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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL**Twenty-fourth Ordinary Session
Geneva, October 18 and 19, 1990****RECOGNITION OF THE COMPETENCE OF THE
ADMINISTRATIVE TRIBUNAL OF THE
INTERNATIONAL LABOUR ORGANISATION (ILO)****Memorandum of the Secretary-General**

1. The Staff Regulations of WIPO, applicable, according to the Agreement between WIPO and UPOV, to the staff of UPOV, provides that "a staff member shall have the right to appeal to the Administrative Tribunal of the International Labour Organisation in accordance with the conditions set forth in the Statute of that Tribunal." Hereinafter, the said Tribunal is referred to as "the ILO Tribunal."
2. It has, so far, been assumed that the above-mentioned Agreement would be a sufficient basis for the ILO Tribunal to hear appeals of staff members of UPOV. However, in its judgement No. 1033, dated June 26, 1990, the ILO Tribunal held that it was not competent to hear such appeals because UPOV has not addressed to the Director General of ILO a declaration of recognition of its jurisdiction in accordance with the ILO Tribunal's Statute and consequently, the Governing Body of ILO could not and so far has not, approved such a declaration.
3. In order to comply with the said requirement, it is proposed that the Council approve the following declaration (which, if approved, will be forwarded by the Secretary General of UPOV to the Director General of ILO):

"The Council of the International Union for the Protection of New Varieties of Plants (UPOV) hereby recognizes the jurisdiction of the Administrative Tribunal of the International Labour Organisation, as well as its Rules of Procedure, for the purpose of hearing complaints by staff members of UPOV alleging non-observance, in substance or in form, by UPOV of the terms of appointment of staff members of UPOV and of the provisions of the Staff Regulations and Staff Rules of the International Bureau of the World Intellectual Property Organization that are applicable to the said staff members."

4. It is to be noted that each international organization against which a complaint is filed has to bear the expenses occasioned by the sessions or hearings of the ILO Tribunal. Such expenses, at the 68th Session of the ILO Tribunal (January 1990), amounted to US\$ 4,521 for each appeal.

5. The Council is invited to approve the declaration contained in paragraph 3, above.

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