



Disclaimer: unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

This document has been scanned from a paper copy and may have some discrepancies from the original document.

Avertissement: sauf si le Conseil de l'UPOV en décide autrement, seuls les documents adoptés par le Conseil de l'UPOV n'ayant pas été remplacés peuvent représenter les principes ou les orientations de l'UPOV.

Ce document a été numérisé à partir d'une copie papier et peut contenir des différences avec le document original.

Allgemeiner Haftungsausschluß: Sofern nicht anders vom Rat der UPOV vereinbart, geben nur Dokumente, die vom Rat der UPOV angenommen und nicht ersetzt wurden, Grundsätze oder eine Anleitung der UPOV wieder.

Dieses Dokument wurde von einer Papierkopie gescannt und könnte Abweichungen vom Originaldokument aufweisen.

Descargo de responsabilidad: salvo que el Consejo de la UPOV decida de otro modo, solo se considerarán documentos de políticas u orientaciones de la UPOV los que hayan sido aprobados por el Consejo de la UPOV y no hayan sido reemplazados.

Este documento ha sido escaneado a partir de una copia en papel y puede que existan divergencias en relación con el documento original.

UPOV

C/XXII/13

ORIGINAL: English

DATE: October 20, 1988

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

Twenty-second Ordinary Session
Geneva, October 18 and 19, 1988

REPORT ON THE DECISIONS OF THE COUNCIL

adopted by the Council

Opening of the Session

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its twenty-second ordinary session in Geneva on October 18 and 19, 1988.
2. The session was presided over by Mr. W.F.S. Duffhues (Netherlands).
3. The list of participants is given at Annex I.
4. A more detailed report will be prepared shortly after the session and will be adopted by correspondence.

Adoption of the Agenda

5. The Council adopted the agenda as appearing in document C/XXII/1.

Election of the President and the Vice-President of the Council

6. Following the resignation of Mr. S.D. Schlosser (United States of America), effective January 1, 1988, the Council unanimously elected Mr. W.F.S. Duffhues (Netherlands) as President of the Council for a term of office of three years, expiring at the end of the twenty-fifth ordinary session of the Council, in 1991.

7. The office of Vice-President of the Council having become vacant as a result of the election of Mr. Duffhues as President, the Council unanimously elected Mr. R. Lopez de Haro y Wood (Spain) as Vice-President of the Council for the same term.

Examination of the Conformity of the Laws of the Commonwealth of Australia with the UPOV Convention

8. Discussions were based on document C/XXII/11.

9. Pursuant to Article 32(3) of the 1978 Act of the Convention and on the basis of the conclusion drawn by the Office of the Union in paragraph 41 of document C/XXII/11, the Council unanimously decided to give a positive advice in respect of the conformity of the laws of the Commonwealth of Australia with the 1978 Act of the Convention.

10. The Council asked the Secretary-General to inform the Government of Australia of the decision recorded in the preceding paragraph.

11. The Council expressed its particular appreciation to Mrs. K.H. Adams, delegate of Australia, for her contribution to making possible Australia's accession to the UPOV Convention.

Examination of the Conformity of the Laws of the Polish People's Republic with the UPOV Convention

12. Discussions were based on document C/XXII/12.

13. Pursuant to Article 32(3) of the 1978 Act of the Convention and on the basis of the conclusion drawn by the Office of the Union in paragraph 45 of document C/XXII/12, the Council unanimously decided to give a positive advice in respect of the conformity of the laws of the Polish People's Republic with the 1978 Act of the Convention.

14. The Council asked the Secretary-General to inform the Government of Poland of the decision recorded in the preceding paragraph.

15. On behalf of the members of the delegation of the Council and of the Secretariat General of UPOV which visited the Polish authorities from June 6 to 11, 1988, Mr. J. Ardley (United Kingdom) thanked those authorities for their hospitality and for the fruitful discussions that took place. The Council also expressed its gratitude to those authorities.

16. Furthermore, the Council expressed its appreciation to Mr. K. Dmochowski and Mr. J. Virion, delegates of Poland, for their contribution to making possible Poland's accession to the UPOV Convention.

