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UPOV/C/IV/17
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UPOV

INTERNATIONALER VERBAND
ZUM SCHUTZ VON
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE
POUR LA PROTECTION
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION
FOR THE PROTECTION OF
NEW PLANT VARIETIES

COUNCIL

Fourth Session

Geneva, October 28 and 29, 1970

DRAFT REPORT

1. The Fourth Meeting of the Council of UPOV was held at Geneva at the headquarters of UPOV on October 28 and 29, 1970.
2. The list of participants in the meeting is contained in Annex I to this Report.

Opening of the meeting and admission of observers

3. The meeting was opened by Mr. L.J. Smith (President of the Council of UPOV), who also acted as Chairman of the meeting and who welcomed, on behalf of the Council, the observers from signatory and interested States, particularly the observer from Hungary, a State which had not previously been represented at meetings of the Council.

Adoption of the Agenda

4. The Council unanimously adopted the Draft Agenda contained in document UPOV/C/IV/1, having agreed that item 9, concerning the Program and Budget for 1971, would include consideration of estimated expenditure in relation to the budget for 1970, and that items 14 to 17 would be deferred until after consideration of items 18 to 20.

Minutes of the Third Meeting of the Council

5. It was noted that the Report on the Third Meeting of the Council, contained in documents CPU 20 and 22, had been approved in respect of certain items at the time of the meeting and in subsequent correspondence in respect of the remaining items. No matters arose from that Report which were not included in the agenda.

Election of Vice-President

6. The Council considered document UPOV/C/IV/7, in which it was recalled that, at its Third Meeting, Mr. Van Leeuwen (Netherlands) had been unanimously re-elected Vice-President for two years subject to his right to request the Council at its next session to review the situation and, possibly, to accept his resignation. Mr. Van Leeuwen had subsequently expressed the wish to resign.

7. At the invitation of the Chairman, Mr. Van Leeuwen explained that his responsibilities had changed in such a way that he would no longer be available to serve as a member of the Council.

8. The Chairman expressed the thanks of the Council to Mr. Van Leeuwen for his contribution since the beginning of the preparatory work on the Convention in 1957 and his regret that Mr. Van Leeuwen's connection with the work of the Council would now cease. Dr. Pielen associated the Delegation of Germany (Federal Republic) fully with the remarks of the Chairman, and proposed that Mr. de Zeeuw be elected Vice-President for a period of two years in his place. This was unanimously agreed.

9. Mr. Van Leeuwen expressed his thanks for the tribute paid to him and wished the Council all success in its future work. Mr. de Zeeuw expressed his appreciation of the confidence placed in him.

Annual Report for 1969

10. Document UPOV/C/IV/2 was introduced by the Chairman and, after certain points of technical terminology in the German language had been noted, was accepted as a true record of the activities of UPOV in 1969.

1969 Accounts and Audit Report from the Swiss Government

11. Document UPOV/C/IV/3 was introduced by the Vice Secretary General and examined and approved unanimously by the Council.

12. The Chairman raised the question of the level of interest received on the Working Capital Fund held in deposit account on six months notice. It was reported on behalf of the Secretary General that it would probably be necessary to invest outside Switzerland in order to receive a higher rate of interest than the 5½% currently being paid, which might itself give rise to further complications and difficulties. It was agreed that a note of information based on BIRPI's experience in this matter should be circulated to the member States for study and for consideration at a future meeting.

Administrative and Financial Regulations

13. Document UPOV/C/IV/5 was introduced by the Chairman. The Council noted this report and approved the Administrative and Financial Regulations with the amendment proposed by the Swiss Government with respect to Article 4(e) of the Financial Regulations.

14. At the request of the Chairman, the Secretary General explained the progress of transition from the activities of BIRPI to those of the World Intellectual Property Organization (WIPO). In view of the fact that all the tasks of BIRPI would not be completely assumed by WIPO for some considerable period, pending ratification by all member States of the Paris and Berne Unions of the texts of the Conventions revised in 1967, it would not be necessary to consider yet the question of an amendment of the Administrative and Financial Regulations.

