA, Sweden, Mexico, Peru. All concerned presentations are available via this Link: https://www.upov.int/meetings/en/details.jsp?meeting_id=64550

2. SPG virtual meeting 22 October 2021.

After Mr. Metzger's presentation, Mia Buma updated the SPG members about current PBR-topics, namely UPOV's principles on *Harvested material* and on *Essential Derived varieties (EDV)*.

An important SPG-goal was to achieve membership for AIPH in the UPOV Working Group on



Harvested Material. From that position AIPH will have some influence into the discussions on UPOV's Explanatory Notes (EXN) on harvested material. These discussions review the text of the current EXN, and it is of AIPH's interest to prevent the scope of PBR from becoming unbalanced between grower and breeder. Last autumn AIPH received the welcome message that UPOV's Council approved AIPH's request to join the working group.

3. The year 2021 marked the 60th anniversary of UPOV's foundation.

Mr. Daren Tang, Secretary-General of UPOV, remarked in his opening of the UPOV meetings last October:

'Back in 1961, UPOV was created to recognize the importance of the protection of new plant varieties and to uphold the interests of plant breeders around the world. Six decades on, I would like to highlight three policy pillars which capture the impact of UPOV's work today: transforming food production in a time of climate change. Second, spurring economic development through plant breeding and UPOV's system of plant protection. And, third, bringing innovation and technology transfer to farmers and growers.'

UPOV has identified six SDGs to which plant breeding and the UPOV system directly contributes towards. From ending hunger, achieving food security and improved nutrition, to protecting terrestrial ecosystems and halting biodiversity loss. Transforming food production is helping to deliver a fairer, greener, and more sustainable world. Mr. Tang gave further insights into the what that the UPOV system contributes to economic development, how the work of UPOV provides support to people and communities around the world.

4. SPG was informed about the outcomes of the UPOV meetings (27 till 29 October).

In the CAJ (Administrative and Legal Committee) Peter Button, Vice-Secretary General, gave a clear and informative overview of UPOV's developments during the past year. He marked this period as a time of transformation, focussing on three key issues: 1. The role of new plant varieties and UPOV in respect of sustainable food production and climate change. 2. COVID-19

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and the way UPOV works: now and in the future. 3. Digitalisation: e-Plant Variety Protection (e-PVP).

Link to Mr. Button's presentation on video (18 minutes):

<https://www.upov.int> (> meetings > meeting documents > Council > C56)

Other relevant topics in the CAJ concerned digitalisation initiatives:

- **UPOV PRISMA**  provides an operation system for the basic tasks within Plant Breeders Right Offices (the authority which grants the PBR to the breeder) and therefore can be used by any PBR-office. This year the number of applications using UPOV PRISMA increased enormously, predominantly from the U.K. The UK governmental plant variety department (DEFRA) implemented UPOV Prisma after leaving the EU PBR-system as part of Brexit.
- **e-PVP**: UPOV added a new tool to UPOV Prisma: **the e-PVP DUS Report Exchange**. This enables member countries to make use of each other's DUS-test reports (the test if a variety is distinct, uniform and stable. This test is one of the requirements to achieve a plant breeder's right title).
- **Platform East-Asia (EAPVP Forum Pilot Project)**: the East-Asia PVP Forum uses one standardised application form for all participating countries, ensuring only one DUS-report is used by these participating countries. This saves costs and time, because the DUS-test does not need to be done in each individual participating country.

Key points of the Council were (amongst others):

Use of the Chinese language in UPOV

Besides English, French, German and Spanish, Chinese will be one of the official UPOV languages.

Plant Variety Protection Statistics

Clear overviews by statistics were given of the increasing number of applications for PVP in 2020 (5.9% increase) and the decreasing number of titles issued in 2020 (5.5% decrease). It gives insight in the total of 141,034 titles in force in 2020, representing a 1.2% increase on figures for 2019.

Top 10 UPOV-members

Special attention was asked for an overview of the Top 10 UPOV-members, indicating trends in applications filed and titles issued since 1986 till now. It gave an interesting insight how large and broad China developed in recent years. It is number one now in number of PVP-applications received, in PVP-titles issued and in being the country with having most applicants in residence.