Situation in the Legislative, Administrative and Technical Fields

a. Statements by Representatives of States (Member States and Observer States) and Intergovernmental Organizations

17. The Council noted the declarations made under this agenda item.

18. The Secretary-General said that he would make provision, in the draft program and budget for the 1990-1991 biennium, for funds for holding a Diplomatic Conference on the revision of the Convention. The Council noted this statement with approval.

19. As to the venue of the Conference, the Secretary-General invited the authorities of the States interested in hosting it to enter into contacts with the Office of the Union. The Delegation of the Federal Republic of Germany felt that it should take place in Geneva in view of the facilities available at the headquarters of the Union.

20. The Council was informed by the Delegation of France of the death, on October 6, 1988, of Mr. Jean Bustarret, one of the prominent founders of the Convention. It asked the Delegation of France to convey its condolences to Mr. Bustarret's family.

b. Data Assembled by the Office of the Union on the State of Protection in Member States and Cooperation Between Them

21. The Council noted the contents of documents C/XXII/5, 6, 7 and 8.

22. The Council decided that the Consultative Committee should examine at its next session the need for and periodicity of some of the documents mentioned in the previous paragraph, in particular the statistics on the number of protected varieties, after delegations had checked the matter at national level.

Report on the Work of the Twenty-Seventh and Twenty-Eighth Sessions of the Consultative Committee

23. The Council noted the report on the work of the thirty-seventh session of the Consultative Committee as given in paragraph 5 of document C/XXII/2 Add. and also the oral report by the President on the work of the thirty-eighth session.

24. The Council decided as follows on the basis of the recommendations made by the Consultative Committee:

(i) The Office of the Union should cooperate with the International Bureau of WIPO in the preparation of a document to serve as the basis for discussions in a joint UPOV/WIPO committee of experts meeting which would deal with the relationships between patent protection and plant variety protection. A draft of the document should be submitted to the next session of the Administrative and Legal Committee, in April 1989, and the Consultative Committee should subsequently make decisions or tentative decisions on the details of the organization of the joint meeting. The meeting should take place in January 1990 at the latest.

(ii) International non-governmental organizations should in future be admitted to ordinary sessions of the Council. The power of deciding, in respect of each session of the Council, whether organizations were to be invited and, if so, which organizations should be invited and to which parts of the session they should be invited was delegated to the Consultative Committee.

Report by the Secretary-General on the Activities of the Union in 1987 and in the First Nine Months of 1988

25. The Council unanimously approved the report by the Secretary-General as contained in document C/XXII/2 and in its supplement (document C/XXII/2 Add.).

Report by the Secretary-General on his Management During the 1986-1987 Biennium and on the Financial Situation of the Union at December 31, 1987

26. The Council unanimously approved the report by the Secretary-General as contained in document C/XXII/3 and approved the accounts presented therein.

Report on the Auditing of the Accounts of the 1986-1987 Biennium

27. The Council noted the report presented by the auditors in Annex B to document C/XXII/3 and expressed its gratitude to the Government of Switzerland for its cooperation in this matter.

Progress of the Work of the Administrative and Legal Committee

28. The Council unanimously approved the report on the progress of the work of the twenty-second session of the Administrative and Legal Committee as contained in document C/XXII/9. It also noted with approval the oral report given by Mr. F. Espenhain (Denmark), Chairman of the Administrative and Legal Committee, on the twenty-third session of the Committee, which was held from October 11 to 14, 1988. That session had been devoted almost exclusively to the revision of the Convention.

29. On the basis of a recommendation made by the Administrative and Legal Committee, the Council drew the attention of member States to the Recommendations on the Harmonization of the Lists of Protected Species, which it had adopted at its twentieth ordinary session, on December 2, 1986 (see Annex II to this document). The Council further drew the attention of member States to the fact that differences in the lists of protected species could lead to distortions of competition in the trade with plant material between member States.

30. The Council finally noted with approval the plans for the future work of the Committee on the revision of the Convention and the preparation of a joint UPOV/WIPO committee of experts meeting.

