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UPOV/C/IX/2  
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BÜRO  
DES  
INTERNATIONALEN VERBANDES  
ZUM SCHUTZ VON  
PFLANZENZÜCHTUNGEN  
GENÈVE, SCHWEIZ

BUREAU  
DE  
L'UNION INTERNATIONALE  
POUR LA PROTECTION  
DES OBTENTIONS VÉGÉTALES  
GENÈVE, SUISSE

OFFICE  
OF THE  
INTERNATIONAL UNION  
FOR THE PROTECTION OF  
NEW PLANT VARIETIES  
GENEVA, SWITZERLAND

Annual Report 1969  
of the  
Secretary-General  
to the Council  
(First Year)

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- I. Establishment of the Office of UPOV and Appointment of the Secretary-General
- II. Activities of UPOV since the entry into force of the Convention

GENEVA  
1970

International Union for the Protection  
of New Plant Varieties (UPOV)

i. Establishment of the Office of UPOV and Appointment  
of the Secretary-General

The International Union for the Protection of New Plant Varieties (UPOV) was established by the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961. The following eight States signed the Convention within the period permitted by Article 31(1): Belgium, Denmark, the Federal Republic of Germany, France, Italy, the Netherlands, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

The Convention entered into force, in accordance with Article 31(3), on August 10, 1968, thirty days after the deposit of the third instrument of ratification, that of the Federal Republic of Germany. The two earlier ratifications had been those of the United Kingdom in 1965 and of the Netherlands in 1967. In 1968 Denmark also deposited its instrument of ratification; the four states named above therefore constitute the Member States of the Union (Article 1(2)).

Article 1(3) of the Convention provides that the seat of the Union and its permanent organs shall be at Geneva. The permanent organs of the Union are, in accordance with Article 15, the Council and the Office of UPOV, the Office being under the high authority of the Swiss Confederation and, by virtue of Article 23(1), under the direction of the Secretary-General. Article 23(3) provides that the Secretary-General and the officials of senior grade shall be appointed, on a proposal by the Council, by the Government of the Swiss Confederation. Article 20(2) requires that the Council shall adopt the administrative and financial regulations of the Union after having consulted the Government of the Swiss Confederation, which shall be responsible for ensuring that the regulations are carried out.

Article 25 of the Convention provides that "the procedures for technical and administrative cooperation between the Union for the Protection of New Varieties of Plants and the Unions administered by the United International Bureaux for the Protection of Industrial, Literary and Artistic Property shall be determined by rules established by the Government of the Swiss Confederation in agreement with the Unions concerned."

A draft of rules to be submitted to the Swiss Federal Council for the purposes of this Article was prepared in conformity with a plan approved by the Interunion Coordination Committee of BIRPI at its fifth session in December, 1967; this draft was reported to the Interunion Coordination Committee at its seventh session held at Geneva from September 22 to 26, 1969.

The Council of UPOV, at its Third Meeting held at Geneva on October 8 and 9, 1969, unanimously authorized its President to communicate to the Swiss Federal Council its agreement to the rules provided in the draft referred to above.

The rules provide first that the seat of UPOV is established at the BIRPI headquarters in Geneva, and that the present Director of BIRPI, and any person who shall in future be Director of BIRPI, shall be the Secretary-General of UPOV. The rules create the post of Vice-Secretary-General of UPOV, who shall, subject to the responsibilities of the Secretary-General, direct a "Plant Varieties Department" of the Office, responsible independently from BIRPI for all questions concerning the substance of the Convention and all activity relating to international cooperation in the field of the protection of plant varieties. The Vice-Secretary-General shall have the right to attend all meetings of the Council and to report directly to the Council in the event of disagreement with the Secretary-General. BIRPI will be responsible for the provision of administrative services on a basis of equality with the other Unions administered by BIRPI.

Having received notification of the agreement of UPOV and of the Unions administered by BIRPI, the Swiss Federal Council, at its session held on October 21, 1969, established the rules determining the procedures for technical and administrative cooperation between UPOV and the Unions administered by BIRPI, and appointed the Director of BIRPI, Professor G.H.C. Bodenhausen, Secretary-General of UPOV.

The Federal Council at its session of November 20, 1969, decided to extend to UPOV and its officials the same legal status, privileges and immunities as granted to BIRPI and its officials in the Decree of the Federal Council of August 16, 1960. This measure is valid for as long as the Rules for Cooperation between the Union and BIRPI of October 21, 1969, remain in force.

