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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Sixteenth Ordinary Session
Geneva, October 13 to 15, 1982**AGREEMENTS, REGULATIONS AND RULES
UNDER THE 1978 TEXT OF THE UPOV CONVENTION

RULES OF PROCEDURE OF THE COUNCIL

Memorandum of the Secretary-General

1. The Council, at its fifteenth ordinary session in November 1981, asked the Consultative Committee to consider at its twenty-fifth session in April 1982 drafts of the instruments necessary as a consequence of the entry into force of the Revised Act of 1978 of the UPOV Convention (hereinafter referred to as "the 1978 Act"). One of these instruments consists of the draft Rules of Procedure of the Council according to Article 20 of the 1978 Act. (Cf. document C/XV/11, paragraphs 7 and 10, and document C/XV/16, paragraph 16.)

2. The Consultative Committee, at its twenty-fifth session in April 1982, considered a draft of the said Rules which had been prepared by the Secretary-General. It decided that a number of provisions of the draft be amended and asked the Secretary-General to circulate a revised draft to the member States at least two months before the October 1982 sessions of the Consultative Committee and the Council and to place the item on the draft agendas of the said sessions. The new draft of the Rules of Procedure of the Council is attached to this document.

3. The Council is invited to adopt its new Rules of Procedure.

[Annex follows]

RULES OF PROCEDURE
OF THE
COUNCIL OF THE INTERNATIONAL UNION
FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Rule 1: Representatives of Member States in the Council

(1) Whenever a State becomes a member of the International Union for the Protection of New Varieties of Plants (hereinafter referred to as "UPOV"), it shall notify the name of its representative and the name of its alternative representative in the Council of UPOV (hereinafter referred to as "the Council") to the Secretary-General of UPOV (hereinafter referred to as "the Secretary-General").

(2) Whenever a State wishes to replace its representative or alternative representative in the Council, it shall notify the name of the new representative or alternative representative to the Secretary-General.

Rule 2: Observers and Experts in Meetings of the Council

(1) Observers and experts referred to in Article 17(2) of the International Convention for the Protection of New Varieties of Plants as revised on October 23, 1978, (hereinafter referred to as "the UPOV Convention") shall be invited by the Secretary-General to meetings of the Council with the previous authorization of the Council. Such authorizations shall be given in sessions of the Council or in writing, in reply to a written suggestion of the Secretary-General addressed to each representative of the member States of UPOV. In the latter case, the authorization shall be considered as obtained if the suggestion is accepted by at least the majority of the representatives.

(2) Invitations referred to in paragraph (1) may be limited to given sessions of the Council or to the discussions of given agenda items or both.

Rule 3: Term of Office of the President and Vice-Presidents of the Council

(1) The three years referred to in Article 18(2) of the UPOV Convention shall mean the period between the end of the ordinary session of the Council in which the President of the Council was elected until the end of the ordinary session of the Council held in the calendar year which is the third after the calendar year in which the President has been elected.

(2) The term of office of the First Vice-President, and that of possible further Vice-Presidents, referred to in Article 18(1) of the UPOV Convention, shall be three years, and the provisions of paragraph (1), above, shall apply, mutatis mutandis.

(3) The outgoing President of the Council shall not be immediately eligible for re-election to the post of President of the Council. The outgoing First Vice-President shall not be immediately eligible for re-election to the post of first Vice-President.

Rule 4: Convocation of Sessions of the Council

(1) The convocation, referred to in Article 19(1) and (2) of the UPOV Convention, of any ordinary or extraordinary session of the Council shall be effected, subject to paragraph (3), below, by a written notification emanating from the Secretary-General sent on the instruction of the President of the Council or the person replacing him according to Article 7(2) to (5).

(2) Subject to paragraph (3), below, the convocation of a session of the Council shall be notified at least two months in advance of the starting date of the session convened and will be accompanied by a draft agenda and, as far as possible, by the preparatory documents prepared by the Office of UPOV.

(3) In the event of urgency, the Council may be convened with a notice of less than two months.