Progress of the Work of the Technical Committee, the Technical Working Parties and the Workshops on Variety Examination

31. The Council unanimously approved the report on the progress of the work of the Technical Committee, the Technical Working Parties and the Workshops on Variety Examination as contained in document C/XXII/10 and in its supplement (document C/XXII/10 Add.). It also noted with approval the oral report given by Dr. J.K. Doodson (United Kingdom), Chairman of the Technical Committee.

32. The Council further noted with approval the plans for the future work of these organs.

33. The Council supported the intention to do further work on the use of new technologies in the examination of varieties. It was of the view that such work should be carried out on an ad hoc basis.

Calendar of Meetings in 1989

34. The Council adopted the calendar of meetings in 1989 as set out in Annex III to this document.

35. The Council noted the wish expressed by the Delegation of the Federal Republic of Germany that meetings involving high travelling costs for a large number of member States be announced two years in advance to permit arrangements for participation.

Election of the New Chairman and the New Vice-Chairman of the Administrative and Legal Committee

36. The Council unanimously elected Mrs. C. Holtz (Sweden) as Chairman of the Administrative and Legal Committee for a term of office of three years, expiring at the end of the twenty-fifth ordinary session of the Council, in 1991.

37. The Council further reelected Mr. F. Gougé (France) as the Vice-Chairman of the Administrative and Legal Committee for a term of office of the same duration.

38. The Council expressed its appreciation to Mr. F. Espenhain (Denmark), the outgoing Chairman, for the activity he had deployed during his term of office.

39. This report was unanimously adopted by the Council at its meeting of October 19, 1988.

[Annexes follow]

C/XXII/13

ANNEX I/ANNEXE I/ANLAGE I

LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS/
TEILNEHMERLISTE

I. MEMBER STATES/ETATS MEMBRES/VERBANDSSTAATEN

BELGIUM/BELGIQUE/BELGIEN

M. W.J.G. VAN ORMELINGEN, Ingénieur agronome, Ministère de l'agriculture,
Manhattan Center, 21, avenue du Boulevard, 1210 Bruxelles

DENMARK/DANEMARK/DAENEMARK

Mr. F. ESPENHAIN, Chairman, Plant Novelty Board, Statens Planteavlkontor,
Skovbrynet 18, 2800 Lyngby

FRANCE/FRANKREICH

M. J.-F. PREVEL, Directeur du Bureau de la sélection végétale et des
semences au Ministère de l'agriculture, 78, rue de Varennes, 75007 Paris

Mlle N. BUSTIN, Secrétaire général, Comité de la protection des obtentions
végétales, Ministère de l'agriculture, 11, rue Jean Nicot, 75007 Paris

GERMANY (FED. REP. OF)/ALLEMAGNE (REP. FED. D')/DEUTSCHLAND (BUNDESREPUBLIK)

Dr. D. BÖRINGER, Präsident, Bundessortenamt, Postfach 61 04 40,
3000 Hannover 61

Herr W. BURR, Ministerialrat, Bundesministerium für Ernährung, Landwirtschaft
und Forsten, Rochusstrasse 1, 5300 Bonn 1

HUNGARY/HONGRIE/UNGARN

Dr. B. SZALÓCZY, Deputy Director-General, Institute for Agricultural
Qualification, Ministry of Agriculture and Food, P.O. Box 93,
1525 Budapest 114

Dr. J. BOBROVSZKY, Head, Legal and International Department, National Office
of Inventions, Garibaldi u.2, P.O. Box 552, 1370 Budapest 5

IRELAND/IRLANDE/IRLAND

Mr. D.P. FEELEY, Department of Agriculture and Food, Agriculture House,
Kildare Street, Dublin

ISRAEL

Mr. M. ZUR, Director, Israeli Gene Bank, A.R.O., Chairman, Plant Breeders' Rights Council, Agricultural Research Organisation, Volcani Centre, P.O. Box 6, Bet Dagan 50250

ITALY/ITALIE/ITALIEN

Dr. B. PALESTINI, Dirigente, Ministry of Agriculture and Forestry, D.G. Produzione Agricola, 20, Via XX Settembre, 00187 Rome