Vice Secretary-General

Mr. Peter Button's appointment as Vice Secretary-General of UPOV was extended until his retirement in October 2023. After many years of excellent service, UPOV has to say goodbye to him. Still some time to go, but for this reason the Council approved the procedure and timetable for the appointment of a new Vice Secretary-General.

5. AIPH contributed to discussion papers UPOV's meeting Working Group on 'Harvested Material'.

Thanks to the cooperation within the international PBR-network and with the support of the staff, AIPH's input for the working group was handed in on time (January 2022). The Working Group will focus on the articles 14, sub 1 and sub 2 of the UPOV Convention 1991. Sub 1 is mentioning the acts in respect of the propagating material of the protected variety which require the authorisation of the breeder. Sub 2, states that the same acts in relation to propagating material (as mentioned in article 14, sub 1) require the authorization of the breeder as well, when it concerns harvested material, albeit under two conditions: 1) when the harvested material is obtained through the unauthorised use of propagating material of the protected variety, 2) **unless**

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the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.

Needless to say, AIPH is motivating for clarifications in UPOV's EXN, that will do justice to the position of the grower, since article 14, sub 2, does affect its position directly. The working group will first meet on 15 March 2022. The SPG-members will be updated following this meeting.

Plant Health Report

Author: Dr Audrey Timm, with input from Robert Baayen (RFH).

AIPH Plant Health activities:

At the Autumn congress in 2021, AIPH approved phase 2 of the Plant Health Survey project. The AIPH Plant Health survey was initiated by AIPH to review the existence and scope of current plant health industry support programmes that facilitate knowledge, interpretation, and compliance with national and international regulatory frameworks. From the results and interpretation of the survey, the AIPH board has approved a second phase, which has 3 activities:

- Undertake a full benchmarking exercise of voluntary plant health standards that support the ornamental horticulture industry. This will involve an in-depth review of systems that were part of the 2021 survey, and identify and include other systems and programmes that were not part of the 2021 survey, in consultation with the proposed 'Plant Health Forum'. Outputs from this benchmarking exercise will be: a guidance document for developing robust voluntary standards that will support improvement of existing standards where needed, and creation of new standards in countries and regions where there are none; and case studies that illustrate the range of pathways in which voluntary standards currently contribute to effective biosecure trade of ornamentals.
- Write a 'white paper' that reviews the current interaction between voluntary plant health standards and national regulations, demonstrating limitations and identifying opportunities for improvement.
- Establish an expert panel to review and develop the scope of integrating regulatory and voluntary pathways to facilitate 'frictionless' trade that enables global supply chains to operate effectively and efficiently. The panel will include industry leaders in plant health, NPPOs, and representatives of IPPC. ('Frictionless' – biosecure and efficient supply chains that focus on systems that promote the health and quality of plants in transit)



Plant Health

AIPH INTERNATIONAL PLANT HEALTH SURVEY 2021



Alistair Yeomans will be leading on the first 2 activities as a consultant to AIPH, with active support of Dr Audrey Timm. Following discussions with Tim Edwards and Dr Nicola Spence, AIPH is pleased to have their contribution in steering this project.

AIPH anticipates inclusion in the programme for the IYPH2020 final conference to present this work. The conference has been rescheduled to September 2022, and will be held in London. The final report of The AIPH Plant Health Survey 2021 is on the AIPH Community platform.

Report on Plant Health, Invasive Plants and CITES

A. Plant Health

1. EU regulations

The main issues for the EU phytosanitary legislation of 2021 were

- (i) the launch of the evaluation of the EU Plant health regulation (PHR) and the Official controls regulation (OCR), as regards import and plant passports.
- (ii) (ii) the amendment of the former “Annexes” of the legislation, with amendments to the quarantine pests listed, import requirements, etc.

As regards the evaluation, the European Commission sent out draft questionnaires in January 2021 and discussed those with the Member States and the stakeholders, subsequently launched the questionnaires, carried out the evaluation study with the help of the JRC (for economic impacts), and published the report in December 2021. The recommendations concerned certain fine-tuning of both regulations, but no major changes. The report has been transmitted to the European Parliament and the Council. The French Presidency has put it on the agenda for February 2022 for discussion in the Specific Committee for Agriculture, assumedly linking into the trade reciprocity discussion which is high on its political agenda.