15. Dr. Pielen (Germany, Federal Republic) drew attention to Article 6 of the Financial Regulations which required payment of contributions during the month of January of the year to which the contributions related. The budgetary procedures of the Federal Republic would not permit payment in full to be made at that time; it might well, however, be possible to make certain payments by instalments, based on a percentage of the previous year's contribution, pending final approval of the national budget.

16. Mr. Smith (United Kingdom) and Mr. Simony (Denmark) indicated that it would not be possible, in the light of national budgetary procedures, for payment to be made before the first week of April.

17. It was agreed that these inevitable delays in payment should be taken into account in establishing the amount of Working Capital Fund. (See paragraph 37 below).

Rules of Procedure of the Council

18. The Vice Secretary General introduced document UPOV/C/IV/10, explaining that no alterations had been made in the French text of the Rules of Procedure adopted at the First Meeting of the Council but some improvements had been made in the English and German texts, in addition, a provision had been inserted relating to the continuation of the consultative Working Committee. The Council took note of these modifications.

Rules of Procedure for Cooperation between UPOV and BIRPI

19. The Chairman introduced document UPOV/C/IV/6; the Council took note of the entry into force of the arrêté of the Swiss Federal Council.

Staff Matters

20. The Secretary General introduced document UPOV/C/IV/9 and drew attention to the fact that, in paragraph 9, the words "by decision of the Swiss Federal Council" should be substituted for the words "by presidential decree." The Council took note of the arrangements mentioned in the report.

Proposal to postpone Revision Conference

21. The Chairman introduced document UPOV/C/IV/8. Mr. Van Leeuwen (Netherlands), supported by Dr. Pielen, expressed the view that it was too early for the Council to take a decision to postpone the Revision Conference, required by the provisions of the Convention to be convened in 1973.

22. The Secretary General indicated that it had been the experience of BIRPI that three years was the minimum period required for adequate preparation for a diplomatic conference. Unless a decision were taken now to postpone the Conference, the Secretariat would have the duty to start work on such preparations, but it was not adequately staffed to do so at the same time as undertaking other more urgent tasks.

23. On the proposal of the Chairman it was agreed unanimously to note the views expressed by the Secretary General and to place the question of postponement of the Revision Conference on the agenda of the Fifth Meeting of the Council, while instructing the Secretary General to take no steps in relation to preparations for the Revision Conference. The consultative Working Committee would have preliminary discussions, probably at some time in the Spring or Summer 1971, upon matters which might be the subject of revision.

Invitation from ISTA

24. The Vice Secretary General informed the Council of an invitation extended by the International Seed Testing Association to participate in a Conference to be held in Washington in June 1971. It did not appear that the agenda of the Conference included matters of direct concern to UPOV. It was agreed that it would not be necessary for UPOV to participate in this Conference, particularly in view of the fact that several national offices would themselves be represented.

Date of Next Meeting

25. It was agreed that the Fifth Meeting of the Council of UPOV would be held at the headquarters of UPOV on October 14 and 15, 1971.

1971 Program and Budget

26. The Vice Secretary General introduced document UPOV/C/IV/4, and explained that the program of work proposed in it could not be achieved without an increase in staff. He recalled that the budget proposed in 1969 for 1970 had been of the same order as that now proposed and had been reduced for various reasons as an exceptional measure.

27. Dr. Pielen indicated that it would not be possible to obtain approval for a budget leading to an increase in contributions of the order proposed; furthermore, the proposal contained in the document to allocate certain savings from preceding years and certain resources made available by reduction of the Working Capital Fund entirely to the budget for 1971 did not appear to be appropriate in the light of the fact that no new ratifications could be expected at a time which would lead to an increased number of contributions earlier than 1972. He suggested, therefore, that the 1970 level of contributions should be maintained for 1971, and then one half of the other available funds should be allocated for the 1971 budget, leading to a total of 390,000 francs approximately.

28. Miss Thornton (United Kingdom) indicated that approval could not be obtained for extensive increases in contributions and supported the views expressed by Dr. Pielen. Mr. Simony (Denmark) indicated that the increased contributions proposed were acceptable to his Government, but could not guarantee approval of further increases for the year 1972, when savings and other additional resources had been exhausted.

