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UPOV

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Eleventh Ordinary Session
Geneva, December 6 to 9, 1977**

EIGHTH PANAMERICAN SEED SEMINAR IN TEGUCIGALPA

Report prepared by the Office of the Union

1. From March 6 to 12, 1977, the Eighth Panamerican Seed Seminar was held in Tegucigalpa, Honduras. The Office of UPOV, having accepted an invitation to participate in the Seminar, was represented by Dr. Thiele-Wittig.
2. The President of the Council of UPOV has suggested that the report prepared by Dr. Thiele-Wittig on his mission be distributed. It has therefore been attached as an Annex to this document.
3. As can be seen from the report, the Seminar has set up a Committee of Experts to prepare a Model Law on Plant Variety Protection for Latin America. The committee will mainly be composed of experts from Argentina. In a letter addressed to the Secretary of the Panamerican Seed Seminar, the Vice Secretary-General has offered the Committee of Experts the help of the Office of the Union.
4. It may be of interest to note that in letters addressed to the Office of UPOV and particularly in discussions with visitors to the Office of UPOV such a model law has been repeatedly requested. In this connection, it is also recalled that the World Intellectual Property Organization has published model laws for all major fields falling within its competence.
5. It is noted that the Secretary-General has, in the draft Program and Budget submitted by him for 1978, proposed to establish a Committee of Experts on a UPOV Model Law on Plant Variety Protection.

[Annex follows]

SHORT REPORT BY DR. THIELE-WITTIG, ON THE
EIGHTH PANAMERICAN SEED SEMINAR HELD IN TEGUCIGALPA
FROM MARCH 6 TO 12, 1977

History

1. The former seven Panamerican Seed Seminars (Seminarios Panamericanos de Semillas) were held in Chile and in Peru, in 1958, in Colombia, in 1960, in Brazil, in 1963, in Venezuela, in 1966, in Paraguay, in 1969, and in Mexico, in 1972. The eighth Seminar should have taken place in Argentina in 1975 but it had to be postponed and has now been held in Honduras. The ninth Seminar will be held in Argentina in 1980.

Objectives

2. The Seminar had as its objectives the study of the problems which are limiting the production and use of seed of improved varieties and the formulation of recommendations to the governments and the competent international organizations and institutes of Latin America.

Importance of the Seminar

3. In the eyes of the organizing States, the Seminar was considered of great importance for their countries. The Seminar was inaugurated by the Minister of Justice of Honduras, on behalf of the President, and in the presence of the Minister of Natural Resources and several State Secretaries and members of the Diplomatic Corps. The inauguration was also broadcast by Radio Honduras.

Attendance

4. The Seminar was attended by delegations from the Ministries of Agriculture or its subdepartments and institutes as well as by observers from private firms from the following States: Argentina, Belize, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela.

5. In addition, representatives of Canada and Spain and of the Mississippi State University (USA) were present besides the representative of UPOV.

Secretariat of the Seminar

6. The Panamerican Seed Seminars have a Permanent Secretariat which, however, is not financed by the participating States but depends on the help of the Government of the expert in charge of it. Therefore the possibilities of the Secretariat are very limited. Almost from the beginning the Secretariat has been in Chile, the Permanent Secretary-General being Mr. Eleodoro J. Fuentes, Head of Seed Certification in Chile. Mr. Fuentes stated, at the beginning of the Seminar, that it might be preferable for the Secretariat to be hosted by another State. At the end of the Seminar, however, he was re-elected for a further three years, together with two assistants, one from Argentina, which is to host the next (ninth) Panamerican Seed Seminar, and one from Honduras, possessing the experience gained during the preparation and holding of the present (eighth) Seminar.

Procedure

7. The Seminar had established six separate working groups on the following subjects:

- I. Seed Research
- II. Production, Analysis and Certification
- III. Processing, Storage and Control
- IV. Education and Development
- V. National and International Exchange and Commercialization
- VI. Genetic Improvement.

8. In addition to these working groups, it held round tables on:
 - a. Basic Planning for the harmonization of the departments connected with seeds under the various agreements between groups of Latin American States (Tratado Marco de Integracion Centroamericano, Mercado del Caribe, Pacto Andino and ALAIC).
 - b. The different systems of production and development of improved seeds, especially their official and private aspects.
 - c. The role of improved seeds in technology transfer programs.
 - d. The right of property in the creation of seed varieties and its influence on the use of genetic material for developing countries.

Information from States

9. The participating delegations gave short statements on the situation in the seed sector in their respective countries. From these statements it became apparent that, in the majority of the States, breeding, if done at all (for example, in Venezuela the Government does no breeding), was almost exclusively done by the government. The reason for this is that most of the States have seed laws but no laws on plant variety protection and therefore private breeders have no protection if they create new varieties. The only exceptions are, however, those species for which it is currently possible to produce hybrid varieties since in such cases the breeder has some degree of control over the lines which lead to the variety.

10. Argentina informed the Seminar that in 1973 it had adopted a seed law which also included provisions on plant variety protection but that those provisions were not yet operative since the implementing regulations had still to be prepared.

Importance of the Seminar for UPOV

11. Of particular interest to UPOV was the round table on "The right of property in the creation of seed varieties and its influence on the use of genetic material for developing countries."

12. The sessions of the other working groups and round tables, although often very specialized and dealing mainly with certain details of procedures in the production and testing of seeds, also discussed items of general interest. The special items were naturally of interest to only a small group of experts in each case, while the general items were of interest to a larger part of the Seminar.