JAPAN/JAPON/JAPAN

Mr. S. KAWAHARA, Deputy Director, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, 1-2-1, Kasumigaseki, Chiyoda-ku, Tokyo

Mr. S. MIYATA, Deputy Director, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, 1-2-1, Kasumigaseki, Chiyoda-ku, Tokyo

Mr. K. NAITO, First Secretary, Permanent Mission of Japan, 10, avenue de Budé, 1202 Geneva, Switzerland

NETHERLANDS/PAYS-BAS/NIEDERLANDE

Mr. W.F.S. DUFFHUES, Director, Forestry and Landscaping, Ministry of Agriculture and Fisheries, Griffioenlaan 2, P.O. Box 20023, 3502 LA Utrecht

Mr. B.P. KIEWIET, Chairman, Board for Plant Breeders' Rights, P.O. Box 104, 6700 AC Wageningen

Ms. Y.E.T.M. GERNER, Legal Adviser, Ministry of Agriculture and Fisheries, Bezuidenhoutseweg 73, The Hague

NEW ZEALAND/NOUVELLE-ZELANDE/NEUSEELAND

Mr. F.W. WHITMORE, Commissioner, Plant Variety Rights Office, P.O. Box 24, Lincoln, Canterbury

SOUTH AFRICA/AFRIQUE DU SUD/SUEDAFRIKA

Mr. D.C. LOURENS, Director, Directorate of Plant & Liquor Control, Department of Agricultural Economics & Marketing, Private Bag X179, 0001 Pretoria

Mr. J.U. RIETMANN, Agricultural Counsellor, South African Embassy, 59, quai d'Orsay, 75007 Paris, France

SPAIN/ESPAGNE/SPANIEN

- M. R. LOPEZ DE HARO Y WOOD, Director Técnico de Certificación y Registros de Variedades, Instituto Nacional de Semillas y Plantas de Vivero, José Abascal 56, 28003 Madrid
- Dr. J.M. ELENA ROSSELLO, Jefe del Registro de Variedades, Instituto Nacional de Semillas y Plantas de Vivero, José Abascal 56, 28003 Madrid

SWEDEN/SUEDE/SCHWEDEN

- Mr. S. MEJEGARD, President of Division of the Court of Appeal, Armfelts-gatan 4, 115 34 Stockholm
- Prof. L. KAHRE, Vice-Chairman, Department of Crop Production Science, Swedish University of Agricultural Sciences, Box 7042, 75007 Uppsala
- Mr. A.O. SVENSSON, Head of Office, Statens växtsortnämnd, Box 1247, 171 24 Solna

SWITZERLAND/SUISSE/SCHWEIZ

- Frau M. JENNI, Leiterin des Büros für Sortenschutz, Bundesamt für Landwirtschaft, Mattenhofstrasse 5, 3003 Bern
- Dr. M. INGOLD, Adjoint de direction, Station fédérale de recherches agronomiques, Changins, 1260 Nyon

UNITED KINGDOM/ROYAUME-UNI/VEREINIGTES KOENIGREICH

- Mr. J. HARVEY, Controller, Plant Variety Rights Office, White House Lane, Huntingdon Road, Cambridge CB3 0LF
- Mr. J. ARDLEY, Deputy Controller, Plant Variety Rights Office, White House Lane, Huntingdon Road, Cambridge CB3 0LF
- Dr. J.K. DOODSON, Deputy Director, Head of Crops Division, National Institute of Agricultural Botany, Huntingdon Road, Cambridge CB3 0LE

UNITED STATES OF AMERICA/ETATS-UNIS D'AMERIQUE/VEREINIGTE STAATEN VON AMERIKA

- Mr. H.D. HOINKES, Senior Counsel, Office of Legislation and International Affairs, Patent and Trademark Office, U.S. Department of Commerce, Box 4, Washington, D.C. 20231