As regards the amendment of the details of the PHR, see the new Commission Implementing Regulation (EU) 2021/2285 of 14 December 2021, which will apply from 11 April 2022. Overall, the new rules strengthen the level of protection of the EU against quarantine pests that so far are not known to occur in the EU. Many new pests have been given the quarantine pest status, e.g. *Apriona* and *Euwallacea* beetles for which substantial measures are required.

High Risk Plants:

In September this report stated that more than 52 dossiers of high risk plants have been sent to the Commission for a derogation. The dossiers are being assessed by European Food and Safety Authority (EFSA).

Reports from the EFSA 97th Plenary Meeting, held on 24-25 November 2021.

“The activities of the WG since the last plenary meeting focused on the finalisation of the Commodity risk assessment of *Lonicera* potted plants from Turkey addressing the PLH Panel comments. In addition to this the WG analysed the pest list of *Jasminum polyanthum* from Uganda and, based on the additional information received from the applicant country, selected the potential actionable pests. For other dossiers the clock is stopped until EFSA will receive the requested additional information.

Work since the last plenary meeting focused on the Commodity risk assessment of bonsai plants from China consisting of *Pinus parviflora* grafted on *Pinus thunbergii*”, especially on performing the expert knowledge elicitation, finalising the draft opinion and addressing the PLH Panel comments. In parallel the WG finalised the evaluation of the pest list for *Acer palmatum* from China based on the additional information received from the applicant country. For other dossiers the clock is stopped until EFSA will receive the requested additional information.

The activities of the WG since the last plenary meeting focused on the finalisation of the Commodity risk assessment of *Malus domestica* plants from Moldova addressing the PLH Panel comments. During the revision of the draft opinion it emerged the need of requesting further information concerning the possible presence of a quarantine pest in the country and a request for clarification was sent on this regard. In addition to this, the WG has completed the EKE on the actionable pests of *Malus domestica* from Turkey. The integration of information requested to UK in relation to the dossier on *Malus domestica* were received and verified. For

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other dossiers the clock is stopped until EFSA will receive the requested additional information.”

EPPO

In the 79th Meeting of the Panel on Global Phytosanitary Affairs, held as a teleconference, 2021-09-09/10, the Panel members discussed the following draft ISPMs which were under country consultation. The EPPO comments once finalized were shared with EPPO countries and the IPPC Secretariat through the Online Commenting System (OCS) and the EPPO countries were invited to endorse the comments:

Draft ISPMs for first consultation:

- 2021 Amendments of ISPM 5 Glossary of Phytosanitary Terms
- Revision of ISPM 4 Requirements for the establishment of pest free areas
- Revision of ISPM 18 Requirements for the use of irradiation as a phytosanitary measure
- Annex to ISPM 20 Guidelines for a phytosanitary import regulatory system: Use of specific import authorizations
- Annex to ISPM 28 Phytosanitary treatments for regulated pests: Irradiation treatment for treatment for *Pseudococcus jackbeardsleyi*

Plant protection products

EFSA published evaluations on emergency authorisations for the use of neonicotinoids in Denmark, Slovakia, and Belgium. In all evaluations it was deemed that no effective alternatives exist, with the exception of crop rotation. Although the assessments were for an agricultural crop, the continued use of these products is of concern to the ornamental horticulture industry.

EFSA Proposal of a ranking methodology for plant threats in the EU

The purpose of this work was to develop a methodology to rank the non-regulated pests recently identified through the monitoring of media and scientific literature in terms of the risk they pose. The ranking system should be able to indicate those pests for which further action (e.g. pest categorisation) should be taken first.

