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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 to 15, 1971

## JOINT TRIAL ARRANGEMENTS

Report by the Secretary General

1. At its fourth meeting, held on October 28 and 29, 1970, the Council discussed a proposal on joint trial arrangements for new rose varieties, presented by the United Kingdom Delegation (Annex 5 to document UPOV/C/IV/11), the essence of which was that the first country to receive an application for the protection of a new rose variety should undertake the examination and pass its results on to the other countries, who normally base their decisions on these results, without any further examination.
2. The Council approved the proposal in principle and requested the Secretariat to convene a meeting of experts to study it in detail and to authorize, if appropriate, its implementation as a pilot scheme, the results of which would be reported to the next meeting of the Council (see document UPOV/C/IV/17, paragraph 64).
3. The meeting of experts was held in Geneva on February 2, 1971. The experts decided to recommend that the scheme be started in 1971 already by the United Kingdom, the Netherlands and Denmark, which was accepted by the representatives of those countries, and it was expected that it would be adhered to by Germany (Federal Republic), France and Sweden in 1972.

## 4. The experts further agreed:

- (i) that the national authority chosen by the breeder to undertake the examination should only do so on condition that the breeder applied for protection in the country of that authority;
- (ii) that the national authorities of the other countries would decide themselves whether they considered the tested variety to fulfill the requirements, and that, consequently, the report on the results of the trial by the first authority would serve only as a basis for their own decisions;
- (iii) that the national authorities which were able to adhere to the scheme would make unilateral declarations to that effect.

5. The representative of Germany (Federal Republic) stressed the importance for his country to have a formal recommendation of the scheme by the Council and finalized agreements on the trial procedure.

6. The experts also discussed species of which only few new varieties were likely to be created and submitted for protection. Considering the burden which the maintenance of reference collections of such crops would represent for the member States, the experts advocated a division of labor between the member States with respect to such crops, consisting in the allocation of the examination of certain species to certain countries, on the understanding, on one hand, that only the country to which a species was allocated would undertake the examination and, on the other, that the country would do it regardless of the desire of the breeder and of the fact that no application for protection was submitted in that country. The species under discussion and the possible allocations were:

(i) Fruit crops

Apples:	United Kingdom
Apricots:	France
Blackberries:	Germany (Fed. Rep.)
Cherries:	Denmark
Currants (black, red and white):	Germany (Fed. Rep.)

Gooseberries:	Germany (Fed. Rep.)
Peaches:	France
Pears:	France
Plums:	Denmark
Strawberries:	Germany (Fed. Rep.)

(ii) Ornamentals

African violet:	Germany (Fed. Rep.)
Alstroemeria:	Netherlands
Begonia:	Germany (Fed. Rep.)
Carnations:	Netherlands
Chrysanthemum:	United Kingdom
Freesia:	Netherlands
Hyacinths:	Netherlands
Poinsettia:	Denmark
Rhododendron:	?
Tulips:	Netherlands

7. With respect to other species (main crops) it was pointed out that it was necessary first to harmonize the methods before joint arrangements could be discussed, and that the main crops presented the difficulty arising from the desire of all member States to have trial facilities and experts for those crops.

8. In this connection it was pointed out that, in the case of a country where no trial facilities or experts on a certain species were available, an infringement committed by a third party who wrongfully used the protected variety, alleging it to be a different variety, such lack of control by experts might result in a loss of rights for the breeder, who would not be able to prove by means of experts being nationals of that country that the wrongfully used variety was identical to the protected variety. Studies could be made on the national level in each country to establish whether a solution of "international experts," to be appointed by the courts on the proposal of UPOV, would be acceptable to the courts in member States.

9. Finally, the experts stressed the importance of the free exchange of plant material between the trial centers of different member States.

10. After the meeting, the notice reproduced in the Annex to this report was inserted in the February 1971 issue of the UK Plant Varieties and Seed Gazette.

11. The Secretary General invites the Council to consider the above and to make the appropriate decisions.

/End of document;  
Annex follows/

## OFFICIAL NOTICES

## UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

## CO-OPERATIVE EXAMINATION SYSTEM

At its meeting in October 1970, the Council of the Union approved in principle a United Kingdom proposal relating to the preliminary examination and use of trial results in the case of new rose varieties. The Council set up a Study Group to consider the proposal more fully. This Group met on 2 February last and it was agreed that the rose scheme would be operated initially by three member States, the United Kingdom, the Netherlands and Denmark as from the 1971 season with further States participating in 1972. This means that the result of the trials for distinctness, uniformity and stability carried out in any one of these member States will be made available to the other co-operating States so that if the breeder wishes to apply to those authorities for plant breeders' rights, it will not normally be necessary for them to undertake further trials.

The Group also considered the possibility of extending the scheme to other genera and species and reached a considerable measure of agreement so far as decorative and fruit crops are concerned. It is hoped that sufficient progress will be made for an extension of the co-operative examination system to be operated from 1972.

/End of Annex and  
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