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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

Twenty-sixth Ordinary Session

Geneva, October 29, 1992

REPORT ON THE PROGRESS OF THE WORK OF
THE ADMINISTRATIVE AND LEGAL COMMITTEEprepared by the Office of the UnionGeneral

1. Since the twenty-fifth ordinary session of the Council, the Administrative and Legal Committee (hereinafter referred to as "the Committee") held one session only, its thirtieth, on April 8, 1992.
2. The Committee will hold its thirty-first session on October 26 and 27, 1992. An oral report will be given to the Council on the work done at that session and on the program for future work.
3. The Committee devoted its thirtieth session to the following:
 - (i) guidelines relating to essentially derived varieties;
 - (ii) definition of the variety and use of multivariate analysis;
 - (iii) conditions for the examination of a variety carried out by the breeder;
 - (iv) fees in relation to cooperation in examination.

Guidelines Relating to Essentially Derived Varieties

4. The Committee continued the examination of a document which had been prepared for its twenty-ninth session and gave advice on the content of the document which is to serve as the basis for the discussions at the sixth Meeting with International Organizations to be held on October 30, 1992.

5. The Committee also took note of two preliminary documents established by ASSINSEL and CIOPORA, respectively.

6. The Committee is expected to continue the examination of this issue at its thirty-second session on the basis, in particular, of the contributions made by the international organizations at the sixth Meeting with them.

Definition of the Variety and Use of Multivariate Analysis

7. The Committee followed up a question from the Technical Committee. It considered that the 1991 Act contained no provision which would prohibit use of multivariate analysis for distinctness examination. Its view was that it belonged to the expert to decide whether recourse to that analysis was relevant in a particular case.

Conditions for the Examination of a Variety Carried out by the Breeder

8. The Committee considered the conditions to be met by applicants undertaking growing trials and drawing up examination reports, which conditions are set out in a declaration which the Council noted with approval at its tenth ordinary session, in October 1976. It agreed to an amendment which gives more flexibility with regard to the deposit of a sample representing the variety.

9. A revised text of the Declaration, which is also based on Article 12 of the 1991 Act, has been submitted to the thirty-first session of the Committee. The Committee is expected to present an updated text to the Council.

Fees in Relation to Cooperation in Examination

10. The Recommendation on Fees in Relation to Cooperation in Examination, as last amended by Council in 1980, contains three main provisions:

(i) Where the authority of a member State asks the authority of another member State to carry out the examination of a variety, the former has to pay the latter a consideration corresponding to the examination fee payable in the latter State.

(ii) Where the authority of a member State takes over the examination report drawn up by the authority of another member State, the former has to pay the latter a fixed consideration equivalent to 350 Swiss Francs.

(iii) The examination fees for the most important genera and species should be set at a certain level to ensure a certain harmonization of fees.

11. The Committee felt that the third provision mentioned above was no longer relevant and that the consideration referred to in subparagraph (i) above should not necessarily correspond to the examination fee. It referred in that respect to the existence of important differences between the fee tariffs of member States. It decided to recommend to the Council that the recommendation be repealed and the Model Agreement for International Cooperation in the Testing of Varieties adjusted.

12. A revised text of that Agreement has been submitted to the thirty-first session of the Committee. The latter is expected to present an updated text to the Council.

Harmonization of Legislation and Implementation of the 1991 Act

13. A series of issues raised by the implementation of the 1991 Act, for which harmonization of legislation seems useful and desirable, have been submitted to the thirty-first session of the Committee. An oral report will be given on this at the Council session.

14. The Council is invited to:

(i) note and approve this report;

(ii) give subsequent to the supplementary report made in session any instruction necessary for future work.

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