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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

Fifth Session

Geneva, October 13-15, 1971

HARMONIZATION OF FEES TO BE PAID  
BY BREEDERS

Report by the Secretary General

This document contains a  
survey on fees to be paid  
by breeders in certain  
member States.

1. At the request of the United Kingdom Delegation, the question of harmonization of fees to be paid by breeders has been placed on the agenda of the fifth meeting of the Council.
2. The Delegation of Germany (Federal Republic) has expressed great interest in a discussion on harmonization, since the German Law on Plant Breeders' Fees is due to be amended in certain respects.
3. The Netherlands Delegation has also supported the idea of a discussion and has presented some comments on the fee question which appear in Annex I to this report.
4. At the time of drafting this report the fees to be paid in France have not been established.
5. Annex II to this report contains a survey of the fees to be paid by the breeders in Denmark, Germany (Federal Republic), the Netherlands, Sweden and the United Kingdom. The Annex was drafted on the basis of a list made previously by the United Kingdom Delegation. For the sake of comparison the fees have been converted into Swiss francs (according to the exchange rate as of August 11, 1971) with an indication of the local currency in brackets. The total to be paid by the breeder for one variety (from the application date until the date of expiry of protection) is calculated on the basis of two years' trials and on the minimum protection periods of 15 and 18 years established by Article 8 of the Convention.
6. It should be noted that two member States (Germany (Federal Republic) and the United Kingdom) charge a special fee for the grant of rights. In the other member States this fee may be considered to be included in the application fee. This system of split fees is important in the case of varieties for which protection is not granted.
7. Two member States (Germany (Federal Republic) and the Netherlands) have established sliding scales for annual renewal fees, beginning with a moderate fee for the first year and increasing it--in most cases--in the course of 6 years to its maximum (first year's fee multiplied by 5 or 6).
8. In connection with joint trial arrangements, the most urgent task seems to be the harmonization of the fees to be paid up to the delivery of the title of protection. Such harmonization will require considerable alteration of the national scales. In the following, these fees (application fee, trial fee and, if applicable, fee for the grant of rights) will be referred to as "starting fees."

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9. Even if the alteration of starting fees may be compensated by corresponding alteration of the annual fees, this possibility has its limits. A considerable reduction of these fees may expose breeders to the temptation of submitting dubious varieties which may eventually be rejected. An increase in the number of rejections, after trials for which fees lower than the costs have been paid, will necessarily mean bad economic results for the testing centers, and no compensation will be available from the annual renewal fees.--On the other hand, too high starting fees may prevent some breeders from submitting varieties worthy of protection.--The advantage of a rising sliding scale is that breeders may renounce protection before the end of the protection period, if the variety is no longer important.

10. The Secretary General invites the Council to consider the matter.

/End of document;  
Annexes follow/

## FEES TO BE PAID BY BREEDERS

Converted into Swiss Currency (Local currency in brackets).

Country	Application	Trials	Grant of Rights	Annual Renewal Fee	Average total for a variety protected during Convention period (2 years' trials)	
					15 Yrs.	18 Yrs.
<u>Denmark</u>	540 (1000)	270 (500) p.a.	-	270 (500)	5130	5640
<u>Germany</u> <u>Fed. Rep.</u>						
(a) Cereals, potatoes, beets	179 (150)	238 (200) p.a.	179 (150)	119-714 (100-600)	9759	
(b) Other species subject to Seed Marketing Act	179 (150)	238 (200) p.a.	179 (150)	60-714 (50-600)	4462	
(c) Berry fruits, trees, bushes, tops and vines	179 (150)	357 (300) p.a.	179 (150)	119-595 (100-500)	8212	9997
(d) Roses	179 (150)	357 (300) p.a.	179 (150)	119-714 (100-600)	9402	
(e) Other species	179 (150)	238 (200) p.a.	179 (150)	60-595 (50-500)	6241	8031

See Note below

Country	Application	Trials	Grant of Rights	Annual Renewal Fee	Average total for a variety protected during Convention period (2 years' trials)
<u>Netherlands</u>					15 Yrs. 18 Yrs.
(a) Most important species (see note below)	116(100)	1st yr: 412(350) 2nd yr: 290(250)	-	116-696 (100-600)	9518 11306
(b) Other species	116(100)	1st yr: 232(200) 2nd yr: 174(150)	-	58-348 (50-300)	4872 5916
<u>Sweden</u>					
(a) Agricultural crops. Vegetables in the open	316(400)	158(200) per trial	-	395(500)	6399
(b) Vegetables in glass houses					
(i) cucumber & tomato	316(400)	395(500) per trial	-	395(500)	6636
(ii) others	316(400)	237(300) per trial	-	395(500)	6478
(c) Fruit & berry crops					
(i) fruit trees	316(400)	395(500) per trial & year	-	395(500)	8216
(ii) strawberry	316(400)	316(400) per trial & year		395(500)	6873