II. OBSERVER STATES/ETATS OBSERVATEURS/BEOBACHTERSTAATEN

ARGENTINA/ARGENTINE/ARGENTINIEN

- Mme R. SOTILLO-MILLET, Premier secrétaire, Ambassade de la République argentine en France (affaires économiques), 6, rue Limorosa, 75016 Paris, France
- M. A.G. TROMBETTA, Deuxième secrétaire, Mission permanente de la République argentine auprès de l'Office des Nations Unies et des autres organisations internationales à Genève, 110, avenue Louis-Casai, 1215 Genève 15, Suisse

AUSTRALIA/AUSTRALIE/AUSTRALIEN

- Mrs. K.H. ADAMS, Registrar, Plant Variety Rights, Bureau Rural Resources, P.O. Box 858, Canberra ACT 2601

CANADA/CANADA/KANADA

- Ms. V. SISSON, Variety Rights Examiner, Seed Division, Agriculture Canada, Room 4135, Neatby Building, 960 Carling Avenue, Ottawa, Ontario K1A 0C6

MEXICO/MEXIQUE/MEXIKO

- M. J. PINA ARMENDARIZ, Director de Relaciones Comerciales Internacionales, Secretaria de Agricultura, Carolina 132, Mexico 03720 D.F.

MOROCCO/MAROC/MAROKKO

- M. M. TOURKMANI, Ingénieur en chef, Chef du Service de contrôle des semences et des plants, B.P. 1308, Rabat
- M. R. LAKHDAR, Ingénieur en chef, Chef de la Division des contrôles techniques et phytosanitaires, B.P. 1308, Rabat

NORWAY/NORVEGE/NORWEGEN

- Mr. L.R. HANSEN, Head of Office, The National Seed Council, P.O. Box 3, Moerveien 2, 1430 As

PHILIPPINES/PHILIPPINEN

- Mrs. D. MEÑEZ-ROSAL, Minister Counsellor, Philippines Mission to the United Nations and other International Organizations, 47, avenue Blanc, 1202 Geneva, Switzerland

POLAND/POLOGNE/POLEN

- M. J. VIRION, Chef-expert, Ministère de l'agriculture, des forêts et de l'économie alimentaire, Ministerstwo Rolnictwa, 30, rue Wspolna, Warszawa
- Mr. K. DMOCHOWSKI, Head of the Laboratory in the Research Center of Cultivars (COBORU), 63-022 Slupia Wielka

PORTUGAL

- M. C.M. PEREIRA GODINHO, Ingénieur, Centro Nacional de Protecção da Produçao Agrícola, Tapada da Ajuda, Edifício II, 1300 Lisboa

TURKEY/TURQUIE/TUERKEI

- M. A. ALGAN, Conseiller, Mission permanente de la Turquie auprès de l'Office des Nations Unies à Genève, 28, chemin du Petit-Saconnex, 1211 Genève 19, Suisse

III. INTERGOVERNMENTAL ORGANIZATION/
ORGANISATION INTERGOUVERNEMENTALE/
ZWISCHENSTAATLICHE ORGANISATION

EUROPEAN ECONOMIC COMMUNITY (EEC)/COMMUNAUTE ECONOMIQUE EUROPEENNE (CEE)/EURO-PAEISCHE WIRTSCHAFTSGEMEINSCHAFT (EWG)

- Dr. G. HUDSON, Head of Division, Directorate-General for Agriculture, Commission of the European Communities, 200, rue de la Loi, 1049 Brussels, Belgium

IV. OFFICERS/BUREAU/VORSITZ

- Mr. W.F.S. DUFFHUES, President
- Mr. R. LOPEZ DE HARO Y WOOD, Vice-President

V. OFFICE OF UPOV/BUREAU DE L'UPOV/BUERO DER UPOV

Dr. A. BOGSCH, Secretary-General
Mr. B. GREENGRASS, Vice Secretary-General
Mr. A. HEITZ, Senior Counsellor
Dr. M.-H. THIELE-WITTIG, Senior Counsellor
Mr. C. ROGERS, Legal Officer
Mr. Y. HAYAKAWA, Associate Officer

VI. OFFICE OF WIPO/BUREAU DE L'OMPI/BUERO DER WIPO

Dr. T.A.J. KEEFER, Director and Controller, Budget and Finance Division

[Annex II follows/
L'annexe II suit/
Anlage II folgt]

