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**UPOV**

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# INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

**COUNCIL**

## Fifteenth Ordinary Session Geneva, November 10 to 12, 1981

### CERTAIN CONSEQUENCES OF THE ENTRY INTO FORCE OF THE REVISED ACT OF 1978 OF THE UPOV CONVENTION

Memorandum prepared by the Office of the Union

#### Relations among member States

1. With the entry into force of the Revised Act of 1978 of the UPOV Convention, on November 8, 1981, the following situation will exist:

(i) The following nine States will be member States of the Union bound only by the Convention of December 2, 1961, as revised by the Additional Act of November 10, 1972 ("Convention of 1961/1972"):

Belgium	Netherlands
Germany (Federal Republic of)	Spain
France	Sweden
Israel	United Kingdom
Italy	

(ii) The following three States will be member States of the Union bound by the Convention of 1961/1972 and by the Revised Act of 1978:

Denmark  
South Africa  
Switzerland

(iii) The following three States will be member States of the Union bound only by the Revised Act of 1978:

Ireland  
New Zealand  
United States of America

2. According to Article 34 of the Revised Act of 1978, the States mentioned under paragraph 1(i) will continue to apply the Convention of 1961/1972 amongst each other and in relation to the States mentioned under paragraph 1(ii).

Any of those States mentioned under paragraph 1(i) may declare, in a notification addressed to the Secretary-General, that it will apply the Convention of 1961/1972 in its relations with any State mentioned under paragraph 1(iii). As from the beginning of one month after the date of such notification, that State has to apply the Convention of 1961/1972 also in its relations with any of the States mentioned under paragraph 1(iii).

3. The States mentioned under paragraph 1(ii) shall, in their relations with the States mentioned under paragraph 1(i), continue to apply the Convention of 1961/1972. They shall apply the Revised Act of 1978 in their relations with the States mentioned under paragraph 1(iii).

4. The States mentioned under paragraph 1(iii) shall apply the Revised Act of 1978 amongst each other, in their relations with the States mentioned under paragraph 1(ii) and in their relations with any State mentioned under paragraph 1(i) which has addressed the declaration, mentioned in the second sentence of paragraph 1 above, to the Secretary-General.

5. It should be recalled that there is only one Council and one Office of the Union for all member States. (See paragraph 21 ad f. of the report by Dr. Skov on the preparatory work for the Diplomatic Conference (document DC/3, Annex II): "In this connection it should be mentioned that, according to established practice, the member States constitute one Union, that is a single entity from the administrative point of view, with the consequence that there is only one Council, one budget and one set of accounts, and there is not a separate administration for each separate Act of the Convention, although the member countries are bound by different Acts and pay their contributions on the basis of these different Acts").

6. The States mentioned under paragraph 1(i) above are invited to inform the Council regarding their intention to address to the Secretary-General the notification referred to in paragraph 2 above.

#### Administrative Questions

7. Article 20 of the Revised Act of 1978 calls for the establishment of Rules of Procedure of the Council and of Administrative and Financial Regulations of the Union.

8. UPOV will have to reach agreement with WIPO regarding the technical and administrative cooperation which will replace the present "Rules of Procedure for Technical and Administrative Cooperation between the Union for the Protection of New Varieties of Plants and the World Intellectual Property Organization."

9. Article 24(3) of the Revised Act of 1978 calls for the conclusion of a Headquarters Agreement with the Swiss Confederation.

10. It is proposed that the rules referred to under paragraphs 7 to 9 above be considered by the Council of UPOV in 1982 after due preparation by the Office of the Union.

11. Under Article 35(2) of the Revised Act of 1978, the Secretary-General must publish certain information. It is proposed to establish a part of the UPOV Newsletter as the official Gazette of UPOV in which such information can be published. From the beginning of 1982 the UPOV Newsletter shall have the title "UPOV Gazette and Newsletter." The Gazette part which contains official information will be clearly separated from the Newsletter part.

12. The Council is invited to approve the proposals contained in paragraphs 10 and 11 above.