29. Mr. Bustarret (France) said that there was good reason to hope that France would be able to ratify the Convention in 1971. He indicated, however, that if the level of contributions seemed to be continually increasing France might have great difficulty in choosing an appropriate contribution class. The present voluntary system of contribution classes did not necessarily correspond to any objective criterion such as the volume of national or international trade in seeds or new varieties; this was a question which might well be studied with a view to future revision.

30. Summarizing the debate at this stage the Chairman said that the general feeling of the member States was that contributions should not be expected to increase more than was necessary to counteract the effects of inflation. It followed that any increase in the Annual Budget could result only from additional contributions becoming payable by new members of the Union or by upward changes of class adopted by existing members. The Council accepted that a reduction of the proposed budget would have an inevitable effect upon the program of work and upon the timetable for the achievement of tasks already agreed upon in principle; in particular, staff increases would have to be delayed. He invited the Secretary General to prepare revised estimates on this basis.

31. Dr. Böringer (Germany, Federal Republic) suggested that in preparing such revised estimates the Secretary General should give priority to those activities which were essential to the progress of UPOV such as the work of the Technical Working Parties.

32. The Secretary General suggested certain modifications to the program and budget proposed in document UPOV/C/IV/4. The effect of these proposals was to reduce the budget of expenses proper to UPOV to 240,000 Swiss francs, and UPOV's share of the common expenses to 130,000 Swiss francs.

33. Dr. Pielen said that he considered the revised estimates suggested by the Secretary General as realistic; the budget for 1972, to be considered in 1971, would be based on the experience gained from the first full year of operation of the Bureau of UPOV, and it should be made clear to national governments, at this stage, that some increase in expenses was inevitable. Mr. Van Leeuwen indicated that the budget suggested by the Secretary General was acceptable to the Netherlands, which would be able to pay its full contribution in the month of January.

34. Miss Thornton (United Kingdom) said that in the opinion of the United Kingdom the share of common expenses allocated to UPOV was too high in relation to the expenses proper to UPOV.

35. The Secretary General explained the basis of apportionment between the Unions of the common expenses, and indicated that it was open to UPOV to be represented at all discussions of the Administrative Bodies of WIPO and of the Unions administered by BIRPI when these questions were being discussed, and that the Vice Secretary General would be consulted on all budget figures relating to UPOV, as he had been in this case. The consultative Working Committee at its next meeting would receive full information on the sharing of common expenses, as was provided to the appropriate bodies of the other Unions.

36. In relation to the savings estimated for the year 1970, it was reported on behalf of the Secretary General that a higher figure than that indicated in document UPOV/C/IV/4 (70,000 Swiss francs) might be achieved, but that it would not be prudent to expect an additional saving of more than 10,000 Swiss francs. The precise amount of the savings would be certified by the auditors and, in accordance with the financial regulations, would be transferred to the Reserve Fund.

37. In relation to the amount of the Working Capital Fund, it was agreed, on the proposal of the Chairman, that bearing in mind that the contribution from the Netherlands would be paid in January, that those of Denmark and the United Kingdom would be paid in April and that of Germany (Federal Republic) would be paid partly by way of instalments from the beginning of the year, a sum of 100,000 Swiss francs would constitute a sufficient Working Capital Fund in relation to the budget for 1971; this amount would be reviewed in the event of future budget increases. The balance of 30,000 Swiss francs from the existing Working Capital Fund would then become available for the 1971 budget.

38. During the discussions about a revision of the existing system of contribution classes, Mr. van Leeuwen indicated that the Netherlands would welcome such a revision in order to enable Member States to decide on their own contribution class in such a way as to reflect, as fairly as possible, their position relative to other Member States. Dr. Pielen suggested that the consultative Working Committee should examine possibilities of revision in this regard, including the possibility of adopting objective criteria for the calculation of contributions and of a system of weighted voting, related to contributions, on administrative and budgetary matters; in his opinion, Class III had been included in the Convention for the benefit of very small countries such as Monaco and Liechtenstein. The Council expressed the hope that the Netherlands Government might find it useful to review their position as a Class III member with a view to changing to Class II, pending any change in the class system. Mr. van Leeuwen pointed out that since the national budget for the year 1971 had already been fixed no change for that year could be taken into consideration.

