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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

Twenty - third Ordinary Session
Geneva, October 17 to 18, 1989

ANNUAL REPORT OF THE SECRETARY-GENERAL FOR 1988

(Twentieth Year)

I. STATE OF THE UNION

1. There were no changes in 1988 as regards the state of the Union. As on December 31, 1988, it comprised 17 member States: Belgium, Denmark, France, Germany (Federal Republic of), Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America. All, except Belgium and Spain, are party to the Revised Act of October 23, 1978, of the Convention.

2. Under Article 32(3) of the above-mentioned Act, "any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act." Two States asked for such advice from the Council in 1988: Australia, in its note of August 19, and Poland, by letter of March 28. The Council considered these two requests at its twenty-second ordinary session and, in both cases, took a positive decision constituting such advice, thus enabling Australia and Poland to deposit their instruments of accession.*

3. The table in the Annex to this report summarizes the position of the various States as regards the various Acts of the Convention, as at December 31, 1988.

* Australia deposited its instrument on February 1, 1989. In accordance with Article 33(2) of the 1978 Act of the Convention, Australia became a party to that Act on March 1, 1989, and thereby constitutes the eighteenth member State of the Union.

II. STAFF OF THE OFFICE OF THE UNION

4. Vice Secretary-General.— The services of Dr. Walter Gfeller, Vice Secretary-General, came to an end on February 29, 1988. At an extraordinary session on February 19, the Council appointed Mr. Barry Greengrass to be his successor. Mr. Greengrass assumed his duties on June 1.

5. Associate Officer.— The services of Mr. Makoto Tabata, Associate Officer seconded by the Japanese Government as part of its scheme for training auxiliary administrators, came to an end on February 23. His successor, Mr. Yasuhiro Hayakawa, assumed his duties on February 16.

III. SESSIONS

6. During 1988, the various bodies of UPOV met as described below. Unless otherwise specified, the sessions took place in Geneva.

7. Council.— The Council held an extraordinary session (the eighth) on February 19, under the chairmanship of Mr. W.F.S. Duffhues (Netherlands), to appoint a new Vice Secretary-General.

8. It subsequently held its twenty-second ordinary session on October 18 and 19, also under the chairmanship of Mr. W.F.S. Duffhues (Netherlands). The session was attended by observers from ten non-member States (Argentina, Australia, Canada, Mexico, Morocco, Norway, Philippines, Poland, Portugal and Turkey). The European Economic Community (EEC) was also represented by an observer.

9. At that session, the Council took the following main decisions:

(i) It elected Mr. W.F.S. Duffhues (Netherlands) as President of the Council for a term of three years expiring at the end of the twenty-fifth ordinary session of the Council in 1991, to replace Mr. S.D. Schlosser (United States of America), who had resigned, and Mr. R. Lopez de Haro y Wood (Spain) as Vice-President for the same term of office.

(ii) As mentioned in paragraph 2 above, it took positive decisions on the conformity of the legislation of Australia and Poland with the provisions of the 1978 Act of the Convention.

(iii) It approved the Secretary-General's report on the activities of the Union in 1987 and the first nine months of 1988.

(iv) It approved the Secretary-General's report on his management during the 1986-87 biennium and on the financial situation of the Union as at December 31, 1987, and noted the report on the auditing of the accounts for the above-mentioned period.

(v) It approved the progress reports on the work of the various subsidiary bodies and their plans for future work.

(vi) It invited the Office of the Union to cooperate with the International Bureau of WIPO in preparing a document to serve as a basis for discussions at the meeting, to be held in January 1990 at the latest, of a joint UPOV/WIPO committee of experts to deal with the relationship between patent protection and plant variety protection.

(vii) It decided to admit international non-governmental organizations to ordinary sessions of the Council in accordance with certain principles whose practical application was entrusted to the Consultative Committee.

(viii) It drew the attention of the 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, and to the distortion of competition in trade with plant material between member States that could result from non-harmonized lists.

(ix) It elected Mrs. C. Holtz (Sweden) as Chairman of the Administrative and Legal Committee and reelected Mr. F. Gougé (France) as Vice-Chairman for a term of three years expiring at the end of the twenty-fifth ordinary session of the Council, in 1991.

10. Consultative Committee.— The Consultative Committee held its thirty-seventh session on April 22 and its thirty-eighth session on October 17 under the chairmanship of Mr. W.F.S. Duffhues (Netherlands). Discussions at the thirty-seventh session were basically devoted to the distribution of tasks as between the Council and the Consultative Committee, the preparation of a mission of a UPOV delegation to Poland and participation by UPOV in EXPOFLORE, the international exhibition of new plant varieties in Geneva. The thirty-eighth session was mainly devoted to preparing the twenty-second ordinary session of the Council and to defining principles to govern UPOV participation in shows and exhibitions.