<https://www.efsa.europa.eu/en/efsajournal/pub/7025>

In summary:

“Following a request of the European Commission, EFSA and ANSES, beneficiary of the EFSA tasking grant on horizon scanning for plant pests (GP/EFSA/ALPHA/2017/02), developed a methodology to order by risk non-regulated pests recently identified through the monitoring of media and scientific literature. The ranking methodology proposed at the end of the pilot phase was based on the scoring of pests under evaluation following 16 criteria related to the steps of the pest risk assessment scheme. The multicriteria matrix of scores obtained was then submitted to the multicriteria analysis method PROMETHEE. The pilot methodology was tested on a limited number of pests (14 pests identified during the monitoring activity, and 4 ‘control’ pests whose well-known risk should be reflected either in a positive or negative score), then applied on all non-regulated pests identified through the media and scientific literature monitoring in the first 2 years of the project. After having collected feedback from the targeted final users (EU risk managers), the methodology underwent a few refinements: (i) implementation of the methodology to a set of already assessed reference pests from EFSA opinions, (ii) exclusions of three criteria from the scoring phase, (iii) identification of pests proposed for further action (‘positive’ pests), using a threshold defined after scoring the reference pests.”

EFSA conference

Registration is now open for the ONE – Health, Environment, Society – Conference 2022. The four-day event – co-organised by EFSA, the European Centre for Disease Prevention and Control (ECDC), the European Chemicals Agency (ECHA), the European Environment Agency (EEA), the European Medicines Agency (EMA) and the European Commission’s Joint Research Centre (JRC) – will take place in Brussels and online on 21-24 June. The four-day

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scientific programme, consisting of plenary and break-out sessions held online and in person, will bring together participants with diverse backgrounds and expertise to discuss and share insights on the following topics: Key themes and objectives:

- Examining food and feed safety from a broader perspective of sustainability.
- Exploring possible developments in risk assessment science.
- Reflecting on future strategic goals and directions for regulatory science.
- Contributing to new policy targets such as the EU Green Deal.

<https://www.one2022.eu/programme/all-sessions>

EFSA Pest-climate analysis.

SCAN-Clim: a tool to support pest climate suitability analysis based on climate classification
Climate suitability analysis is an important element to analyse the likelihood of potential establishment of a pest in an area. SCAN-Clim is a tool designed to support climate suitability analysis based on climate classifications, i.e. evidencing the occurrence of climates in a specific area. This document describes the first prototype of the tool.

<https://www.efsa.europa.eu/en/efsajournal/pub/7104>

In summary:

“EFSA pest categorisations and pest risk assessments include the assessment of the potential establishment of plant pests. Together with the presence of host plants, climate suitability analysis is an important element to analyse the likelihood of potential establishment of a pest in an area. One of the main approaches used in EFSA plant health risk assessment is the analysis based on climate classifications i.e. evidencing the occurrence of climates enhancing pest development and persistence in a specific area. SCAN-Clim is a tool designed to support climate suitability analysis based on climate classifications.”

EFSA Pest categorisation of *Thecodiplosis japonensis*

Climate matching and host tree distribution suggest that *T. japonensis* would be able to establish and have an impact in the EU territory. *T. japonensis* satisfies all the criteria that are within the remit of EFSA to assess for it to be regarded as a potential Union quarantine pest. The import of black pine (*Pinus thunbergii* Parl.) bonsai (rooted bonsai plants 3–30 years old and potted in disinfected growing media) from Japan was subjected in March 2019 by EFSA to a Commodity risk assessment. (EFSA PLH Panel, 2018).

High Risk Plants

The activities of the WG since the last plenary meeting focused on the finalisation of the Commodity risk assessment of *Lonicera* potted plants from Turkey addressing the PLH Panel comments. In addition to this the WG analysed the pest list of *Jasminum polyanthum* from Uganda and, based on the additional information received from the applicant country, selected the potential actionable pests. For other dossiers the clock is stopped until EFSA will receive the requested additional information. 8.6 Update from WG on High Risk Plants (HRP) section 2 The Chair of the WG updated the Panel about the progress of the WG. Work since the last plenary meeting focused on the Commodity risk assessment of bonsai plants from China consisting of *Pinus parviflora* grafted on *Pinus thunbergii*”, especially on performing the expert knowledge elicitation, finalising the draft opinion and addressing the PLH Panel comments. In parallel the WG finalised the evaluation of the pest list for *Acer palmatum* from China based on the additional information received from the applicant country. For other dossiers the clock is stopped until EFSA will receive the requested additional information.

2. *Xylella fastidiosa* in Europe and globally

Emergency measures against *Xylella fastidiosa*, the dangerous pest of olive trees and many other host plant species, remain high on the agenda of the European Commission.