39. After further discussion, the program and budget proposed in document UPOV/C/IV/4, modified in accordance with the suggestions made by the Secretary General and also in certain other respects agreed during the discussions, was adopted for the year 1971. The modifications are contained in the Annex to this Report.

40. It was agreed that the Working Capital Fund be reduced to 100,000 Swiss francs, and that the sum remaining of 30,000 Swiss francs be allocated to the 1971 budget. It was further agreed that the sum of 18,000 Swiss francs be transferred from the Reserve Fund (into which, in accordance with Article 5 of the Financial Regulations, the sum of 18.060 Swiss francs being the amount of surplus of income for 1969, was automatically paid) for the purposes of the 1971 budget, with the result that the contributions payable for 1971 would be the same as those for 1970. It was noted that the actual surplus achieved in 1970 would be paid into the Reserve Fund.

41. In accordance with the foregoing, the contributions for 1971 were fixed as follows:

Class I (U.K and Germany, Fed. Rep.)	129,167 Swiss francs
Class III (Denmark, Netherlands)	25,833 Swiss francs

Reports on Legislative, Administrative and Technical Progress

(a) Member States

42. Dr. Böringer reported on the situation in Germany (Federal Republic) since the establishment of a system of protection of new plant varieties in 1953, with particular reference to the

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period since July 1, 1968, the date on which the new Variety Protection Law based on the Convention entered into force. The Federal Office of Plant Varieties was also responsible for the registration of varieties and the publication of descriptive variety lists. For the purposes of testing the varieties submitted to the Office, ten agricultural and horticultural test stations had been established. In the first two years of operation of the new Office, 724 varieties were submitted for protection, in addition to 1,630 taken over from the old system; 673 submissions were withdrawn or refused by the Office; plant-breeders rights had been granted in respect of 272 varieties. 23% of protected varieties and 35% of submissions in the course of being processed were of foreign origin. Protection was available for varieties of 112 genera and species including all the genera listed in the Annex to the Convention with the exception of apples. So far as the optional alternative genera were concerned, Germany (Federal Republic) had chosen oats and roses.

43. Mr. de Zeeuw reported that in the Netherlands 100 species were capable of protection, and others were under consideration. All the species listed in the Annex to the Convention with the exception of lucerne were capable of protection.

44. Miss Thornton reported that in the United Kingdom about 350 genera and species were capable of protection, including most of those listed in the Annex to the Convention, although there were no current plans for the protection of maize or red clover. Protection for lettuce and runner beans was expected to be introduced before the end of 1970.

45. Mr. Simony reported that the Danish Law provided for the protection of more than 40 species including all the species listed in the Annex to the Convention except maize, lucerne, lettuce and rice (oats being protected).

46. The Vice Secretary General requested all Member States to supply two copies of all significant regulations made under their national laws.

(b) Signatory States

47. Mr. Bustarret reported that the new French law on plant-breeders' rights had been adopted on June 19, 1970, but could not enter into force until two further provisions had been enacted. The law conformed with the provisions of the Convention, and it was expected that France would be able to ratify it shortly. In accordance with Article 5(4) of the Convention,

France had chosen to extend the breeders' right to the commercialized product at least in the case of flowering plants and vegetative reproduction. At present it was planned to protect eleven of the genera listed in the Annex to the Convention including both roses and carnations, leaving lucerne, rye-grass and red clover for protection at a later date. In addition, seven other genera would be protected from the outset, and this number would be increased. The Law provided for a transitional period in accordance with Article 35 of the Convention; protection would be granted to varieties already introduced into the market, but the normal period of protection of twenty years would be reduced by deducting the period elapsed since such introduction. France hoped to be able to make reciprocal arrangements with other Member States for the examination of certain species, and favored the policy of division of labor among the Member States and of the specialization of examination offices.