11. Administrative and Legal Committee.— The Administrative and Legal Committee held its twenty-second session from April 18 to 21 and its twenty-third from October 10 to 13 under the chairmanship of Mr. F. Espenhain (Denmark). Observers from the European Communities and from the European Free Trade Association participated in the twenty-second session; observers from Argentina, Australia, Canada and Finland, and from the European Economic Community, attended the twenty-third session.

12. The main item on the program of the Committee was the revision of the Convention. The twenty-third session was almost entirely devoted to that matter. At its twenty-second session, the Committee further:

(i) examined the harmonization of the lists of protected species and made a recommendation to the Council that was adopted by the latter (see paragraph 9 (viii) above);

(ii) invited the Secretary-General to accede to the request for assistance formulated by the Food and Agriculture Organization of the United Nations (FAO) in the elaboration of a concerted interpretation of FAO's International Undertaking on Genetic Resources and gave general pointers on that subject.

13. Technical Committee.- The Technical Committee held its twenty-fourth session on October 20 and 21 under the chairmanship of Dr. J.K. Doodson (United Kingdom). The session was attended by observers from Australia and Canada, and from the European Economic Community.

14. On the basis of preparatory work carried out by the Technical Working Parties, the Technical Committee adopted Test Guidelines for the following 15 taxa (* denotes a revised version): (1) runner bean*; (2) tuberous begonia hybrids; (3) blackberry*; (4) eggplant; (5) endive; (6) Euphorbia fulgens*; (7) Exacum; (8) Gladiolus; (9) lucerne*; (10) vegetable marrow, squash; (11) black salsify; (12) tulip; (13) turnip, turnip rape*; (14) common vetch*; (15) durum wheat. An addendum to the Test Guidelines for Melon was also adopted.

15. The Committee considered the progress reports on the work of the Technical Working Parties and defined the main features of their future work. It also examined the matters raised by the Working Parties on the basis of the experience gained by the member States in carrying out the examination for distinctness, homogeneity and stability of new plant varieties. Of those matters, the following may be noted: use of statistical methods in variety examination; observation of colors; definition of resistance and tolerance of varieties to pests and diseases and the examination of such characteristics; the pilot project carried out by Denmark to evaluate variety examination carried out by breeders on the basis of official guidelines. It began discussions, without concluding however, on revision of the UPOV Model for a Report on Technical Examination.

16. Finally, the Committee examined reports on two series of workshops, that is to say on the examination of lettuce varieties and on the use of new technology in the examination of new varieties (see paragraphs 20 and 21 below).

17. Technical Working Parties.- The Technical Working Parties each held one session in 1988, outside Geneva, as follows:

(i) The Technical Working Party on Automation and Computer Programs (TWC) held its sixth session from June 7 to 9 in Edinburgh, United Kingdom, under the chairmanship of Dr. F. Laidig (Federal Republic of Germany).

(ii) The Technical Working Party for Vegetables (TWV) held its twenty-first session from June 13 to 15 in Wageningen, Netherlands, under the chairmanship of Mr. R. Brand (France).

(iii) The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its twenty-first session from June 20 to 24 in Melle, Belgium, under the chairmanship of Mr. C.J. Barendrecht (Netherlands).

(iv) The Technical Working Party for Fruit Crops (TWF) held its nineteenth session from June 28 to July 1 in Hanover, Federal Republic of Germany, under the chairmanship of Mr. B. Bar-Tel (Israel).

(v) The Technical Working Party for Agricultural Crops (TWA) held its seventeenth session from July 5 to 7 in Surgères, France, under the chairmanship of Mr. D. Feeley (Ireland).

18. The basic task of four of these Working Parties is to draw up test guidelines. In addition to the drafts submitted to the Technical Committee for adoption, they drew up further drafts, for the following taxa, to be submitted to the professional organizations for comment: Sorghum and Triticale (TWA); banana, chestnut, black currant and walnut (TWF); Chrysanthemum, Gerbera, Hydrangea, Lachenalia, Leucadendron, Leucospermum and Protea (TWO); pea (TWV).

19. In addition, the Technical Working Party for Agricultural Crops took note of the various electrophoresis methods used by some of the member States and of the need to harmonize such methods if they were to be used for variety examination for protection purposes. As for the Technical Working Party on Automation and Computer Programs, it pursued its work on the use of statistical methods in variety examination and also its work in the EDP field; it took note of a report on the progress achieved in the United Kingdom with machine vision techniques.

