



C(Extr.)/19/4

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Nineteenth Extraordinary Session
Geneva, April 19, 2002

REPORT ON THE DECISIONS

adopted by the Council

Opening of the Session

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its nineteenth extraordinary session in Geneva on April 19, 2002, under the chairmanship of Mr. Karl Olov Öster (Sweden), President of the Council.
2. The list of participants is reproduced in the Annex to this document.

Adoption of the Agenda

3. The Council adopted the agenda as proposed in document C(Extr.)/19/1, after having noted the deletion of item 3 (Preliminary examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention).

Report by the President on the Work of the Sixty-Third Session of the Consultative Committee; Adoption of Recommendations, if any, Prepared by that Committee

4. The Council noted the oral report on the sixty-third session of the Consultative Committee, held on April 19, 2002, which had been devoted mainly to the preparation of the current session of the Council.

5. On the basis of a recommendation made by the Consultative Committee, the Council:

(a) decided to grant to Mr. Rolf Jördens an extension of his contract as Vice Secretary-General up to November 30, 2003, in line with the term of office of the Secretary-General;

(b) agreed to promote Mr. Jördens to the same level as the Deputy Directors General of the World Intellectual Property Organization (WIPO), as of July 1, 2002.

Adoption of the Document “The Notion of Breeder and Common Knowledge” (Document C(Extr.)/19/2)

6. The Council noted that the Consultative Committee proposed to modify paragraph 14, which should now read as follows:

14. The UPOV Convention differs from the patent system in its treatment of discoveries. Discoveries are not patentable. However, the “discovery” of mutations or variants in a population of cultivated plants is indeed potentially a source of new improved varieties. The UPOV Convention would have failed in its mission if it had excluded such varieties from protection and withheld from discoverers the incentive to preserve and propagate useful discoveries for the benefit of the world at large. The United States of America adopted the same approach in 1930 when it made the plant patent available to “whoever invents or discovers and asexually reproduces any distinct and new variety ...”

7. On the basis of a recommendation, made by the Consultative Committee, and including the modifications on paragraph 14 proposed by the Consultative Committee, the Council adopted document C(Extr.)/19/2 “The Notion of Breeder and Common Knowledge in the Plant Variety Protection System Based upon the UPOV Convention” as a UPOV position paper.

Adoption of the Revised “General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants” (Documents C(Extr.)/19/3 and C(Extr.)/19/3 Add.)

8. The Council noted that the Consultative Committee proposed to modify paragraphs 2.4.2 and 4.4.1 of the Annex to the Spanish version of document C(Extr.)/19/3, which should read as follows:

2.4.2 El Acta de 1991 del Convenio de la UPOV deja esto claro al estipular en el Artículo 1.vi) que la variedad es un conjunto de plantas que puede “definirse por la expresión de los caracteres resultantes de un cierto genotipo o de una cierta combinación

de genotipos,” y que puede “distinguirse de cualquier otro conjunto de plantas por la expresión de uno de dichos caracteres por lo menos”.

4.4.1 Caracteres cualitativos

Los “caracteres cualitativos” son los que se expresan en niveles discontinuos (por ejemplo, el sexo de la planta: dioico femenino (1), dioico masculino (2), monoico unisexual (3), monoico hermafrodita (4)). Estos niveles de expresión se explican por sí mismos y tienen un significado independiente. Todos los niveles son necesarios para describir la gama completa del carácter, mientras que toda forma de expresión puede describirse mediante un único nivel. El orden de los niveles no es importante. Por regla general, los caracteres no son influenciados por el medio ambiente.

9. On the basis of a recommendation made by the Consultative Committee, the Council adopted document C(Extr.)/19/3 and document C(Extr.)/19/3 Add. and agreed to introduce the modifications in the Spanish version as proposed by the Consultative Committee, in paragraph 8 above, in document TG/1/3 “General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants.”

10. *The Council unanimously adopted this report at the close of its session.*

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

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