48. Mr. Rochaix (Switzerland) reported that a draft law was now before the Swiss Federal Council; it was likely to be approved in December 1970 and to enter into force in June 1971. It was therefore possible that ratification could take place in the first half of 1972. It would certainly be necessary for Switzerland to seek the assistance of other countries concerning the application of the new law, particularly in respect of examination.

(c) Interested States

49. Mr. Bergquist and Prof. Esbo (Sweden) reported that the progress of the new law in Sweden had been somewhat slower than had been suggested in the report made to the Third Meeting of the Council. A Bill would be presented to Parliament early in 1971, and it was possible that the law could enter into force in July 1971. The present Bill conformed closely with the Convention; it was planned to provide protection for about 100 genera including all those listed in the Annex to the Convention. If the Bill became law, Sweden would make a request under Article 32 for accession to the Convention, and hoped to be a member from the beginning of 1972, choosing the third class for the purpose of determining its annual contribution. The National Breeders' Fee System (otherwise known as the "levy system") would remain in force at least for the immediate future both as an alternative to the system of protection of breeders' rights and to provide assistance in respect of species not fulfilling the conditions for protection provided by the Convention and the law. This would in no way conflict with the Plant Breeders Rights Law, for no fees would be charged under it in respect of protected species.

50. Prof. Manner (Finland) reported that a proposal was being prepared for a new law, which could not be considered by Parliament before 1973. So far as accession to the Convention was concerned, it was unlikely that the Finnish Government would be willing to authorize substantial contributions to the budget of UPOV, Finland's activities in seed production and in agriculture being considerably less than those of, for instance, Denmark or the Netherlands.

51. Mr. Miranda (Spain) reported that a draft law for the protection of new varieties was now before the Spanish Parliament, and provided that certain internal problems could be overcome, might be approved by the Spring of 1971. He hoped, therefore, that Spain would be able to accede to the Convention before the next meeting of the Council.

52. Mr. Kiss and Dr. Palos (Hungary) expressed their country's appreciation at being invited to participate in the meeting and their conviction that a continuing exchange of views and information between the Member States and other countries which had adopted plant protection laws would lead to valuable practical results. Hungary was the first Socialist country in which a law on plant protection based on the principles of the Convention had been established; it was a mixed system based partly on the patent law of the country and including several features of that law. However, it was in complete conformity with the Convention. It applied to all botanical genera and species without limitation. National treatment and one year of priority were granted to the nationals of all countries party to the Paris Convention for the Protection of Industrial Property. The Hungarian authorities were entitled under the law to accept examination reports from other countries for the purpose of granting rights; this would provide a very useful basis for cooperation and collaboration with the UPOV Member States. The Hungarian Government was currently considering what advantages could accrue from acceding to the Convention; it was hoped that a favorable decision might be given soon.

53. Mr. Rasten (Norway) reported that in 1970 the Norwegian Ministry of Agriculture appointed a committee to investigate the possibility of a plant breeders' right and of accession to the Convention; its report was expected by the end of 1970, and would probably include a recommendation in favor of accession. In that case, Norway would immediately enter into discussions with Denmark, Finland and Sweden concerning cooperation, particularly in the field of examination.

54. At the suggestion of the Chairman, representatives of the interested States concerned agreed that they would keep in close touch with the Vice Secretary General concerning the working out of new national laws, with a view to information being communicated to the Member States in good time in order to assist in accelerating the procedure for accession provided for by Article 32 of the Convention.

Technical Working Parties

55. Mr. Kelly (United Kingdom) (Coordinator of the Technical Working Parties) introduced document UPOV/C/IV/11. He stressed that the majority of members of the Working Parties supported the view that "agreed procedures for the conduct of examinations" should be regarded as guidelines to be recommended, rather than as directives.

56. Mr. Hutin (France) drew attention to an error in Annex 3 to the document under consideration; the last line of paragraph 2(b) should read "1, 5, 9". It was agreed to make the necessary correction, subject to the approval of the Chairman of the Working Party concerned, Dr. Höppner.

