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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Ninth Ordinary Session
Geneva, October 7 to 10, 1975**PROGRESS REPORT ON THE WORK OF THE COMMITTEE OF EXPERTS
ON THE INTERPRETATION AND REVISION OF THE CONVENTIONprepared by the Office of the Union

1. The Committee of Experts on the Interpretation and Revision of the Convention, hereinafter referred to as "the Committee," has held one session so far, from February 25 to 28, 1975. It studied the proposals for amendments to the Convention made by the representatives of member and non-member States and of international non-governmental organizations in preparation for and in the course of the meeting between member and non-member States held from October 21 to 23, 1974. The proposals made by the representatives of member States during the ninth session of the Consultative [Working] Committee were also examined.
2. The Committee approved some of the proposals, while others, it decided, should be considered during, or in the light of, the planned mission of a UPOV delegation to Canada and the United States of America. There was a third group of proposals which the Committee was unable to approve. With regard to a fourth group of proposals, it was agreed that the discussion should continue on the basis of further information to be received.
3. The Committee agreed, in accordance with the decision of the tenth session of the Consultative [Working] Committee (document UPOV/WC/X/9, paragraph 29), to hold its second session from December 2 to 5, 1975. That session would mainly be devoted to the reporting and the discussion on the outcome of the visit of the UPOV delegation to Canada and the United States of America. The invitation to that session will be restricted to member States and signatory non-member States, in accordance with the decision taken by the Consultative Committee during its eleventh session (see document CC/XI/9, paragraph 13).
4. Pursuant to a decision taken by the Consultative Committee at its eleventh session (document CC/XI/9 paragraph 13), a third session of the Committee will take place from February 17 to 20, 1976. The following non-member States and international non-governmental organizations have been invited to be represented by observers at that session: Australia, Austria, Canada, Czechoslovakia, Finland, Hungary, Japan, Kenya, New Zealand, Norway, Poland, Spain, United States of America; International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Community of Breeders of Asexually Reproduced Ornamentals (CIOPORA) and International Federation of the Seed Trade (FIS). According to the wish expressed

by the Consultative Committee, a tentative list of items to be discussed during the third session has been mailed to those States and organizations, together with the letters of invitation. That list appears in the Annex to this document.

5. The Council is invited
to take note of the past work of the
Committee and approve the envisaged
continuation of the activities of the
Committee as described above.

[Annex follows]

TENTATIVE LIST OF ITEMS TO BE DISCUSSED DURING THE THIRD SESSION
OF THE COMMITTEE OF EXPERTS ON THE INTERPRETATION AND REVISION OF
THE CONVENTION

prepared by the Office of the Union

The following proposals are likely to be discussed during the third session of the Committee of Experts on the Interpretation and Revision of the Convention:

1. Proposal to delete the second sentence of Article 2, paragraph (1), according to which member States are not allowed to provide for the protection of new varieties of plants belonging to the same botanical genus or species under both possible forms of protection (special title or patent).
2. Proposal to provide in Article 5, paragraph (1), that breeders of asexually reproduced plants are also protected against unauthorized reproduction of the protected variety for purposes other than commercial marketing of the propagating material as such.
3. Proposal to allow member States, under Article 6, paragraph (1), to introduce in their national law a period of grace of one year during which the variety can be commercialized without prejudice to its novelty.
4. Proposals concerning the four-year period in Article 6, paragraph (1)(b), during which a variety can have been commercialized in another country without affecting the novelty in the country of the application; proposal to extend this period for species falling under Article 8, paragraph (1), third sentence, i.e., species for which the minimum period of protection is 18 years.
5. Proposal to include in Article 6 a provision expressly stating that release of seed or other propagating material for purposes of experimentation is not considered as commercial use, and a provision to ensure preliminary protection in the case of release of seed or other propagating material for purposes of experimentation before an application is filed.
6. Proposal to clarify the meaning of the words "important characteristics" in Article 6, paragraph (1)(a).

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7. Proposal to examine the question whether the examination mentioned in Article 7, paragraph (1), has to comprise in every case growing tests or whether equivalent methods are admissible, and the question whether new member States should be admitted which do not perform growing tests as part of the examination, and under what conditions.

8. Proposal to abandon the four-year period provided for in Article 12, paragraph (3), during which an applicant who has claimed the priority of a former application in another member State can furnish plant material in the State of the subsequent filing. Proposal to extend the period of priority to two years.

9. Proposal to leave it to the national laws of member States to provide the necessary rules for variety denominations and the relationship between variety denominations and trademarks. Other proposals concerning variety denominations.

10. General discussion of the question whether, as a medium term project, work should be started on the draft of a special agreement under which applications for the protection of plant varieties can be filed with the national office of one Contracting State with effect for other Contracting States, and under certain conditions, the national office of one Contracting State can grant plant breeders' rights with effect for other Contracting States. It is understood that such special agreement would require ratification by the Contracting States.

[End of Annex and of document]