20. Workshops.- The Workshop on the Examination of Varieties of Lettuce, organized jointly by the Netherlands authorities and UPOV, was held on June 16 and 17 in Wageningen, Netherlands. It was opened by Mr. W.F.S Duffhues, the representative of the Netherlands in the Council. During the eight working sessions, papers were presented on the technical, taxonomic and legal aspects of minimum distances between varieties, on the present system of examination for distinctness, homogeneity and stability of lettuce, on new examination techniques (particularly the use of electrophoresis and machine vision), on the use of non-parametric statistical tests and on establishing variety descriptions. Demonstrations were also given in the laboratory and in the field, and breeders were able to put forward their points of view.

21. The Workshop on the Use of New Technology in the Examination of New Varieties, organized jointly by the United Kingdom authorities and UPOV, was held on September 27 and 28 in Cambridge, United Kingdom. It was opened by Dr. G.M. Milbourn, Director of the National Institute of Agricultural Botany of the United Kingdom, and closed by Mr. J. Harvey, Controller of the Plant Variety Rights Office and representative of the United Kingdom in the Council. The Workshop comprised two working sessions on biochemistry, two sessions on computer technology and a final round table. As concerns more specifically the new techniques, papers dealt in the main with electrophoresis, chromatography and fluorescence, DNA probes, machine vision and the use of computers.

IV. CONTACTS WITH STATES AND ORGANIZATIONS

22. From January 21 to 23, an official of the Office took part, in Huntingdon, United Kingdom, in the Fourth Conference on Intellectual Property for New Plant Varieties and Biotechnological Inventions, organized by the Intellectual Property Law Unit of Queen Mary College, London University. He gave a paper entitled "Intellectual Property for New Plant Varieties and Biotechnological Inventions: a View from UPOV."

23. On April 21, the participants at the twenty-second session of the Administrative and Legal Committee and the staff of the Office attended the official opening of EXPOFLORE, the international exhibition of new plant varieties, in Geneva.

24. From June 6 to 10, the Vice Secretary-General attended, in Brighton, United Kingdom, the 1988 World Congress of the International Federation of the Seed Trade (FIS) and of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL).
25. From June 6 to 11, a UPOV delegation visited Poland for talks with the Polish authorities on the protection of new plant varieties in that country and to make technical visits. The delegation comprised Mr. John Ardley (United Kingdom), Mr. Jenö Bobrovsky (Hungary), Mr. Joël Guiard (France) and an official of the Office.
26. On June 27 and 28, the Vice Secretary-General paid an official visit to the Federal Plant Varieties Office in Hanover, Federal Republic of Germany.
27. From September 4 to 8, the Vice Secretary-General participated in Budapest, Hungary, in the International Conference on Recent Phenomena in the Protection of Industrial Property, organized by the Hungarian Group of AIPPI and the Hungarian Association for the Protection of Industrial Property. He presented a paper on the topic "Industrial Property in Agriculture and the Protection of New Plant Varieties."
28. From September 14 to 16, the Vice Secretary-General and an official of the Office attended, in Geneva, the WIPO Worldwide Forum on the Impact of Emerging Technologies on the Law of Intellectual Property, of which one session was devoted to biotechnology.
29. On September 19 and 20, the Vice Secretary-General attended in Munich, Federal Republic of Germany, as an observer, a meeting of the Ad hoc Working Party on Harmonisation of the European Patent Organisation. The aim of his participation was to follow the discussions on consideration of the revised solutions put forward by WIPO for the legal protection of biotechnological inventions.
30. On September 20 and 21, an official of the Office attended, in Geneva, a seminar held by the Centre for Applied Studies in International Negotiations, devoted to "The Release of Genetically Engineered Organisms in the Environment."
31. On September 26 and 30, the Vice Secretary-General paid an official visit to the United Kingdom Plant Variety Rights Office in Cambridge and to the Patent Office in London. He also visited a number of firms and institutes.
32. From October 24 to 28, the Vice Secretary-General and an official of the Office participated in the fourth session of the WIPO Committee of Experts on Biotechnological Inventions and Industrial Property.
33. On November 14 and 15, the Vice Secretary-General paid an official visit to Norway where he met senior officials of the Ministry of Agriculture and the Patent Office.
34. On November 17 and 18, the Vice Secretary-General attended in Amsterdam (Netherlands) the commemoration of the fiftieth anniversary of ASSINSEL and gave a paper on "the Future Development of the UPOV System."

35. From November 22 to 27, an official of the Office attended the annual meeting of Austrian breeders held at Gumpenstein by the Austrian Breeders' Association and gave a paper on international standards for variety homogeneity. On the occasion of this meeting, he also had talks with officials of the Federal Ministry of Agriculture and Forestry on the draft law on the protection of new plant varieties that was in preparation.

