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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**

PROGRESS REPORT ON THE WORK OF THE ADMINISTRATIVE AND LEGAL COMMITTEE

prepared by the Office of the Union

1. Since the fifteenth ordinary session of the Council, the Administrative and Legal Committee (hereinafter referred to as "the Committee") has held only one session, that is to say its ninth, on April 26 and 27, 1982.
2. The main outcome of the Committee's work is as follows.

Variety Denominations

3. The Committee continued its work on the revision of the Guidelines for Variety Denominations adopted by the Council in 1973. It carried out a first reading of a draft produced by the Office of the Union on the basis of the preparatory documents of previous sessions and of the results of those sessions. The purpose of the draft was to propose "recommendations for the selection of variety denominations by applicants for plant breeders' rights, for the decision by the authorities on the suitability of variety denominations and for the administrative procedure." The Committee is to hold a second reading at its next session and proposes, subject to the consent of the Council, to discuss the recommendations with the international professional organizations in autumn 1983 at a hearing of their representatives (for which the topic "minimum distances between varieties" has been suggested to the fifteenth ordinary session of the Council--see paragraph 10(iii) below).

4. The Committee received a request from an International Registration Authority for cultivar names set up under the International Code of Nomenclature for Cultivated Plants. The request was that the competent authorities of the member States ought to cooperate to a greater degree with the International Registration Authorities in checking proposed denominations against prior denominations. The correspondence exchanged between that Authority and the competent authority of a member State and the Office of the Union also comprised an offer of services. The Committee decided to study at its next session, on the basis of additional information, the advisability of cooperation with those Authorities and also the possible conditions.

5. The Committee had intended to examine the possibilities for harmonizing examination procedures for proposed variety denominations. Examination was postponed to the next session.

Plant Variety Protection Law

6. It is recalled that a number of member States intend to make use of the revision of their national plant variety protection legislation, that has become necessary due to ratification of the 1978 Revised Act of the Convention, in order to achieve greater harmonization of their legislation with that of the other member States or at least certain of them. In this context, the Committee drew up at its sixth session a list of plant variety protection law points involved in the achievement of greater harmonization and noted at its seventh session the intentions of the member States as to amendment of their legislation in respect of these matters. At its ninth session, covered by this report, it noted the development of these intentions. It further decided to note the developments at each of its future sessions.

Access for Breeders to Tests

7. Examination of this matter was completed at the ninth session, on the basis of the views expressed by the international professional organizations. It was noted that the practices adopted by the member States were widely different and ranged from secrecy to access afforded to the widest public to tests prior to the decision on granting protection. The points of view expressed by the organizations were also divergent, one being in favor of secrecy and two others in favor, under certain conditions, of access to tests for breeders. In view of this situation, the Committee invited member States to take into account the points of view of the professional organizations, when the occasion arose, within the limits imposed by domestic law. As regards the implications of this matter for international cooperation in examination, it confirmed the provisional conclusion to which it had come at its seventh session, that is to say that the UPOV Model Agreement on International Cooperation in the Testing of Varieties enabled the member States that carried out trials both to adopt their chosen policy as regards the varieties they examined on their own behalf and to provide all the necessary guarantees as regards those they examined on behalf of other member States.

Miscellaneous

8. The Committee decided on a procedure for the accelerated communication of amendments to member States' schedules of fees for plant variety protection to the competent authorities in the other member States.

9. The Committee agreed that the Office of the Union should draw up for the Council, as a trial, statistics on the number of protected varieties, based on the annual lists published by the member States (see document C/XVI/8).

Program of Future Activities

10. Subject to the Council's decisions, the program of work will be as follows:

- (i) The Committee will complete the above-mentioned work where necessary;
- (ii) The Office of the Union will inform the Committee as to the information it requires in a routine way in order to carry out its tasks and the Committee will take any necessary decision;
- (iii) Pursuant to the decision taken by the Consultative Committee at its twenty-fifth session, held on April 28 and 29, 1982, the Committee will examine a draft document to be drawn up by the Office of the Union as a basis for the hearing of representatives of the international non-governmental organizations as regards "minimum distances between varieties," scheduled for autumn 1983;

(iv) The Committee will resume examination of a system of cooperation going beyond the framework of variety examination at the appropriate time, that is to say "as soon as the Committee's work on particularly urgent matters permits" (paragraph 8(i) of document C/XIV/8, progress report on the work of the Committee submitted to the Council at its fourteenth ordinary session and approved by the latter).

11. The Council is invited:

(i) to take note of the work carried out by the Committee,

(ii) to take the decisions required by the future activities of the Committee and, in particular, to authorize a hearing of representatives of the international non-governmental organizations on the recommendations concerning variety denominations (see paragraph 3 above).

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