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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Twenty-fifth Ordinary Session
Geneva, October 24 and 25, 1991**

REPORT ON ACTIVITIES DURING THE FIRST NINE MONTHS OF 1991

Document prepared by the Office of the Union

I. COMPOSITION OF THE UNION

1. On February 4, 1991, Canada deposited its instrument of ratification of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978 ("Act of 1978"). The Act of 1978 entered into force with respect to Canada on March 4, 1991.

2. As from the latter date, the Union comprises 20 member States: Australia, Belgium, Canada, Denmark, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Poland, South Africa, Spain, Sweden, Switzerland, United Kingdom and United States of America. They are all party to the Act of 1978, except Belgium and Spain, which are party to the Act of 1961 as amended by the Additional Act of 1972.

3. Pursuant to Article 32(3) of the Act of 1978, "any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act." The Government of Uruguay asked for such advice by letter of September 3, 1991. The Council is to consider that request at the current session under agenda item 4.

II. MEETINGS

4. A Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants was held from March 4 to 19, 1991, under the presidency of Mr. W.F.S. Duffhues (Netherlands). All member States were represented; 27 non-member States were represented by observer delegations¹ and 25 international organizations² had delegated representatives.

5. On March 19, 1991, the Conference adopted a Revised Act of the International Convention for the Protection of New Varieties of Plants, which was signed immediately after its adoption by the following 10 member States: Belgium, Denmark, France, Germany, Italy, Netherlands, South Africa, Spain, Switzerland, United Kingdom. The Revised Act remains open for signature by member States until March 31, 1992.

6. The Conference also adopted a resolution on the establishment of draft standard guidelines on essentially derived varieties, a recommendation on the scope of the possible exclusion of farm-saved seed from the scope of protection and a common statement on the territorial extent to which Denmark and the Netherlands would be bound by the 1991 Act of the Convention.

7. The final act of the Conference was signed by the following 23 States: Argentina, Australia, Belgium, Canada, Colombia, Czechoslovakia, Denmark, Ecuador, France, Germany, Ireland, Italy, Japan, Morocco, Netherlands, New Zealand, Poland, Romania, South Africa, Spain, Switzerland, United Kingdom, United States of America.

¹ Argentina, Austria, Bolivia, Brazil, Burundi, Cameroon, Chile, Colombia, Côte d'Ivoire, Czechoslovakia, Ecuador, Finland, Ghana, India, Indonesia, Luxembourg, Morocco, Norway, Republic of Korea, Romania, Thailand, Turkey, Soviet Union, Uganda, Ukrainian SSR, Venezuela, Yugoslavia.

² World Intellectual Property Organization (WIPO), Food and Agriculture Organization of the United Nations (FAO), General Agreement on Tariffs and Trade (GATT), European Communities (EC), Organisation for Economic Co-operation and Development (OECD), European Patent Organisation (EPO), International Board for Plant Genetic Resources (IBPGR), International Seed Testing Association (ISTA), International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), European Federation of Agricultural and Rural Contractors (CEETAR), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), General Committee for Agricultural Co-operation in the EC (COGECA), Association of Plant Breeders of the European Economic Community (COMASSO), Committee of Agricultural Organisations in the EC (COPA), Seed Committee of the Common Market (COSEMCO), European Federation of Pharmaceutical Industries' Associations (EFPIA), International Federation of Industrial Property Attorneys (FICPI), International Federation of the Seed Trade (FIS), International Group of National Associations of Manufacturers of Agrochemical Products (GIFAP), International Chamber of Commerce (ICC), International Federation of Agricultural Producers (IFAP), Union of Industrial and Employers' Confederations of Europe (UNICE), Union of European Practitioners in Industrial Property (UPEPI).

8. The Consultative Committee held its forty-third session on March 18, 1991, under the chairmanship of Mr. W.F.S. Duffhues (Netherlands). The Committee mainly discussed the policy of UPOV in its relations with developing countries and decided on an extension of the list of organizations invited to ordinary sessions of the Council.

