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UPOV/C/V/17

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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 to 15, 1971

SYMPOSIUM ON PLANT BREEDERS' RIGHTS

Report by the Secretariat

1. At its meeting on May 6 and 7, 1971, the Consultative Working Committee approved in principle the idea of a symposium on plant breeders' rights, but without making any decision on:

- (i) the place and date of the symposium;
- (ii) the way of organizing it or
- (iii) the way of financing it.

2. The purpose of such a symposium should be to convince influential people in non-member States of the advantage of adopting protection of new plant varieties and acceding to UPOV. This would include explanations as to how the difficulties connected with the introduction of plant breeders' rights can be overcome and an argumentation against fears expressed by some spokesmen for the growers that plant breeders' rights may be detrimental to the interests of the growers.

3. In Annex I to this document, the Secretariat expresses some ideas on the topics to be dealt with and the arguments which should be brought forward. These ideas might serve as a basis for a discussion by the Council.

4. The Consultative Working Committee has discussed the question as to how the symposium should be organized, and several views have been expressed:

- (i) it could be organized by UPOV alone in cooperation with the host country;
- (ii) it could be organized by UPOV together with other intergovernmental organizations such as OECD or FAO;
- (iii) it could be organized by UPOV together with professional international organizations such as ASSINSEL or CIOPORA;
- (iv) it could be organized by a professional international organization and attended by UPOV representatives.

5. If the Council considers it possible for financial reasons to have the symposium organized by UPOV alone (together with the host country), this solution would probably be the best, since it would make it possible for UPOV to make all preparatory arrangements by itself, after consultation with the host country, and would allow for giving UPOV the best possible "image."

6. The disadvantages of solutions Nos. (ii) to (iv), mentioned in paragraph 4 above, are--apart from the impossibility for UPOV to make the arrangements alone--on the one hand, the risk that the persons who for the purposes of UPOV's interests should be present might not attend the symposium and, on the other hand, that UPOV's interests would not be adequately served.

7. It should be investigated whether a participation fee should be charged and, if so, how much that fee should be.

8. The UPOV Council should decide on the national administrations, organizations or persons to be invited to attend the symposium. Apart from member States and signatory States, the States listed in Annex II have introduced plant breeders' rights or are considering the matter.

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9. In order to be attractive to the different groups of persons with whom UPOV is interested in discussing plant breeders' rights, namely government administrators, government plant experts, breeders and growers, the agenda should cover legal and administrative matters as well as technical problems, and it would be useful if visits to breeding stations, examination centers and administrative offices could be arranged.

10. Literature should be available for distribution to the participants before the symposium. Such literature should include legislative texts, explanatory articles relating to such texts and technical articles.

11. The Council is invited to decide upon the matter, in particular:

- (i) the way in which the symposium should be arranged;
- (ii) the time and place of the symposium;
- (iii) the national administrations, organizations and persons to be invited.

/End of document;
Annexes follow/

General Lines for a Symposium

1. As everybody will have to agree on the importance of plant breeding as such, this point will need relatively little explanation, but it might be useful to explain that if breeding work is provided with sufficient financial incentive, great results can be obtained.

2. The advantages of the introduction of plant breeders' rights legislation and especially of accession to the Convention should be explained in detail. Such advantages are:

- (i) the possibilities of obtaining royalties for new plant varieties will allow for the necessary investments (equipment, etc., and staff) for the purpose of plant breeding work, which eventually will result in better varieties for the benefit of the grower and the community as a whole.
- (ii) Foreign breeders are generally found to be reluctant to deliver plant material of new valuable varieties to States where no protection is granted or at least to postpone delivery of such material. This might cause undesirable delays in the introduction of valuable new varieties or maybe even prevent such introduction completely.
- (iii) Private breeders need compensation for their work. It is admitted that such compensation may be obtained by other means (State support or sale of seeds) than those indicated by the Convention (royalties), but the royalty system will ensure the breeders full compensation for all valuable new varieties and thus give the successful breeder the opportunity of continuing the breeding work. It is probably true that in the countries where plant breeders' rights have been established these rights have been an adequate incentive for increased breeding work.
- (iv) It may be argued that Government breeding stations need no support by means of royalties since their breeding work is being paid for by State funds and it is only natural that the Government should put

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the new varieties at the disposal of the growers. However, experience in a number of socialist countries (first of all Bulgaria, Hungary, Poland and the Soviet Union) has shown that Government breeding stations also need the support of plant breeders' rights, and legislative measures to that end have been taken. Moreover, if varieties created by Government institutes are being used in other countries, it seems only just that royalties should be paid.

3. With a view to convincing such influential people who, for one reason or another, are against the introduction of plant breeders' rights, or at least reluctant for fear of the consequences for the rights of the growers or the development of huge administrations, a dialogue should be established with these people with a somewhat negative approach, in which it is made clear to them that the disadvantages they fear are non-existent or highly exaggerated. In this context it should be explained:

- (i) that the growers are not at the mercy of the breeders with respect to either the supply of plant material or the payment of royalties, and that the national legislations of the present member States--in accordance with Article 9 of the Convention--provide for these problems, that is: grant rights to and impose duties on both breeders and growers;
- (ii) that, even if the Convention does not allow for the criterion of agricultural value as a condition for the grant of plant breeders' rights, this does not prevent the States from assuring growers that only valuable seeds and plant material will be marketed;
- (iii) that administration may be limited to a certain extent and that the trials to be carried out will not represent a heavy burden for new member States if they make arrangements under Article 30(2) of the Convention.

4. The languages to be used at the symposium should be determined in view of the national administrations, organizations and persons invited.

/End of Annex I;
Annex II follows/

Annex II to document UPOV/C/V/17

States other than member States and signatory
States having adopted plant breeders' rights
or having shown an interest in the matter

Argentina
Austria
Bulgaria
Canada
Chile
Cuba
Czechoslovakia
Finland
Hungary
Ireland
Israel

Japan
Luxembourg
Mexico
Norway
Poland
Romania
Spain
South Africa
Soviet Union
United States of
America

/End of Annex II
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