(4) Where a session is convened with a notice of less than two months, the Council's decisions shall require that they be made without a dissenting vote.

Rule 5: Agenda of Sessions of the Council

(1) The Secretary-General shall prepare the draft agenda for any ordinary session of the Council.

(2) The draft agenda of any extraordinary session shall consist of the item or items indicated by the President of the Council or the person replacing him according to Article 7(2) to (5) where that session is convened on his initiative, and shall consist of the item or items indicated by the member States on whose request the session is convened where it is convened on the initiative of such States.

(3) Any State member of UPOV or the Secretary-General may request the inclusion of supplementary items on the draft agenda transmitted with the convocation. Any such request by a member State shall reach the Secretary-General not later than one month before the date fixed for the opening of the session. The Secretary-General shall modify the draft agenda accordingly and shall immediately notify the States members of UPOV of the modified draft agenda.

(4) The Council shall adopt its agenda at the first meeting of the session. It may add items to the items referred to in paragraphs (1) to (3), above.

(5) During the sessions, the Council may change the order of the items on its adopted agenda, add new items to the adopted agenda or delete any item from the adopted agenda.

(6) In respect of agenda items which were added to the draft agenda or adjusted agenda under paragraphs (4) or (5), above, the Council's decisions shall require that they be made without a dissenting vote.

Rule 6: Quorum

In any session of the Council, one third of the States members shall constitute a quorum, provided that the quorum shall be one half of the States members when a matter is considered in respect of which, according to Article 22 of the UPOV Convention, decision requires three-fourths of the votes of the members present and voting.

Rule 7: Presiding Over the Meetings of the Council

(1) Subject to paragraphs (2) and (3), all meetings of the Council shall be presided over by the President of the Council.

(2) Where the President of the Council is unable to officiate, the First Vice-President of the Council shall preside over the meetings of the Council.

(3) Where the First Vice-President is unable to officiate and one further Vice-President has been elected, he shall preside over the meetings of the Council.

(4) Where the First Vice-President is unable to officiate and several further Vice-Presidents have been elected, the oldest in age among them and able to officiate shall preside over the meetings of the Council.

(5) Where none of the Vice-Presidents of the Council is able to officiate, the Council shall elect an ad hoc President of the Council, and the latter shall preside over the meetings of the Council.

(6) References, in Rules 9 to 34, to "the chairman" shall be understood as references to the President of the Council or, where he is unable to officiate, the person who presides in his stead according to paragraph (2) to (5), above.

Rule 8: Secretariat

The Vice Secretary-General of UPOV shall act as secretary of the Council.

Rule 9 : General Powers of the Chairman

(1) The chairman shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to vote, and announce decisions.

(2) He shall rule on points of order and shall have complete control of the proceedings and over the maintenance of order thereat.

(3) He may propose limiting the time to be allowed to each speaker, limiting the number of times each delegation may speak on any question, closing the list of speakers, and closing the debate.

(4) He may propose the suspension or adjournment of the debate on the question under discussion, or the suspension or adjournment of the meeting.

Rule 10: Points of Order

(1) In the course of a debate, any delegation may raise a point of order. It may not speak at the same time on the substance of the matter under discussion.

(2) Such points of order shall be immediately decided by the chairman.

(3) Any delegation may appeal against the ruling of the chairman. The appeal shall be immediately put to the vote and the chairman's ruling shall stand unless overruled by a majority of the delegations.

Rule 11: Right to Speak

(1) No person may speak without having previously obtained the permission of the chairman.

(2) The chairman shall call upon speakers in the order in which they signify their desire to speak. The secretariat shall be responsible for drawing up a list of such speakers.

(3) The Secretary-General, or a staff member of the Office of the Union designated by him, may at any time, with the approval of the chairman, make statements on any subject under discussion.

(4) The chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 12: Limitation of the Number and Length of Speeches

(1) The Council may limit the number of times each delegation may speak on any question and the time to be allowed to each delegation.