Country	Application	Trials	Grant of Rights	Annual Renewal Fee	Average total for a variety protected during Convention period (2 years' trials)	
<u>Sweden</u> (cont'd.)					15 Yrs.	18 Yrs.
(iii) root stocks & other crops	316(400)	237(300) per trial & year	-	395(500)	6715	7900
(d) Ornaments (i) roses (in the open)	316(400)	395(500) per trial & year	-	395(500)	7031	
(ii) roses & carnations (in glass houses)	316(400)	1185(1500) per trial & year	-	395(500)	8611	
<u>United Kingdom</u>						
(a) Cereals	98(10)	441(45) p.a.	294(30)	490(50)	8624	
(b) Potatoes	98(10)	294(30) p.a.	294(30)	294(30)	5390	
(c) Peas & French beans	98(10)	392(40) p.a.	294(30)	294(30)	5586	
(d) Ryegrass & lucerne	98(10)	343(35) p.a.	294(30)	294(30)	5488	
(e) Roses	98(10)	196(20) p.a.	294(30)	294(30)	5194	

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Annex I  
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Country	Application	Trials	Grant of Rights	Annual Renewal Fee	Average total for a variety protected during Convention period (2 years' trials)	
<u>United Kingdom</u> (cont'd.)					15 Yrs.	18 Yrs.
	(f) Apples, plums, etc.  98(10)	46-147 (5-15) p.a. see Note	294(30)	294(30)		5877
(g) Woody fruits, trees, shrubs etc. and all other plants not specified above	98(10)	147(15) p.a.	294(30)	294(30)	5096	5978

## Notes:

1. Germany (Federal Republic):

(i) All trial fees are reduced to 60 Swiss francs (50 DM) if official examination results are available.

(ii) If a protected variety requires a seed marketing license the renewal fee under (a) is reduced by 119 Swiss francs (100 DM) and under (b) and (e) by 60 Swiss francs (50 DM). This reduction runs out at the end of the year in which the seed marketing license was granted.

2. Netherlands

The following species are considered "most important species":



- (a) potatoes, barley, oats, rape, (low) French beans, wheat, smooth-stalked meadow grass, tick beans, flax;
- (b) perennial ryegrass, Italian ryegrass, rye, red fescue, turnips, sugar beets, fodder beets, Westerwold ryegrass;
- (c) endive, gherkins, cauliflower, French beans, garden turnips, peas including field peas and sugar peas, cucumbers, leeks, runner beans, radishes, red cabbage, carrots, savoy cabbage, lettuce, spinach, Brussels sprouts, tomatoes, garden peas, onions, chicory, white cabbage;
- (d) fruit trees and bushes, (ornamental) nursery plants, flowering plants, flower bulbs and tubers.

3. United Kingdom

The low trial fee for apples, plums, etc. is paid until first fruit appears, the higher fee is paid afterwards.

/End of Annex I;  
Annex II follows/

EXTRACT FROM A LETTER DATED JULY 19, 1971, FROM  
THE NETHERLANDS MINISTRY OF AGRICULTURE TO UPOV

Subject: Hamonization of examination costs and  
annual fees

A new tariff system came into force on January 1, 1971.

Costs incurred by the Bureau of the Board for Plant Breeders' Rights, as well as the cost of technical research by the Institutes, must be covered by income received on the basis of the rules governing fees and costs. At present these costs are covered up to approximately 50 percent.

Pressure is being applied in several countries to obtain an increase in this cover in order to bring it, if possible, to the rate of 100 percent. This cannot be achieved without a drastic increase in currently applicable tariffs and/or a substantial reduction in expenditure.

In view of this desire to reduce expenditure or increase fees, the question arises as to what course of action should be adopted.

A reduction in expenses could only be achieved by dint of intensive cooperation between member States. Since there are prospects of final agreements on the question as to which country should undertake the examination which is required for the grant of breeder's rights, the following system could be considered:

If country A undertakes to carry out the preliminary examination on behalf of the other countries and if, for that reason, the latter may forgo such an examination, the procedure will bring about a substantial saving for the breeder concerned and for the examining authorities. Assuming in this instance that the breeder will claim breeders' rights in all the present member States, he will be spared examination costs in three member States. When country A charges the amount which the three other countries charge for examination, the result will be an appreciable contribution to the increase in country A's cover percentage. In cases where

a division of labor is instituted to deal with large numbers of plant species the cover percentage could perhaps even be raised to 100 percent in the respective countries.

It does not appear necessary to assign to country A the whole of the amounts which the other countries would charge. It is quite reasonable, on the other hand, for country A to double its present charges. If the conclusion of agreements with respect to large numbers of plants (species) is achieved, it will be possible for the cover percentage to come close to 100 percent in some countries.

It goes without saying that, if such were the case, our preference would go to an agreement at an international level concerning the amounts to be charged.

Where country A carries out the examination the other countries could make only two accounting entries, namely:

(a) one amount for administrative work, checking of the denomination and registration of the variety having been found eligible for breeders' rights;

(b) one amount, relatively small, for the maintenance check. This amount may be small since maintenance is provided for in the majority of instances and is best carried out in the country of origin of the breeder.

Here too it is necessarily true that the harmonization of the amounts mentioned under (a) and (b) is preferable, in order that the same tariff system may be applied in each country.

Like the British Delegation, the Netherlands Delegation is very interested in having this question included in the agenda of the next Council session, scheduled for October 1971.

/End of Annex II  
and end of document/