



Disclaimer: unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

This document has been scanned from a paper copy and may have some discrepancies from the original document.

---

Avertissement: sauf si le Conseil de l'UPOV en décide autrement, seuls les documents adoptés par le Conseil de l'UPOV n'ayant pas été remplacés peuvent représenter les principes ou les orientations de l'UPOV.

Ce document a été numérisé à partir d'une copie papier et peut contenir des différences avec le document original.

---

Allgemeiner Haftungsausschluß: Sofern nicht anders vom Rat der UPOV vereinbart, geben nur Dokumente, die vom Rat der UPOV angenommen und nicht ersetzt wurden, Grundsätze oder eine Anleitung der UPOV wieder.

Dieses Dokument wurde von einer Papierkopie gescannt und könnte Abweichungen vom Originaldokument aufweisen.

---

Descargo de responsabilidad: salvo que el Consejo de la UPOV decida de otro modo, solo se considerarán documentos de políticas u orientaciones de la UPOV los que hayan sido aprobados por el Consejo de la UPOV y no hayan sido reemplazados.

Este documento ha sido escaneado a partir de una copia en papel y puede que existan divergencias en relación con el documento original.

## INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

## COUNCIL

## Twenty-sixth Ordinary Session

Geneva, October 29, 1992

## ADDENDUM TO THE

REPORT ON THE PROGRESS OF THE WORK OF  
THE ADMINISTRATIVE AND LEGAL COMMITTEEDocument prepared by the Office of the Union

1. The Administrative and Legal Committee (hereinafter referred to as "the Committee") held its thirty-first session on October 26, 1992, and considered the following matters:

- (i) conditions of the examination of a variety by the breeder;
- (ii) UPOV Model Administrative Agreement for International Cooperation in the Testing of Varieties;
- (iii) harmonization of legislation and implementation of the 1991 Act.

2. Concerning the first item, the Committee prepared the draft, reproduced at Annex, of a Declaration on the Conditions for the Examination of a Variety Based Upon Tests Carried out by the Breeder and now seeks its adoption by the Council.

3. Concerning the second item, the Committee decided to go beyond the mere adaptation of the UPOV Model Administrative Agreement for International Cooperation in the Testing of Varieties--referred to in paragraph 11 of document C/26/9--and to revise it completely. Work on this document will be continued at the next session.

4. Concerning the third item, the Committee restricted itself to a short debate on the question of the acts done outside the "grace periods" which should not be detrimental to the novelty of the variety and on the question of the consequences of the exploitation of the variety before the filing of the application. The item will be placed on the agenda for the next session.

0566

5. In relation to the second and the third items, several delegations underlined that it would be useful to hold a joint meeting of the Technical Committee and the Committee.

6. The Council is invited to:

(i) note and approve this report;

(ii) adopt the Declaration on the Conditions for the examination of a Variety Based Upon Tests Carried out by the Breeder reproduced in the Annex to this document.

[Annex follows]

ANNEX

DRAFT

**DECLARATION ON THE CONDITIONS FOR THE EXAMINATION  
OF A VARIETY BASED UPON TESTS CARRIED OUT BY THE BREEDER**

**The Council of the International Union for the Protection of New Varieties  
of Plants,**

Pursuant to Article 21(h) of the 1978 Act of the International Convention for the Protection of New Varieties of Plants;

Considering Article 7(1) of the 1978 Act of the Convention, under which: "Protection shall be granted after examination of the variety in the light of the criteria defined in Article 6. Such examination shall be appropriate to each botanical genus or species";

Considering Article 12 of the 1991 Act of the Convention, under which: "Any decision to grant a breeder's right shall require an examination for compliance with the conditions under Articles 5 to 9. In the course of the examination, the authority may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out. For the purposes of examination, the authority may require the breeder to furnish all the necessary information, documents or material";

Declares that a system for the examination of applications based upon growing tests and other necessary tests carried out by the breeder and on the information submitted by him on the basis of those tests will be considered in keeping with the provisions of the Convention if:

1. The growing tests and other necessary tests are conducted according to guidelines established or accepted by the authority;
2. The testing arrangement is maintained--in order to permit the checking of data or the collecting of further data--until a decision has been made on the application or until the authority has informed the breeder that the arrangement is no longer necessary;
3. The breeder provides access to the growing tests by persons properly authorized by the authority;
4. The breeder, when requested to do so, deposits in a designated place, and within a time limit set by the authority, a sample of propagating material representing the variety.

[End of document]