57. Dr. Böringer said that in his opinion it was necessary to establish priorities for the Technical Working Parties. Effective technical cooperation between Member States in accordance with the Convention depended upon the establishment of harmonized methods of examination. He proposed that the Council should instruct each Technical Working Party to prepare complete draft guidelines for one of the species falling within its terms of reference, to be considered by the Council at its next meeting, and to undertake no other work until this task had been completed. The guidelines should cover all aspects on which harmonization was required, such as the main characters to be used for the description of varieties and for the assessment of distinctness; methods of recording and classifying these characters (if possible by reference to a numerical scale) and of assessing, uniformity and stability; proposals, where appropriate, for the kind of material and the size and number of samples to be used, and (though with a lower degree of priority) a guide on the minimum quantity and quality of material to be supplied and on the information to be provided by the breeder applying for protection.

58. After a full discussion, in which general approval was expressed for Dr. Böringer's proposal and the question of the selection of priority species was examined, it was agreed that draft guidelines should be prepared by the Technical Working

Parties, as a matter of first priority, in respect of the following species:

<u>Species</u>	<u>Technical Working Party</u>
(a) wheat: potatoes;	Agricultural Crops, Self-Fertilized
(b) maize;	Agricultural Crops, Cross-Fertilized
(c) roses;	Ornamental Plants
(d) apples;	Fruits
(e) peas	Vegetables

After the achievement of these tasks, the appropriate Technical Working Parties should proceed, if possible, to the preparation of guidelines for oats and barley, rye-grass, strawberries and beans (*Phaseolus vulgaris*).

59. It was agreed that the Chairmen of the Technical Working Parties and the Coordinator should be appointed for periods of three years, with the result that the present appointments would be reviewed at the next meeting of the Council. However, it was agreed that the Coordinator should have authority to select a new Chairman for the Technical Working Party on Fruit if the present Chairman did not feel able to complete the priority tasks within the forthcoming twelve months, and that the Netherlands would take the initiative, within the Technical Working Party on Agricultural Crops, Self-Fertilized, in relation to work on potatoes. It was further agreed that the Coordinator should convene a meeting of the Chairmen of the Technical Working Parties in order to assist in the coordination of the preparation and drafting of the guidelines.

60. It was agreed that responsibility for preparing for and organizing the meetings of the Technical Working Parties, which would be held, as a rule, in Geneva, should fall upon the Plant Varieties Department, working in conjunction with the Coordinator and with the respective Chairmen of the Technical Working Parties; Member States should provide as much help as possible in the preparation of documents, particularly by providing appropriate translations of technical terms. Simultaneous interpretation would not be provided but, in appropriate cases, the assistance of one interpreter present in the meeting room would be used.

Joint Trial Arrangements

61. A proposal by the United Kingdom concerning the preliminary examination contained in Annex 5 of document UPOV/C/IV/11 was introduced by the Chairman. Mr. Bustarret expressed his great interest in the proposal which, although limited at this stage

to the examination of roses, could well lead to the establishment of a system which could be a model for similar cases. He mentioned that the new French Law provided for the use of the results of examinations made elsewhere, and suggested that, during the course of study of any general scheme to apply to all Member States, the possibility of a bilateral agreement under the Convention should not be excluded. Mr. Simony expressed his support for the proposal, but reported that the present Danish Law required examination to take place in a Danish research station. Since this provision would act as an obstacle to cooperation of the sort envisaged, attempts would be made to amend the Danish Law. Clearly, however, no undertakings could be given about the success of such attempts or the time they would take.

62. Mr. de Zeeuw expressed general support for the proposal but indicated that consultations both with interested circles in the Netherlands and in a Technical Working Party of UPOV would be necessary before a fully workable scheme could be brought into force.

63. Dr. Böringer also supported the proposal in principle, but emphasized that cooperation of this sort could only be widely effective after the adoption of guidelines on the basis of the recommendations of the Technical Working Parties.

64. After a full discussion, in which it was generally agreed that a scheme of general application to all Member States was preferable to a number of bilateral arrangements, it was agreed to approve the United Kingdom proposal in principle and that the Vice Secretary General should convene a meeting of experts to consider its practicability in detail and to authorize, if appropriate, putting it into effect as a pilot scheme, the results of which would be reported to the next meeting of the Council.