13. One general item which became more and more important in the course of the Seminar and finally constituted one of the main items, and possibly the most important of all, was the role the private sector should play in the breeding of new varieties and in the production of "improved seed" (semillas mejoradas). This item was also dealt with in several working groups and round tables, especially in the working groups on "Production, Analysis and Certification," and "National and International Exchange and Commercialization" and the round tables on "The Role of Improved Seeds in Technology Transfer Programs" and "The Different Systems of Production and Development of Improved Seeds, Especially their Official and Private Aspects."

14. The representatives of private firms had an opportunity to give short statements of their views. The general opinion of the private sector was that the governments should pave the way for private firms to carry out research in breeding and, once the private sector was able to satisfy the demand for improved seed, should restrict themselves to a control function and not compete with the private sector or, as also happened, sell seeds at prices below cost thus killing private firms or at least private initiative.

15. In this connection, mention was also made of the experience gained in running a "mixed firm" in which the government and the private sector worked together in plant breeding and seed production, as well as "special cooperatives" doing breeding work or producing certified seed.

16. On the subject of transfer of technology, it was agreed that improved seed should be given to the farmer only as part of a whole package of technical knowledge, including the use of fertilizers and pesticides and all other improvements in cultivation practices.

17. As the Seminar was already very much concerned with improving the role of the private sector in the field of plant breeding and seed production, the round table on "The Right of Property in the Creation of Seed Varieties and its Influence on the Use of Genetic Material for Developing Countries" met with great interest. During this round table Dr. Lopez de Haro, Technical Subdirector of the Registro de Variedades Comerciales y Protegidas and Director of the Instituto Nacional de Semillas y Plantas de Vivero of Spain (Spain's observer at the UPOV Council and other UPOV sessions), reported on the history of the UPOV Convention and the development of plant variety protection in Spain. I reported on UPOV as a Union and its activities.

18. After the reports from Dr. Lopez de Haro and myself, the participants asked several questions which were answered either by myself or Dr. Lopez de Haro. As most breeding in the States attending the Seminar is done at present by government authorities, the first question was whether there was a difference in protection depending on whether a new variety had been bred by the private sector or by the government. I said that such was not the case as far as the UPOV Convention was concerned.

19. As a result of the discussion, in which most countries showed great interest (indeed, as far as I can judge--and this was confirmed by many participants--more interest than in any other matter dealt with during the Seminar), it was widely acknowledged that the protection of new varieties of plants was very important for the development of Latin American countries and it was agreed that the Seminar should recommend the setting up of a committee to study further the question of protection of new varieties.

20. No final decision was taken during the round table, however, and the whole question was referred to the Plenary, which met on the last day to decide on all recommendations to be made by the Seminar. During the plenary session, discussion on this subject continued. In view of the desire which had been expressed to prepare laws for plant variety protection in the very near future, the Seminar finally decided to set up a committee to prepare a draft for a Model Law on Plant Variety Protection for Latin America. Asked whether UPOV had already drawn up a Model Law, I had to admit that unfortunately it had not, but offered any help which UPOV could give to the committee. As Argentina has already had a Law on plant variety protection since 1973 and as it had been decided that the next (ninth) Panamerican Seed Seminar would be held in Argentina, it was finally agreed that Argentina would set up a committee to prepare the draft for a Model Law on Plant Variety Protection for Latin America. To avoid possible problems in connection with travel from the various countries and so as not to delay the preparation of the Model Law too much, it was agreed that the committee should consist solely of experts from Argentina.

21. From the text of the Argentine Law on Plant Variety Protection it became apparent that features in the Argentine Law would conflict with the UPOV Convention. Dr. Lopez de Haro and I therefore urged that UPOV be given a chance to see the first draft and to make comments on it to avoid differences between the UPOV Convention and the Model Law for Latin America that might be too great. This I stressed further in contacts with the expert from Argentina, Mr. Ciro Eugenio Cavia, as well as with the Permanent Secretary-General, Mr. Eleodor Fuentes, who both agreed that UPOV should have the possibility of seeing the first draft and commenting on it. In this connection, I also promised that we would study the Argentine Law as soon as possible and give Mr. Cavia and Mr. Fuentes any comments we might have in writing. The reason for so doing was that it could be expected that, when drafting the Model Law, the Argentinian experts would probably take over most of the relevant provisions from their own Law since some of the experts who are to prepare the draft for the Model Law are likely to be the same persons that prepared the Argentine Law itself.

22. Throughout the discussion on plant variety protection it became more and more obvious that it was unfortunate that UPOV had not so far drawn up a Model Law for countries envisaging the drafting of their own laws. At least in the case of Latin America, UPOV would have been in a much better position to have all the provisions of its Convention included in the laws of Latin America if it had already a Model Law available than it is at present, when it only can comment on the draft to be prepared by a country which so far has less experience in the field of plant variety protection than the UPOV member States since its own Law is not yet operative. To avoid similar situations for other parts of the world, UPOV should see to it that, despite the work on the revision of the UPOV Convention, which takes up most of its time, time should also be found to prepare as soon as possible a UPOV Model Law on Plant Variety Protection.

23. To conclude, it can be said that the participation of a UPOV representative in the Eighth Panamerican Seed Seminar in Tegucigalpa, Honduras, was fully justified. UPOV came into the discussions at just the right moment and if comments on the provisions of the Argentine Law on Plant Variety Protection can be sent to the Argentine expert and to the Permanent Secretary-General of the Seminar in the near future, there will be a good chance of producing a draft for a Model Law on Plant Variety Protection for Latin America that does not conflict too much with the UPOV Convention.

[End of Annex and of document]