9. As far as the work of the Technical Working Parties is concerned, reference is made to document C/25/9.

III. RELATIONS WITH STATES AND ORGANIZATIONS

10. On January 10, the Vice Secretary-General received a visit from Professor J.K. Barton of Stanford Law School (United States of America), who was participating in a policy review group of the Consultative Group on International Agricultural Research (CGIAR) and who gave information about an on-going fundamental review of the policy of the international agricultural research centers in relation to plant variety protection and intellectual property protection in general.

11. On January 30, the Secretary-General received a visit from the Minister for Foreign Affairs of Colombia and passed him relevant documents on plant variety protection.

12. On February 12, 1991, the Vice Secretary-General received a visit from Mr. Nicolai J. Maimeskoul, Second Secretary of the Permanent Mission of the Ukrainian SSR in Geneva, who sought information concerning laws for the protection of new plant varieties and the conditions of accession to the UPOV Convention.

13. On February 25, the Vice Secretary-General participated in an observer capacity in the tenth meeting of the Ad Hoc Working Party on Harmonization (Biotechnology) of the European Patent Office in Munich, Germany, which discussed the proposals for the revision of the UPOV Convention.

14. On March 11, the Vice Secretary-General received a visit from a representative of the Permanent Mission of Colombia in Geneva and from Mr. Hernando Gutiérrez de la Roche, Secretary General of the Colombian Institute of Agriculture and the delegate of Colombia to the Diplomatic Conference, to discuss the interest of the Government of Colombia in plant variety protection and the UPOV Convention.

15. On the same day, the Vice Secretary-General received a visit from the Delegation of the Ukrainian SSR to the Diplomatic Conference. The Delegation explained the interest of the Ukraine in plant variety protection and their intention to legislate on the subject and to become a member of UPOV.

16. On March 12, the Vice Secretary-General received a visit from Mr. Olli Rekola, Director, Ministry of Agriculture and Forestry, Helsinki, Finland, who explained the latest situation in his country concerning its proposed legislation on plant variety protection and the accession of Finland to the UPOV Convention.

17. On April 8, the Ambassador and Permanent Representative of Argentina in Geneva paid a visit to the Secretary-General in order to sign the final act adopted by the Diplomatic Conference.

18. From April 15 to 17, the Vice Secretary-General participated in a symposium, organized by the Finnish Group of AIPPI in Helsinki, entitled "Frontiers of Patent Law." He gave a paper on protection under the UPOV Convention and emphasized particularly the provisions of the Act of 1991.
19. From April 15 to 19, an official of the Union participated in an observer capacity in the fourth session of the Commission on Plant Genetic Resources of FAO in Rome, Italy.
20. On April 18, the Vice Secretary-General participated in the Sixth Biennial Conference on Plant Variety Protection Law, organized by the Intellectual Property Law Unit of Queen Mary and Westfield College in the University of London, which was held in Cambridge, United Kingdom. He spoke on the 1991 Act.
21. From April 21 to 23, an official of the Union attended the Congress of the Seed Committee of the Common Market (COSEMCO) which was held in Edinburgh, United Kingdom.
22. From April 23 to 25, the Vice Secretary-General participated in Rome, Italy, in an Intellectual Property Rights Work Group, organized as part of the Keystone International Dialogue Series on Plant Genetic Resources.
23. On May 3, the Office of the Union provided the Government of Argentina with comments on its preliminary draft of a new decree which is intended to bring its law on plant variety protection into conformity with the UPOV Convention.
24. On May 7, the Secretary-General visited the Minister for Agriculture of the Republic of Korea in Seoul and discussed with him plant variety protection and the interest of his country in becoming a member of UPOV.
25. From May 13 to 15, an official of the Union participated in Paris, France, in the Annual Meeting of Representatives of Designated Authorities under the OECD Schemes for the Certification of Seed Moving in International Trade, where he gave a brief presentation on the revision of the UPOV Convention.
26. From May 13 to 17, during the period of the session of the Technical Working Party for Agricultural Crops, in which he participated in Beltsville, Maryland, United States of America, the Vice Secretary-General visited the United States Patents and Trademarks Office and the United States Department of Agriculture. He also visited the World Bank and the Consultative Group on International Agriculture Research in Washington, D.C., where he had a meeting with the Executive Secretary.
27. On May 15, in the course of a visit to Romania, the Secretary-General met the Vice Prime Minister, Mr. Dan Mircea Popescu, and discussed the interest of that country in adhering to the UPOV Convention.
28. From May 22 to 31, the Vice Secretary-General participated in the FIS and ASSINSEL World Congresses in Tokyo, Japan. During the Congresses, he met officials of the Agricultural Production Bureau of the Ministry of Agriculture, Forestry and Fisheries of Japan; he also addressed participants in the ASSINSEL Congress on the outcome of the 1991 Diplomatic Conference.
29. From May 27 to June 2, an official of the Union visited Santa Fé de Bogotá, D.C., Colombia, where he participated in the National Seed Seminar, a section of which was concerned with systems of protection for plant varieties,