Nomenclature

65. Dr. Böringer introduced documents UPOV/C/IV/14, and UPOV/VD/V/9, with the Addendum thereto, containing the draft report of the Working Party on Variety Denominations and the draft provisional guidelines for variety denominations.

66. Mr. Bustarret pointed out that the translation of "guidelines" in the French text had a more mandatory effect than was intended; it was agreed that this and other linguistic differences, of lesser importance, be corrected, and that the German text be regarded in the first instance as authoritative.

67. After further discussion the Council decided unanimously to adopt the draft report of the Working Party (document UPOV/C/IV/14) and to recommend to Member States of the Union the application of the provisional guidelines for variety denominations contained in document UPOV/VD/V/9 when implementing Article 13 of the Convention.

68. The Council accepted unanimously the proposal of the Working Party on Variety Denominations, contained in document UPOV/C/IV/14, with respect to direct exchange of variety denominations among the competent national authorities, and agreed that the Plant Varieties Department should not, until a further decision, be involved in the exchange of variety denominations as provided for by Article 13(6) of the Convention. It further agreed to suspend for the time being the communication, under the same paragraph, to member States of the Union of Paris for the Protection of Industrial Property.

Trademarks

69. Mr. Mathely (France) drew the attention of the Council to the views expressed by the AIPPI (International Association for the Protection of Industrial Property) in its resolution communicated to the Council in document UPOV/C/IV/12. He stressed the importance of the relationship between trademarks and variety denominations, and the distinction between a "mark" identifying a particular product and a "trade name" identifying an enterprise. Trademarks were of great importance to plant-breeders in the commercialization of their products, and the protection afforded by trademark law would exist after the plant-breeders right had expired. The language of Article 13(9), particularly in its reference to a "product", had been carefully chosen, and it was of great importance to breeders that practices adopted by the national authorities with respect to variety denominations should in no way derogate from the law on trademarks.

70. The Chairman, thanking Mr. Mathely for his valuable explanations, pointed out that the guidelines recommended had deliberately been adopted in a provisional form; experience of their application would be very helpful in resolving any problems arising in the relationship between variety denominations and trademarks.

AIPPI

71. The Council considered the request made in the letter from the AIPPI to the Secretary General contained in document UPOV/C/IV/13 that the Association be heard and consulted by

the Council of UPOV. It was agreed unanimously to respond favorably to this request. Mr. Mathely, speaking on behalf of the AIPPI, expressed his thanks to the Council.

Diplomatic Immunity

72. The Secretary General reported that the Swiss Federal Government and the Government of the Canton of Geneva had officially informed him that UPOV and its officials had been granted the same diplomatic immunity as applied to BIRPI and its officials.

Any Other Business

73. The Vice Secretary General drew attention to Article 41 of the Convention, concerning the establishment of official translations of the Convention. It was agreed that the Member States whose official languages were those required by Article 41 should, in consultation with interested States using the same language, establish the official translations.

/End of Document.
Annexes follow/

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Fourth Session
Geneva, October 28 and 29

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Miss Edith Vera Thornton
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Murray House
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II. SIGNATORY STATES

France

Mr. J. G. Bustarret
Directeur général
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149, rue de Grenelle
Paris VIIe

Mr. Bernard Laclavière
Chargé de Mission
Ministère de l'Agriculture
INRA
149, rue de Grenelle
Paris VIIe

Mr. Claude Hutin (10/28 only)
Directeur de Recherches INRA
(Institut national de la Recherche
agronomique)
Station nationale d'Essais de
Semences
LA MINIERE
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Mr. Paul Mathely (10/29 only)
Membre du Conseil Supérieur
de la Propriété Industrielle
10 Square Henry Paté
Paris XVI

Mr. Roger Cajac
Conseiller juridique
Institut National de la
Propriété Industrielle
26 bis, rue de Leningrad
Paris VIII

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Switzerland

Mr. Michel Rochaix (10/28 only)
Directeur
Station Fédérale des
Recherches agronomiques
44, rue de Bugnon
1000 Lausanne