(2) The chairman may limit the time to be allowed to any person speaking on the adjournment or closure of a debate, proposing the suspension or adjournment of the meeting, speaking on the reconsideration of proposals already adopted or rejected, or explaining the vote of his delegation.

(3) When a speaker exceeds the time allotted to him, the chairman shall call him to order without delay.

Rule 13: Closing of List of Speakers

(1) During the discussion of any matter, the chairman may announce the list of speakers and, with the consent of the meeting, declare the list closed.

(2) He may, however, accord the right of reply if a speech delivered after he has declared the list closed makes it desirable.

Rule 14: Adjournment or Closure of Debate

(1) During the course of a meeting, any delegation may move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has signified his wish to speak.

(2) Such motion shall be immediately debated. In addition to the delegation proposing the motion, one other delegation may speak in favor of the motion, and two against it, after which the motion shall immediately be put to the vote.

(3) If the Council is in favor of the adjournment or closure, the chairman shall immediately declare the debate adjourned or closed.

Rule 15: Suspension or Adjournment of the Meeting

(1) During the course of a meeting, any delegation may move its suspension or adjournment.

(2) Such motions shall not be debated, but shall immediately be put to the vote.

Rule 16: Order of Procedural Motions

Subject to the provisions on points of order, the following motions shall have precedence, in the order indicated below, over all other proposals or motions before the meeting:

- (i) to suspend the meeting,
- (ii) to adjourn the meeting,
- (iii) to adjourn the debate on the question under discussion,
- (iv) to close the debate on the question under discussion.

Rule 17: Proposals by Delegations

(1) Proposals for the adoption of amendments to the drafts submitted to the Council, and all other proposals, may be submitted orally or in writing by any delegation.

(2) The Council may decide to debate and vote on a proposal only if it is submitted in writing.

(3) Unless it decides otherwise, the Council shall discuss or vote on a written proposal only if it has been translated and distributed in the languages in which the documents of the Council concerned must be submitted.

Rule 18: Withdrawal of Proposals

(1) A proposal may be withdrawn by the delegation which has made it at any time before voting on it has commenced, provided that it has not been amended.

(2) A proposal thus withdrawn may be immediately reintroduced by any other delegation.

Rule 19: Reconsideration of Proposals Adopted or Rejected

(1) When a proposal has been adopted or rejected, it may not be reconsidered unless the Council so decides by a two-thirds majority.

(2) In addition to the delegation proposing the motion to reconsider, one other delegation may speak in favor of the motion, and two against it, after which the motion shall immediately be put to the vote.

Rule 20: Observers and Experts

(1) Observers and experts may take part in debates at the invitation of the chairman.

(2) They may not submit proposals, amendments or motions, and have no right to vote.

Rule 21: Voting

Proposals and amendments, submitted by a delegation shall be put to the vote only if they are supported by at least one other delegation.

Rule 22: Method of Voting in General

Voting shall normally be by a show of hands.

Rule 23: Voting by Roll-Call

(1) Voting shall be by roll-call:

(i) if, when the result of a vote by show of hands is in doubt, the chairman so decides;

(ii) if at least two delegations so request, either before voting takes place or immediately after a vote by show of hands.

(2) The roll shall be called in the alphabetical order of the names in French of the States represented, beginning with the delegation whose name is drawn by lot by the chairman.

(3) When voting is by roll-call, the vote of each delegation shall be recorded in the report on the session.

Rule 24: Voting by Secret Ballot

(1) All elections and decisions concerning States or individuals shall be voted on by secret ballot if at least two delegations so request.

(2) Voting by secret ballot is governed by special regulations, which form the annex to the present Rules of Procedure and are an integral part thereof.

Rule 25: Conduct During Voting

After the chairman has announced the beginning of voting, no one shall interrupt the voting except on a point of order in connection with the actual conduct of such voting.

Rule 26: Division of Proposals and Amendments

(1) Any delegation may move that parts of a proposal or of an amendment be voted upon separately.

(2) If a delegation opposes such motion, permission to speak on the subject shall be given only to one delegation in favor and two delegations against, after which the motion shall be put to the vote.