and read a paper on some features of the plant variety protection systems under the UPOV Convention. He also paid several visits to governmental authorities.

30. From June 1 to 4, the Vice Secretary-General participated in a session of the Keystone International Dialogue Series on Plant Genetic Resources which was held in Oslo, Norway.

31. On June 6, a study team from the Japan Patent Association visited WIPO and during the course of the team's visit, an official of the Union gave a presentation on the revision of the UPOV Convention and the Vice Secretary-General answered questions.

32. On June 11, the Assistant Secretary for Policy and Legislation, Department of Science and Technology of the Philippines, paid a visit to the Office of the Union and was given information on UPOV and the forthcoming seminar which is to be held in Tokyo, Japan.

33. On June 17, the Regional Seed Program Manager for the FAO Program (the DANIDA Program) for improved seed production in Asia, visited the Office of the Union to discuss the possibility of the Office providing assistance or participating in future training programs which might include one more session devoted to plant variety protection.

34. On June 20 and 21, the Vice Secretary-General and an official of the Union were guests at a reception in Paris, France, to honor Mr. Michel Simon, a past Secretary General of the Committee for the Protection of New Plant Varieties (CPOV), on the occasion of his retirement and met a commission of the French Group of AIPPI which was studying AIPPI Question No. 93 which concerns the protection of plant varieties.

35. From June 22 to 27, an official of the Union participated in the third session of the ad hoc Working Group of Legal and Technical Experts on Biological Diversity, organized by the United Nations Environment Programme in Madrid, Spain.

36. From July 2 to 4, the Vice Secretary-General participated in Rio de Janeiro, Brazil, in an International Workshop, entitled "Intellectual Property in Biotechnology--A Tool for Continental Integration in the Global Scene," organized by the Brazilian Association of Biotechnology Enterprises, the Brazilian Society for Biotechnology and the Latin-American Federation of Associations of Biotechnology Enterprises. The Workshop concluded that "plant varieties should be protected by plant breeders' rights in a system based on the UPOV Convention."

37. During the period of the meeting, the Vice Secretary-General visited the President of the National Institute for the Protection of Industrial Property (INPI) where he learned that an interministerial commission of the Brazilian Government had been established to make recommendations for the protection of plants varieties.

38. On July 8 and 9, the Vice Secretary-General visited Government offices in Brasília, including the Ministry of Foreign Affairs, the Ministry of Agriculture, the Brazilian National Agricultural Research Organization (EMBRAPA) and the National Center for Genetic Resources (CENARGEN), where he delivered a lecture on the UPOV Convention to officials of the Ministry of Agriculture, EMBRAPA and CENARGEN.