On December 12, 1969, the Republic and Canton of Geneva confirmed that the terms of the Agreement dated April 5, 1957, between the State of Geneva and BIRPI would also apply to the Union and its officials.

## II. Activities of UPOV since the Entry into Force of the Convention

Since the entry into force of the Convention on August 10, 1968, the Council of UPOV has met in three sessions: in Paris in November, 1968, in Berne in February, 1969, and, as mentioned above, in Geneva in October, 1969.

In accordance with Article 17 of the Convention, States which had signed but not yet ratified the Convention were invited as observers to the meetings of the Council. In response to this invitation, delegates of Belgium, France and Switzerland participated in the three sessions of the Council, and a delegate of Italy attended the first session.

In addition, by a decision of the Council at its first session, participation in an observer capacity was invited from States which had shown an interest in becoming party to the Convention but which had not signed it; in response to this invitation, delegates of the following States participated in the following sessions of the Council: Finland, Norway and Sweden (the first, second and third sessions); Spain (the first and third sessions), Luxembourg (the first session) and Israel (the third session).

First session - At its first session, held in Paris on November 26 and 27, 1968, the Council unanimously elected Mr. L.J. Smith, Controller, The Plant Variety Rights Office, United Kingdom, as President of the Council for the period of three years provided in Article 18 of the Convention, and Mr. J.E. van Leeuwen, Deputy Director General, Ministry of Agriculture of the Netherlands, as Vice-President for one year. At the same session, the Council noted that certain Technical Working Parties had, even before the entry into force of the Convention, begun to study questions of the application of the Convention, and requested these Working Parties to continue their activities pending their official establishment as subsidiary bodies of the Council.

Second session - At its second session, held in Berne on February 11 and 12, 1969, the Council invited the attendance of the Director of BIRPI for a discussion of technical and administrative cooperation in accordance with Article 25 of the Convention, and, following discussion with him, appointed on a temporary basis a consultative Working Committee consisting of the President and the Vice-President and the delegates from the remaining Member States of the Union,

Mr. H. Skov (Denmark) and Professor L. Pielen and Dr. Böringer (Federal Republic of Germany). Also at its second session, the Council approved the continuation of the activity of a Working Committee on the Nomenclature of Plant Varieties, under the chairmanship of Dr. Böringer, and established five Technical Working Parties for Self-fertilized crops, Cross-fertilized crops, Horticultural vegetable crops, Fruit crops, and Decorative plants.

Between the second and third sessions of the Council, the consultative Working Committee referred to above met in Geneva on June 27 and October 7, 1969. It prepared advice to the Council upon administrative matters, including the rules to be established under Article 25 of the Convention by the Government of the Swiss Confederation for procedures for technical and administrative cooperation with BIRPI, the administrative and financial regulations of UPOV to be adopted by the Council under Article 20(2) and the selection of a person to be proposed by the Council under Article 23(3) for appointment by the Government of the Swiss Confederation as Vice-Secretary-General.

Third session - The third session of the Council took place at the headquarters of BIRPI in Geneva on October 8 and 9, 1969.

On the basis of proposals prepared by the consultative Working Committee with the advice of the Government of the Swiss Confederation as supervisory authority of UPOV and with the agreement of the Director of BIRPI, the Council adopted the administrative and financial regulations of UPOV, recorded its agreement to the draft rules to be established by the Government of the Swiss Confederation for technical and administrative cooperation with BIRPI and proposed accordingly to the Government of the Swiss Confederation the appointment of the Director of BIRPI as Secretary-General. The Council was unable to make a definite proposal for the appointment of the Vice-Secretary-General.

Mr. van Leeuwen was re-elected Vice-President of the Council for the period of two years from November 25, 1969.

The Council approved the programs and budgets of UPOV for 1969 and 1970. Provision for a Working Capital Fund having been included in the Financial Regulations of UPOV, the Council decided to devote a substantial proportion of the contributions received for the year 1969 to the establishment of that Fund.

The Council received reports from its Working Party on Nomenclature and from the other Technical Working Parties, and authorized the continuation of their work. From reports made by the observers from non-member States, the Council noted that there were reasonable prospects of ratification of the Convention by Belgium and by France before the end of 1970 and by Switzerland in 1971, and of accession to the Convention by Israel.

Geneva May 5 , 1970



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G.H.C. Bodenhausen  
Secretary-General