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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

Eleventh Ordinary Session Geneva, December 6 to 9, 1977

PROGRESS REPORT ON THE WORK OF THE COMMITTEE OF EXPERTS ON INTERNATIONAL COOPERATION IN EXAMINATION

prepared by the Office of the Union

1. Since the tenth ordinary session of the Council, the Committee of Experts on International Cooperation in Examination (hereinafter referred to as "the Committee") has held three sessions: the sixth session on November 16 and 17, 1976, the seventh session on May 17, 1977, and the eighth session on November 16, 1977. The respective reports are contained in documents ICE/VI/4, ICE/VII/4 and ICE/VIII/5.

2. The Committee concentrated mainly on the following subjects: implementation of the UPOV Model Agreement for International Cooperation in the Testing of Varieties adopted by the Council at its ninth ordinary session; means for facilitating the work of breeders applying for protection and of the national authorities; harmonization of fees.

Implementation of the UPOV Model Agreement for International Cooperation in the Testing of Varieties

3. At each session, the delegations gave reports on the bilateral agreements concluded or in preparation. Details on these bilateral agreements are given in document C/XI/7.

4. At its sixth session, the Committee decided on some principles for collecting and establishing the statistics on the exchange of examination reports. It discussed and noted at its eighth session the statistics for the period from July 1, 1976, to June 30, 1977. These statistics are contained in document C/XI/7, Annex II.

5. At its eighth session, the Committee revised and updated the list of offers for cooperation in examination, after having examined at its sixth and seventh sessions suggestions by ASSINSEL on the cooperation in the examination of vegetable varieties and after having taken note of the modified offers of member States. The revised list appears in document C/XI/6, which indicates also which species (and other botanical units) are eligible for protection in each member State.

6. Mainly in order to ensure the uniform application of the above-mentioned bilateral agreements, the Committee prepared a UPOV Model Form for the Request of Examination Results. That Model Form, which was adopted by the Committee at its eighth session, appears in the Annex to this document.
7. At its seventh session, the Committee discussed the existing possibilities for the authority of one member State to obtain examination reports from the authority of another member State. It was reaffirmed that, as decided by the Council at its ninth ordinary session, the reports should be transmitted directly from one authority to the other, preferably on the basis of a bilateral agreement, against payment of the examination fee levied in the State where the examination had been performed.
8. At its eighth session, the Committee agreed that the Joint Trial Arrangements --under which the results of the examination, performed by one member State, of a variety (in particular a rose variety) for which applications for protection had been filed in several member States would be generally accepted by the other member States--were still valid and applicable and had not been superseded by the bilateral agreements on cooperation in examination.
9. The Committee took the view that member States should show a certain restraint in transmitting examination results to non-member States in order not to remove the most effective incentive for non-member States to join UPOV. A non-member State interested in cooperation with a member State should, in general, be referred to the possibility of acceding to the UPOV Convention. However, it was agreed at the eighth session that a State which was seriously considering such accession could be encouraged to do so by being offered such cooperation for a limited duration and subject to the proviso that the cooperation might be terminated if no progress was made in the procedure for joining UPOV.

Means for Facilitating the Work of Breeders Applying for Protection

10. By virtue of the authority delegated to it by the Council at its tenth ordinary session, the Committee adopted at its sixth session the UPOV Model Form for the Application for Plant Breeders' Rights and the UPOV Model Form for the Application for a Variety Denomination. These Model Forms were published by the Office of the Union, pursuant to the decision of the Committee, in issue No. 9 of the UPOV Newsletter.
11. At its eighth session, the Committee started considering the possibilities of harmonizing the plant breeders' rights gazettes of the member States. It agreed in a preliminary discussion to the principles underlying the suggestions made by the Office of the Union. It decided that, in order to speed up the discussions on the matter, member States should submit their comments on the suggestions of the Office of the Union. The Office of the Union should, if necessary and if possible, prepare on the basis of these comments a revised document.

Harmonization of Fees

12. The Committee continued its work on the harmonization of fees. At its sixth session, it agreed that member States should be informed, through the Office of the Union, of any modification of national fees and that such information should be brought to the attention of the general public by including in the UPOV Newsletter a summary of the new fees established by the Office of the Union in cooperation with the member State concerned.
13. Particular reference was made in the course of the examination of this question to the relationship between the fees and the cooperation in examination, that is, mainly the problems arising in connection with the Resolution on Fee Questions adopted by the Council at its seventh session and the provision of the UPOV Model Agreement for Cooperation in the Testing of Varieties according to which a State receiving an examination report had to pay to the State which had established that report the examination fee charged in the latter State. A number of delegations found the present system unsatisfactory and asked for a thorough discussion of the problem again in the coming year. The Committee agreed that the question would be submitted to the Council in order to allow it to take a decision on the future work in that connection of the Committee or of another body of UPOV.

Program of Future Activities

14. The Committee, being aware that it was for the Council to decide on whether it should continue its work and to define the matters it should deal with, agreed to supply to the Council the relevant information in order to allow it to take the necessary decisions. The following are matters of continuing interest:

- (i) report on agreements on cooperation in examination already concluded or in preparation;
- (ii) establishment of statistics on the exchange of examination reports;
- (iii) updating and revision of the list of offers for cooperation in examination;
- (iv) harmonization of the plant breeders' rights gazettes of the member States;
- (v) harmonization of fees, including consideration of the relationship between the fees and the bilateral agreements on cooperation in examination.

The activities under (v) could possibly be continued by the Fee Harmonization Working Party, which would have to be revived.

15. It is recalled that the Council approved, at its tenth ordinary session, the decision taken by the Committee that cooperation should be introduced on a step-by-step basis and that experience should be gained in the matter of cooperation based on bilateral agreements before starting work on the introduction of a multilateral system of cooperation in the field of the protection of plant breeders' rights.

16. The Council is invited

- (i) to take note of the Committee's past work;
- (ii) to take the necessary decisions for ensuring the continuation of the Committee's activities.

[Annex follows]

UPOV Model Form for the Request of Examination Results

Subject: International Cooperation in the Testing of Varieties

Species: common name :
 Latin name :
 Breeder's reference :
 Proposed denomination :
 Applicant :
 Breeder (if different from applicant) :
 Filing date (requesting country) :
 Application number (requesting country) :

We would be grateful to receive the report on the examination of the above-mentioned variety.

Information in our possession:

Prior applications	Filing (State-date)	Application number	Stage	Denomination or breeder's reference
Plant breeders' rights				
Official variety list				

An application for protection for registration in the list of varieties

has been made in our country for this variety.

The description submitted at the time of the application is included.

Please fill in the reverse side of this form and return two copies. The third copy is intended for your files.

Date

Signature

To the requesting authority

Subject: Information on the variety mentioned on the front of this form

The examination of the variety

- has already been completed
- has been in progress since/for (date/approximate time)
- will be undertaken as from (approximate date)
on the basis of an application or a request already submitted
- will be undertaken as from (approximate date)
on the basis of your request

The examination report

- is enclosed. Please make a remittance of
- will be forwarded on/in (approximate date).
The costs are expected to amount to

Special requirements

Remarks

Date

Signature