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UPOV

C/IX/5

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

GENEVA

## COUNCIL

**Tenth Ordinary Session  
Geneva, October 13 to 15, 1976**PROGRESS REPORT ON THE WORK OF THE COMMITTEE OF  
EXPERTS ON INTERNATIONAL COOPERATION IN EXAMINATIONprepared by the Office of the Union

1. Since the ninth ordinary session of the Council, the Committee of Experts on International Cooperation in Examination (hereinafter referred to as "the Committee") has held two sessions: the fourth session, on November 4 and 5, 1975, and the fifth session, on May 5 and 6, 1976. The respective reports are contained in documents ICE/IV/4 and ICE/V/4, whereas the work carried out by the Committee in earlier sessions is described in document C/IX/5.

2. The Committee mainly concentrated on the following subjects: mutual information facilitating the application of the UPOV Model Agreement for International Cooperation in the Testing of Varieties adopted by the Council at its ninth ordinary session; harmonization of the application forms; harmonization of fees.

Mutual Information Facilitating the Application of the UPOV Model Agreement for International Cooperation in the Testing of Varieties

3. The Committee improved the list of offers of cooperation in examination. At its fourth session, the Committee agreed that making an "offer" for a certain species meant that the offering authority invited other authorities to enter into negotiations for the conclusion of bilateral agreements under which the offering authority would examine the varieties of that species on behalf of the other authorities. It was stressed, however, that the absence of an offer did not imply the impossibility of concluding such agreements.

4. The list of offers of cooperation will be contained in document C/X/6, indicating also the eligibility for protection of the species (and other botanical units) in the member States.

5. At both sessions, reports were delivered by the experts on the bilateral agreements concluded or in preparation. A synopsis of these agreements will appear in document C/X/7, Annex I. At the fifth session, it was decided to establish a table indicating the species for which examination reports established by the authorities of one State had been or were to be accepted by the authorities of another State and the number of such examination reports. This table, which will show the great importance of the exchange of examination reports, will be given in document C/X/7, Annex II.

6. The Committee will continue these activities at its forthcoming sessions.

Harmonization of Application Forms

7. The Committee continued its work on the harmonization of the forms which the applicants for plant breeders' rights have to fill in. Two forms are of particular importance: the application form for plant breeders' rights and the application form for a variety denomination. At its fifth session the majority of the Committee decided that the forms drawn up by the Committee should constitute UPOV model forms. The draft UPOV Model Form for the Application for Plant Breeders' Rights and the draft UPOV Model Form for the Application for a Variety Denomination established by the Office of the Union on the basis of the discussions at the Committee's fifth session have been sent to the members of the Committee and to the international non-governmental organizations in the field of plant breeding and the seed trade for comments. They will be reproduced, together with the comments received by the Office of the Union, in document ICE/VI/2.

8. The Committee furthermore agreed to present these forms and the comments to the Council and to ask it to adopt a recommendation on the following lines:

(i) When reissuing their national application forms, member States should follow the UPOV Model Form for the Application for Plant Breeders' Rights. They should use the same wording for the items and the same numbering, but would be free to use a different size, form and layout, to delete parts of the items and to insert additional items at the end of the form. They would also be free to phrase the final statement according to their national needs.

(ii) The member States would be free to draft the explanatory notes on the application form according to their differing legal requirements.

(iii) The same would apply mutatis mutandis to the UPOV Model Form for the Application for a Variety Denomination in cases where a special form is used by a member State.

Harmonization of Fees

9. The Committee continued its work on the harmonization of fees, which was considered a prerequisite for the achievement of cooperation on a broad scale. At its fourth session, the Committee agreed to report to the Council that the delegates of five of the six member States had agreed that a fee of between 1,000 and 1,200 Swiss francs for two years of examination of wheat varieties was reasonable and could be recommended as an indicative figure. At its fifth session, the same majority agreed that this indicative figure should not be restricted to wheat only. It was mentioned, however, that this figure could not be generally recommended for all species since not only did the costs of examination differ from species to species but also breeders of varieties of some minor species could not be expected to pay testing fees of the amount indicated.

10. The Committee will continue its work on the harmonization of fees, in particular of testing fees, at its forthcoming sessions.

Possibility of Introducing a Multilateral System for Cooperation in Examination

11. Mainly as a result of developments in the field of patents where an international system of close cooperation (Patent Cooperation Treaty (PCT)) and a European patent system (European Patent Convention) are about to be realized, the question has been raised whether work should be started on the introduction of multilateral system of cooperation in the field of the protection of plant breeders' rights. The Committee decided, at its fourth session, to approach this aim on a step-by-step basis and first to gather experience on the cooperation to be established under bilateral agreements between the authorities of member States. It was agreed that this question had to be reconsidered in future sessions of the Committee.

12. The Committee is invited

(i) to take note of the Committee's past work and approve the envisaged continuation of its activities as described above;

(ii) to approve the UPOV Model Form for the Application for Plant Breeders' Rights and the UPOV Model Form for the Application of a Variety Denomination and to issue a recommendation that they be used by member States as a basis for their national forms;

(iii) to take note of the agreement reached by five of the six member States that a fee of between 1,000 and 1,200 Swiss francs for the examination of wheat varieties and varieties of certain other species could be recommended as an indicative figure

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