In January 2022, EFSA released a publication: Update of the *Xylella* spp. host plant database – systematic literature search up to 30 June 2021.

<https://www.efsa.europa.eu/en/efsajournal/pub/7039>

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In summary the report states:

“Following a request from the European Commission, EFSA was asked to create and regularly update a database of host plant species of *Xylella* spp. The mandate now covers the period 2021–2026 and EFSA is requested to release an update of the database twice per year. The aim of the database is to provide information and scientific support to risk assessors, risk managers and researchers dealing with *Xylella* spp. This report is related to the fifth version of the database published in Zenodo in the EFSA Knowledge Junction community, covering literature published from 1 January 2021 up to 30 June 2021, and recent Europhyt outbreak notifications. Informative data have been extracted from 41 selected publications. Nineteen new host plants were identified and added to the database since the previous update published in June 2021. Those plant species were reported naturally infected by subsp. *Multiplex* or unknown (i.e. not reported in the publication) of *X. fastidiosa* in the UE (France, Spain and Portugal). No additional data were retrieved for *X. taiwanensis*. New information on the tolerant/resistant response of plant species to *X. fastidiosa* infection were added, while no new STs have been identified worldwide compared to the previous update published in May 2021. The overall number of *Xylella* spp. host plants determined with at least two different detection methods or positive with one method (between: sequencing, pure culture isolation) now reaches 407 plant species, 185 genera and 68 families. Such numbers raise to 655 plant species, 293 genera and 88 families if considered regardless of the detection method applied.”

This 67 page publication is uploaded on the AIPH Community platform for members to access.

3. International Year of Plant Health (IYPH)

The IYPH final report is available for download. The report presents the key outcomes and achievements of the Year, and highlights its main legacies. The report is uploaded onto the AIPH Community Platform.

<https://www.fao.org/documents/card/en/c/cb7056en>

The final conference International Plant Health Conference "Protecting Plant Health in a changing world" was postponed from July 2021 to May 2022, and has now been rescheduled to September 2022, with exact dates to be announced.

The Plant Health, Agriculture & Bioscience Conference in Den Haag, The Netherlands, scheduled for 22-24 September 2021 was postponed to September 2022, and has now been cancelled due to pandemic uncertainty. (<https://phab-conference.com/>).

B. Invasive alien plants

EU regulation on invasive alien species

CIRCABC has a new website. The old website will be discontinued on 30th April 2022.

<https://circabc.europa.eu/ui/group/4cd6cb36-b0f1-4db4-915e-65cd29067f49>

C. CITES

The next (26th) meeting of the Plant Committee will take place in 2023.

The 74th meeting of the Standing Committee will take place 4-11 March 2022.

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Sustainability Report

Author: Dr Audrey Timm.

AIPH Sustainability Survey 2021

Results from the AIPH Sustainability Survey 2021 were presented at the Sustainability Conference on 30th September 2021. The survey aimed to identify areas where AIPH can have the most impact in supporting the global ornamental horticultural industry in reaching, maintaining, and extending resilience and sustainability across all supply chain sectors. The final report of the survey provides a preliminary assessment of global attitudes and initiatives in sustainability in our sector. The Sustainability Report will be posted on the AIPH website and uploaded on the AIPH Community platform.

Floriculture Sustainability Initiative

AIPH attended the FSI General Meeting. FSI welcomed its new members and reported on progress against its objectives.

With regard to progress towards the 90% target by 2025, FSI reports that “that companies scoring higher year after year have 4 strong points in common. 1. They frequently monitor their data and certification statuses. 2. They engage actively with their supply chain partners. 3. They have integrated sustainability indicators in their sourcing policy and 4. They have top management buy-in and have dedicated people working on responsible procurement.”

FSI has developed and released to its members the FSI Environmental Footprint Tool. The Environmental Footprint Toolkit (EFT) enables producers to gain insights into the environmental footprint associated with the supply chain of flowers and potted plants. It enables an assessment of the carbon footprint, water (scarcity) footprint, as well as impacts on ecotoxicity and eutrophication. This tool will also show you what processes contribute the most to the footprint (hotspots), and how this footprint might change over the years. AIPH will share the EFT with members, and instructions and links to the tool will be posted on the AIPH Community platform.