Dr. Georges Münster (10/29 only)
Chef de groupe
Station Fédérale des
Recherches agronomiques
44, rue de Bugnon
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III. OTHER INTERESTED STATES

Finland

Professor Dr. Rolf Manner
Jokioinen

Hungary

Mr. Andras Kiss
Vice-président de
l'Office National des Inventions
Budapest

Mr. Jozsef de Kopatzy
Vice-directeur de l'OMFI
Budapest

Dr. Georges Palos
Conseiller juridique
Budapest

Norway

Mr. Juel Rasten
State Seed Inspector
Pilestredet 57
Oslo-Dep.
Oslo 1

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Spain

Mr. Joaquin Miranda
Prof. Ingénieur agronome
Chef del Registro de Variedades
de Plantas
Instituto de Investigaciones
agronicas
Ciudad universitaria
Madrid

Mr. Miguel Vadell
Doctor Ingeniero Agronomo
Instituto de Semillas Selectas
Sagasta 13
Madrid

Mr. Joaquin Gallart
Avocat
Ap. 202
Saragosse

Sweden

Professor Harald Esbo
State Seed Testings
17173 Solna

Mr. Sigvard Mejegaard
Lord Justice of the Court of Appeal
Slättgaardsvägen 46
12658 Hägersten

Mr. Hans Bergquist
Lord Justice of the Court of Appeal
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S-16224 Vällingby

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IV. OFFICERS

Mr. L. J. Smith, London - Chairman
Mr. J. E. Van Leeuwen, The Hague - Vice Chairman (10/28)
Mr. A. de Zeeuw, The Hague - Vice Chairman

V. UPOV STAFF

Professor G.H.C. Bodenhausen - Secretary General
Mr. Halvor Skov - Vice Secretary General

VI. OMPI STAFF

Mr. B. Armstrong - Sen.Counsellar, Head-Admin.Division
Mr. R. Harben - Counsellor, Copyright Division
Mr. M. Lagesse - Counsellor, Administrative Division
Mr. A. Jaccard - Head, Finance Section, Administrative
Division

/End of Annex I to Document UPOV/C/IV/17
Annex II follows/

Annex II to Document UPOV/C/IV/17

PROGRAM AND BUDGET OF UPOV FOR 1971

Modifications to document UPOV/C/IV/4
approved by the CouncilPART I: PROGRAM

1. The program for 1971 proposed in paragraphs 1 to 11 was modified in the following respects:

- (a) the Secretariat will not carry out the tasks provided for by Article 13(6) of the UPOV Convention;
- (b) the staff of the UPOV Department will not be increased;
- (c) the remaining items of the program will be undertaken in the light of the fact that the staff will not be increased and of the revised estimates of expenses contained in Part II.

PART II: BUDGET

2. The figures presented in paragraphs 13 to 31 of document UPOV/C/IV/4 were modified so as to read as follows:

"13. Personnel

Secretary General	18	
Vice Secretary General (D.1)	108	
Secretary (G.5)	31	
Temporary help	9	
	<hr/>	
Total		166

14. Missions

(Missions to North America deleted) 9

15. Conferences 20

16. Contracts 14

17. Printing 4

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18. <u>Rental</u>	8
19. <u>Equipment and supplies</u>	4
20. <u>Library</u>	1
21. <u>Unforeseen</u>	2
	<hr/>
22. Total of expenses proper to UPOV	228
 <u>UPOV's Share in the Common Expenses</u>	
23 to 30. (without any specification for the subitems)	130 ===
 <u>Total of Expenses</u>	
34. Expenses proper to UPOV	228
Share of UPOV in common expenses	130
	<hr/>
Total	358 ===

<u>Recapitulation</u>	<u>Swiss francs</u>
Total of Budget as decided:	358,000
Less a) Reduction of amount of Working Capital Fund: 30,000	
b) Transfer from Reserve Fund: 18,000	48,000
	<hr/>
Amount to be covered by contributions	310,000 "
	=====

/End of Annex II and
Document UPOV/C/IV/17/