(3) If the motion for division is carried, all parts of the proposal or of the amendment, separately approved, shall again be put to the vote together as a whole.

(4) If all the operative parts of the proposal or of the amendment have been rejected,, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 27: Voting on Proposals

If two or more proposals relate to the same question, the Council shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted.

Rule 28: Voting on Amendments

(1) When an amendment to a proposal is moved, the amendment shall be voted on first. A motion is considered an amendment to a proposal if it adds to, deletes from, or revise part of, that proposal.

(2) When two or more amendments to a proposal are moved, they shall be put to the vote in the order in which their substance is more removed from the proposal. If, however, the adoption of any amendment necessarily implies the rejection of any other amendment or of the original proposal, such amendment or proposal shall not be put to the vote.

(3) If one or more amendments are adopted, the proposal as amended shall be put to the vote.

Rule 29: Election for a Single Post

When a single elective place is to be filled and none of the candidates obtains the required majority in the first ballot, additional ballots shall be taken which shall be restricted to the two candidates having obtained the greatest number of votes.

Rule 30: Election for Several Posts

(1) When several elective places are to be filled at one time and in the same conditions, the officers or a nominations committee set up for the purpose may submit to the Council a list containing a number of candidates equal to that of the places to be filled. The procedure provided for in paragraph (2), below, shall be applied if the Council does not unanimously accept the list thus proposed.

(2) When several elective places are to be filled at one time and in the same conditions, those candidates obtaining the required majority in the first ballot shall be elected. If the number of candidates obtaining such majority is less than the number of places to be filled, there shall be additional ballots to fill the remaining places. The voting shall then be restricted to the candidates obtaining the greatest number of votes in the previous ballot, up to a number which shall not, however, be more than twice the number of places remaining to be filled.

Rule 31: Required Majority

Unless expressly provided otherwise in the UPOV Convention or in the present Rules of Procedure, all decisions shall require a simple majority.

Rule 32: Majority and Unanimity; Equally Divided Votes

(1) In determining whether the required majority or unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered votes.

(2) When, on matters other than elections which require a simple majority, a vote is equally divided, the proposal or amendment shall be considered rejected.

Rule 33: Explanations of Votes Cast

(1) The chairman may allow delegations to explain their votes, either before or after the voting takes place, unless the vote is taken by secret ballot.

(2) Explanations of votes cast shall be recorded in the report on the session.

Rule 34: Chairmen Not Entitled to Vote

(1) No chairman shall vote.

(2) Another member of the delegation of the chairman may vote for the State the chairman represents.

Rule 35: Reports on Sessions of the Council

(1) Before the last meeting of any session of the Council, the Office of UPOV shall draw up a draft report on the decisions made in that session by the Council, and the Council shall, in its closing meeting, adopt said report.

(2) After the closing of any session of the Council, the Office of UPOV shall draw up a draft report on the discussions that took place in that session and shall mail it to each participant in that session with a request for approval or suggestions for modifications within thirty days. If there are suggestions for modifications, the draft report shall be submitted for approval to the subsequent session of the Council; if there are no such suggestions, the draft report shall be considered as adopted.

Rule 36: Establishment of Committees

(1) The Council may set up permanent or temporary committees to prepare its work or to examine technical, legal or any other questions of interest to UPOV.

(2) When setting up any committees, the Council shall establish the terms of reference of that committee and shall determine whether and to what extent observers will be invited to the meetings of the committee; the Council may, at any time, decide changes in the initial terms of reference and in the decision concerning observers.

Rule 37: Rules of Procedure of Committees

(1) Subject to paragraphs (2) to (5), and except where the Council decides otherwise, Rules 9 to 34 shall apply, as far as possible and mutatis mutandis, to any committee set up by the Council.

(2) Each committee shall have a chairman and a vice-chairman who shall be elected by the Council. Where neither the chairman nor the vice-chairman of the committee is able to officiate, the committee shall elect an ad hoc chairman.

(3) Any committee shall, subject to any special instructions given by the Council to the Secretary-General, be convened by the Secretary-General and be provided by the same kind of services that are rendered to the Council.

