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UPOV/C/VI/7
Original: English
Date: September 1, 1972

UPOV

INTERNATIONALER VERBAND
ZUM SCHUTZ VON
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE
POUR LA PROTECTION
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION
FOR THE PROTECTION OF
NEW PLANT VARIETIES

COUNCIL

Sixth Session

(Geneva, November 8 and 9, 1972)

ADMINISTRATIVE AND FINANCIAL REGULATIONS

REPORT BY THE SECRETARY GENERAL

1. It is recalled that the Council, at its fourth session held in Geneva on October 28 and 29, 1970, after consulting the Swiss Government and in accordance with Article 20 of the International Convention for the Protection of New Varieties of Plants, adopted the Administrative and Financial Regulations as set forth in Annexes A and B to document UPOV/C/IV/5 dated August 28, 1970 (see paragraph 13 of document UPOV/C/IV/17).

2. Article 20(2) and (3) of the Convention provides that:

"(2) The Council shall adopt the administrative and financial regulations of the Union, after having consulted the Government of the Swiss Confederation. The Government of the Swiss Confederation shall be responsible for ensuring that the regulations are carried out.

"(3) A majority of three-quarters of the Member States of the Union shall be required for the adoption of such regulations and any amendments to them."

3. Article 1 of the Administrative Regulations provides that:

"The Administrative Regulations of the International Union for the Protection of New Plant Varieties shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Staff Regulations (hereinafter referred to as "the Regulations") and the Staff Rules (hereinafter referred to as "the Rules") of the United International Bureaux for the Protection of Intellectual Property (BIRPI), as established on October 21, 1969, including all subsequent amendments to such Regulations and such Rules."

4. Article 1 of the Financial Regulations provides that:

"The Financial Regulations of the International Union for the Protection of New Plant Varieties (UPOV) (hereinafter referred to as "the present Regulations") shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Financial Regulations of the United International Bureaux for the Protection of Intellectual Property (BIRPI) and the Rules Implementing the Financial Regulations of BIRPI (hereinafter referred to as "the Regulations" and "the Rules" respectively), as established on October 21, 1969, including all subsequent amendments to such Regulations and such Rules."

5. Reference is made to paragraph 5 of the above-mentioned document UPOV/C/IV/5, which contains the following statement:

"Attention is being drawn to the fact that by virtue of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, BIRPI will disappear sooner or later to be succeeded by WIPO, and that, consequently, the Administrative and Financial Regulations will have to be changed accordingly at some later date."

6. The WIPO Convention entered into force in April 1970, and the WIPO Staff Regulations and Rules were adopted with effect from September 29, 1970. By decision of the Swiss Government, taken on November 9, 1970, the BIRPI Staff Regulations and Rules were abrogated with retroactive effect from September 29, 1970. It is to be noted that the contents of the WIPO Staff Regulations and Rules are identical with those of BIRPI except for certain provisions which were modified in order to bring them fully into line with the legal structure of WIPO.

7. In the circumstances, the basic relationship established with BIRPI in the Administrative Regulations of UPOV should be changed to refer to WIPO, as shown in Annex I to the present document. This is also necessary in order to make any amendments adopted within the framework of the WIPO Staff Regulations and Rules applicable to UPOV staff. In this connection, it should be noted that since October 1970 various amendments have been adopted, either to improve certain specific regulations (on the basis of the UN common system) or in order to adapt the salary scales and allowances to changes in the cost of living and in currency rates of exchange.

8. WIPO documents WO/CC/II/4 (paragraphs 15 to 28), WO/CC/II/8, WO/CC/II/10 and WO/CC/III/5 contain details regarding the above-mentioned amendments.

9. The Financial Regulations and Rules of BIRPI have not been abrogated. Instead of abrogating formally these Regulations and Rules, the competent bodies of WIPO decided in 1970 that "the Financial Regulations of BIRPI and the Rules implementing the Financial Regulations shall be applied until a new decision is made, mutatis mutandis and subject to the provisions of the WIPO Convention and the Stockholm Acts of the Paris and Berne Conventions and the Nice Agreement." (For further information reference is made to WIPO/BIRPI document AB/I/5, paragraphs 1 to 6.)

10. A new decision is likely to be made in the course of 1973, and in order to cover both the existing BIRPI/WIPO Financial Regulations and Rules and the future WIPO Regulations and Rules it is proposed that the Financial Regulations of UPOV refer to the Financial Regulations and Rules applied by WIPO.

11. Experience has shown that it is extremely difficult to meet the deadlines set in Articles 2 (August 1 for the budget), 3 (July 1 for the management report) and 4 (June 1 for the final accounts) of the Financial Regulations for presentation to the Council, and that an extension of at least one month would be desirable. For practical reasons it is proposed that the same date should apply to all three documents, which means that the latest date would apply to all. This date would be September 1.

12. After the establishment of the Staff Regulations and Staff Rules of WIPO the Secretariat of UPOV has interpreted Article 1 of the Administrative Regulations in the sense that the reference to the BIRPI Regulations and Rules should be understood to cover also the WIPO Regulations and Rules including subsequent amendments of these Regulations and Rules.

12. The Council is invited to:

- (i) adopt the amendments to the Administrative Regulations of UPOV contained in Annex I to this document;
- (ii) adopt the amendments to the Financial Regulations of UPOV contained in Annex II to this document;
- (iii) approve the interpretation of Article 1 of the Administrative Regulations of UPOV as set forth in paragraph 12 above.

Note: In accordance with Article 20(2) of the Convention for the Protection of New Varieties of Plants this document is being submitted to the Government of the Swiss Confederation at the same time as it is being circulated to the Council.

/End of document;
Annexes follow/

Proposed Amendments to the
Administrative Regulations of UPOV

The Administrative Regulations of UPOV as adopted by the Council of UPOV on October 28 and 29, 1970 (Annex A to document UPOV/C/IV/5), shall be amended as follows:

Ad Article 1

The initials "BIRPI" in the heading shall be replaced by "WIPO."

The words "the United International Bureaux for the Protection of Intellectual Property (BIRPI), as established on October 21, 1969" shall be replaced by:

"the World Intellectual Property Organization (WIPO), as established on September 29, 1970."

Ad Article 3

The words "the Director of BIRPI" shall be replaced by:

"the Director General of WIPO."

/End of Annex I;
Annex II follows/

Annex II to document UPOV/C/VI/7

Proposed Amendments to the
Financial Regulations of UPOV

The Financial Regulations of UPOV, as adopted by the Council of UPOV on October 28 and 29, 1970 (Annex B to document UPOV/C/IV/5), shall be amended as follows:

Ad Article 1

The initials "BIRPI" in the heading shall be replaced by "WIPO."

The text after "the following articles," shall read as follows:

"of the Financial Regulations applied by the World Intellectual Property Organization (WIPO) and the Rules implementing the said Regulations (hereinafter referred to as "the Regulations" and "the Rules" respectively), including all subsequent amendments to such Regulations and such Rules."

Ad Article 2

The words "By August 1" shall be replaced by:

"By September 1."

Ad Article 3

The words "Within six months" shall be replaced by:

"Within eight months."

Ad Article 4

Paragraph (a) shall read as follows:

"Within six months after the end of each financial period, the Secretary General shall submit the UPOV final accounts to the Government of the Swiss Confederation in its capacity as Supervisory Authority. Within eight months the Secretary General shall submit the final accounts and the audit report of the Government of the Swiss Confederation to the Council of UPOV."

In paragraph (b) the words "Interunion Coordination Committee of BIRPI" shall be replaced by:

"Coordination Committee of WIPO."

/End of Annex II
and of document/