C/XXII/13

ANNEX II

UPOV RECOMMENDATIONS
ON THE HARMONIZATION OF THE LISTS OF PROTECTED SPECIES

adopted by the UPOV Council at its twentieth ordinary session,
on December 2, 1986

The Council of the International Union for the Protection of New Varieties of Plants,

Considering that Article 4(1) of the International Convention for the Protection of New Varieties of Plants provides that the Convention may be applied to all botanical genera and species;

Considering that the member States have undertaken under Article 4(2) of the Convention to adopt all measures necessary for the progressive application of the provisions of the Convention to the largest possible number of botanical genera and species;

Considering further that Article 7(1) of the Convention requires that protection be granted after examination of the variety in the light of the criteria defined in Article 6 and that such examination is to be appropriate to each botanical genus or species;

Referring to the statement noted with approval by the Council at its tenth ordinary session in 1976 that "it is clear that it is the responsibility of the member State to ensure that the examination required by Article 7(1) of the UPOV Convention includes a growing test and the authorities in the present UPOV States [in 1976] normally conduct these tests themselves";

Taking into account the fact that the main obstacle to the application of the Convention in the member States to the largest possible member of botanical genera and species is the limitation on the economic and technical and on the scientific possibilities of carrying out variety examination;

Referring to the fact that Article 30(2) of the Convention specifically sets out the possibility of the competent authorities of the member States concluding special contracts with a view to the joint utilization of the services of the authorities entrusted with the examination of varieties in accordance with the provisions of Article 7 and with assembling the necessary reference collections and documents;

Noting with satisfaction that the member States have already made extensive use of that possibility, both in order to keep the cost of protection for new plant varieties at the lowest possible level and also to extend their lists of protected species;

Convinced that further progress can be achieved in this field and that such progress is also called for to maintain or even improve the effectiveness of new plant variety protection as a tool in the development of agriculture and the safeguarding of breeders' interests;

Recommends the member States of the Union:

(a) to extend protection to every genus or species for which the following conditions are met:

(i) The genus or species is the subject of plant breeding work, or it is expected that the extension of protection will be an incentive for such work to be undertaken;

(ii) There is a real or potential market in the member State of the Union concerned for reproductive or vegetative propagating material of varieties from that genus or species;

(iii) Examination facilities are existing or will be set up for the genus or species, either in the member State of the Union concerned or in another member State which offers its services for examination pursuant to the provisions of Article 30(2) of the Convention;

(iv) There are no legal, climatic or other obstacles to such extension;

(b) to offer their services to the other member States for the examination of varieties, particularly in those cases in which the other States participating in the cooperation system do not yet protect the genus or species concerned, by means of concerted action to concentrate examination of the varieties at an optimum number of the authorities concerned;

(c) to inform the other member States as early as possible of their intentions to extend protection to a given genus or species, giving sufficient details, and to offer the services of their authorities for the examination of varieties of such genus or species to enable the other States, as appropriate, to put in hand the procedures required by their legislation for an extension of the same kind.

[Annex III follows]

C/XXII/13

ANNEX III

DATES FOR MEETINGS IN 1989

presented in the order of the organsCouncil

October 17 and 18

Consultative CommitteeApril 14
October 16Administrative and Legal CommitteeApril 10 to 13
October 10 to 13Technical Committee

October 5 and 6

Technical Working Party for Agricultural Crops

June 13 to 16, Belfast, United Kingdom

Technical Working Party on Automation and Computer Programs

May 17 to 19, Madrid, Spain

Technical Working Party for Fruit Crops

September 26 to 29, Wageningen, Netherlands

Technical Working Party for Ornamental Plants and Forest Trees

May 29 to 31, Hanover, Federal Republic of Germany

Technical Working Party for Vegetables

July 3 to 7, Japan

Workshops on Variety Examination

- for Pelargonium and Begonia: June 1 and 2, Hanover, Federal Republic of Germany
- for Maize: October 2 and 3, Versailles, France
- for Soya Bean: still to be decided

Meeting with International Organizations

October 9

[End of document]