(4) The Vice Secretary-General, or a staff member of the UPOV Office designated by the Vice Secretary-General, shall act as secretary of any committee.

(5) The Office of UPOV shall draw up a draft report on the conclusions reached in any session of the committee. Where time permits it, the report shall be adopted at the end of the session. Otherwise, the draft report shall be mailed to each participant with a request for approval or suggestions for modifications within thirty days. If there are suggestions for modifications, the draft report shall be submitted for approval to the subsequent session of the committee; if there are no such suggestions, the draft report shall be considered as adopted.

Rule 38: Amendments of the Rules of Procedure

(1) The present Rules of Procedure may be amended by the Council of UPOV.

(2) Any amendment to the present Rules of Procedure shall take effect at the expiration of three months after its adoption except where another date is decided upon by the Council, provided that such a decision shall require that it be made without a dissenting vote.

[The Appendix follows]

Rules for Voting by Secret Ballot

Rule 1. In order to vote, delegations must be properly accredited.

Rule 2. Before the ballot begins, the chairman shall appoint two tellers from among the delegates present. He shall hand them the list of delegations entitled to vote and, where applicable, the list of candidates.

Rule 3. The secretariat shall distribute ballot papers and envelopes to the delegations. Ballot papers and envelopes shall be of white paper without distinguishing marks.

Rule 4. The tellers shall satisfy themselves, that the ballot box is empty, and, having locked it, shall hand the key to the chairman.

Rule 5. Delegations shall be called in turn by the Secretary of the meeting, in the alphabetical order of the names of the member States in French, beginning with the member State whose name shall have been drawn by lot.

Rule 6. When their names are called, delegations shall hand their ballot papers, in the envelopes, to a teller, who shall place them in the ballot box.

Rule 7. To indicate the recording of each member State's vote, the Secretary of the meeting and one of the tellers shall sign or initial the list in the margin opposite the name of the member State in question.

Rule 8. At the conclusion of the calling, the chairman shall declare the ballot closed and announce that the votes are to be counted.

Rule 9. When the chairman has opened the ballot box, the tellers shall check the number of envelopes. If the number is greater or less than that of the voters, the chairman shall be informed, and shall then declare the vote invalid and announce that it is necessary to re-open the ballot.

Rule 10. One of the tellers shall open the envelopes, one by one, read aloud what is written on the ballot paper, and pass it to the other teller. The votes inscribed on the ballot papers shall be entered on the lists prepared for that purpose.

Rule 11. Blank ballot papers shall be considered to be abstentions.

Rule 12. The following shall be considered invalid:

(a) ballot papers in which there are more names than there are States or persons to be elected:

(b) ballot papers in which the voters have revealed their identity, in particular, by apposing their signature or mentioning the name of the member State they represent:

(c) ballot papers which do not give a clear reply to the question asked.

Rule 13. A candidate is entitled to only one vote per ballot paper, even if his name appears more than once thereon.

Rule 14. When the counting of the votes is completed, the chairman shall announce the results of the ballot in the following order:

number of member States entitled to vote at the session;

number absent;

number of abstentions;

number of invalid ballot papers;

number of votes recorded;

number of votes constituting the required majority;

number of votes for or against the proposal or names of the candidates and number of votes secured by each of them, in descending order of the number of votes.

Rule 15. The chairman shall announce the decision resulting from the vote. In particular, he shall declare elected those candidates who have obtained the required majority.

Rule 16. Immediately after the announcement of the results of the ballot, the ballot papers shall be burnt in the presence of the tellers.

Rule 17. The lists on which the tellers have recorded the results of the vote shall, after signature by the chairman and by the tellers, constitute the official record of the ballot, and shall be deposited in the archives of the Union.

Rule 18. The chairman of the meeting shall draw the attention of delegations to these Rules whenever a vote is taken by secret ballot.

Rule 19. (1) These Rules shall in no way affect any provisions according to which a quorum may, in certain conditions, be attained after the session.

(2) Votes expressed by correspondence shall not be secret.

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