39. From July 10 to 12, the Vice Secretary-General visited Santa Fé de Bogotá, D.C., Colombia, where he met the acting Minister for Agriculture, Dr. Fidel Cuellar, the Vice-Minister for Foreign Affairs, Dr. Rodrigo Pardo, Dr. Jorge Ramirez, Head of the Agricultural Unit in the National Planning Department (which is attached to the President's Office), Dr. Fidelia Villamizar de Pérez, Superintendent of the Superintendence of Industry and Commerce, Dr. Clemente Forero Pineda, Director General of the Colombian Institute for the Development of Science and Technology, Dr. Gabriel Montes Llamas, General Manager of the Colombian Institute of Agriculture (ICA), officials of the International Trade Division of the Ministry of Development and officials of ASCOFLORES, the Association of Colombian Flower Producers. He was also a guest at a dinner given by the President of the National Association of Industrial Property Lawyers of Colombia, Dr. Luis Alberto Zorro Sanchez. All sectors of the Colombian Government expressed support for the introduction of plant variety protection, and it was agreed that UPOV would organize a national Seminar in Colombia on November 21 and 22, immediately preceding the Seminar in Buenos Aires, Argentina.

40. On July 15 and 16, the Vice Secretary-General visited Mexico City where he met the Secretary (Minister) of the Secretariat for Agriculture and Water Resources, Prof. Carlos Hank Gonzalez, and Dr. Roberto Villarreal, Director General of the Technology Development in the Ministry of Industry and Overseas Trade (which is responsible for industrial property). Mexico has recently introduced a modified patent law which extends conventional patent protection to plant varieties. Discussions concerned the possible introduction of a plant variety protection law which will accord with the UPOV Convention.

41. On July 16, the Office of the Union received a communication from Dr. Akhlaq Hussain, Director of the National Seed Registration Department, Food and Agriculture Division, Rawalpindi, Pakistan, enclosed with which was a draft law for the protection of new plant varieties. The Office of the Union provided its outline comments on this draft to the Government of Pakistan.

42. On July 25, Professor Decio Zylbersztajn of the University of Sao Paulo in Brazil visited the Office of the Union. He has been funded by the Brazilian Government to research the impact of plant variety protection in countries outside Brazil.

43. On July 30, the Office of the Union received a draft of a proposed law for the protection of plant varieties from Morocco and a request from the Government for a UPOV mission to visit Morocco for discussions concerning the draft law.

44. On July 31, the Office of the Union received for its comments a draft of a proposed plant variety protection law from Bulgaria.

45. On August 23, an official of the Union gave a lecture to trainee patent agents in Zurich, Switzerland, on the UPOV system of plant variety protection.

46. On August 26, an official of the Union participated in a meeting of the Forest Seed Group of the International Federation of the Seed Trade (FIS) in Yverdon, Switzerland, and explained the outcome of the Diplomatic Conference.

47. During June, July and August, the Office of the Union exchanged correspondence with the Government of Uruguay concerning proposed changes in its law to bring it into conformity with the 1978 Act of the UPOV Convention.

48. On September 3, the Secretary-General received from the Government of Uruguay a request under Article 32(3) of the 1978 Act (see paragraph 3 above).

49. On September 17 and 18, the Vice Secretary-General participated in York, United Kingdom, in a Conference on "New Technology for Cropping Systems" organized by the Association of Applied Biologists and gave a lecture.

50. On September 18, an official of the Union participated in Angers, France, in the General Assembly of SEPROMA, the association of maize seed producing firms of France.

IV. PUBLICATIONS

51. The Office of the Union has published five issues of Plant Variety Protection and the records of the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention held in Budapest, Hungary, from September 19 to 21, 1990.

52. The Office of the Union also made preparations for the publication of brochures containing the 1991 Act in English, French and German. Furthermore it established draft official texts in Arabic and Spanish and sent them to the interested Governments for comments. Draft translations were also established in Italian, Portuguese and Russian.

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