36. On November 28 and 29, the Vice Secretary-General paid an official visit to Canada and met senior officials of the Ministry of Agriculture and the Patent Office in Ottawa.

37. From November 30 to December 9, the Vice Secretary-General visited the United States of America. During that period, he had talks with the United States Patent and Trademark Office, the Plant Variety Protection Office and the United States Department of Agriculture. He also met with the interested circles, particularly patent attorneys and breeder members of the American Seed Trade Association (ASTA). On December 5 and 6, he participated in a symposium on patents for animals held by Cornell University in Ithaca. He subsequently participated in ASTA conferences on soybean, maize and sorghum in Chicago.

38. On December 14, the Vice Secretary-General received the visit of an official of the National Institute of Industrial Property of Brazil.

39. On December 19, the Vice Secretary-General paid a visit to the Secretary-General of ASSINSEL to discuss matters of common interest.

V. PUBLICATIONS

40. In 1988, the Office of the Union published three issues of Plant Variety Protection and the English and German versions of a commemorative book on the twenty-fifth anniversary of the UPOV Convention (UPOV Publications Nos. 879(E) and 879(G)).

41. The Council is invited to approve this report.

[Annex follows]

MEMBERSHIP OF THE UNION (as at December 31, 1988)
(including signatory States that are not yet members)

State	Date of signature ¹	Date of deposit of instrument ^{1,2}	Date of effect ¹
Belgium	December 2, 1961	November 5, 1976	December 5, 1976
	November 10, 1972	November 5, 1976	February 11, 1977
	October 23, 1978	-	-
Canada (not yet a member)	-	-	-
	-	-	-
	October 31, 1979	-	-
Denmark	November 26, 1962	September 6, 1968	October 6, 1968
	November 10, 1972	February 8, 1974	February 11, 1977
	October 23, 1978	October 8, 1981	November 8, 1981
France	December 2, 1961	September 3, 1971	October 3, 1971
	November 10, 1972	January 22, 1975	February 11, 1977
	October 23, 1978	February 17, 1983	March 17, 1983
Germany (Federal Republic of)	December 2, 1961	July 11, 1968	August 10, 1968
	November 10, 1972	July 23, 1976	February 11, 1977
	October 23, 1978	March 12, 1986	April 12, 1986
Hungary	-	-	-
	-	-	-
	-	March 16, 1983	April 16, 1983
Ireland	-	-	-
	-	-	-
	September 27, 1979	May 19, 1981	November 8, 1981
Israel	-	November 12, 1979	December 12, 1979
	-	November 12, 1979	December 12, 1979
	-	April 12, 1984	May 12, 1984

[cont'd]

- 1 First Line: International Convention for the Protection of New Varieties of Plants of December 2, 1961.
Second Line: Additional Act of November 10, 1972.
Third Line: Revised Text of October 23, 1978.
- 2 the instrument of ratification where the State has signed the Convention or the Additional Act or, depending on the case, the instrument of ratification, acceptance or accession where the State has signed the Revised Text of 1978; the instrument of accession if it has not signed the text concerned.

MEMBERSHIP OF THE UNION (as at December 31, 1988)
(including signatory States that are not yet members)

State	Date of signature ¹	Date of deposit of instrument ^{1,2}	Date of effect ¹
Italy	December 2, 1961	June 1, 1977	July 1, 1977
	November 10, 1972	June 1, 1977	July 1, 1977
	October 23, 1978	April 28, 1986	May 28, 1986
Japan	-	-	-
	-	-	-
	October 17, 1979	August 3, 1982	September 3, 1982
Mexico (not yet a member)	-	-	-
	-	-	-
	July 25, 1979	-	-
Netherlands	December 2, 1961	August 8, 1967	August 10, 1968
	November 10, 1972	January 12, 1977	February 11, 1977
	October 23, 1978	August 2, 1984	September 2, 1984
New Zealand	-	-	-
	-	-	-
	July 25, 1979	November 3, 1980	November 8, 1981
South Africa	-	October 7, 1977	November 6, 1977
	-	October 7, 1977	November 6, 1977
	October 23, 1978	July 21, 1981	November 8, 1981
Spain	-	April 18, 1980	May 18, 1980
	-	April 18, 1980	May 18, 1980
	-	-	-
Sweden	-	November 17, 1971	December 17, 1971
	January 11, 1973	January 11, 1973	February 11, 1977
	December 6, 1978	December 1, 1982	January 1, 1983
Switzerland	November 30, 1962	June 10, 1977	July 10, 1977
	November 10, 1972	June 10, 1977	July 10, 1977
	October 23, 1978	June 17, 1981	November 8, 1981
United Kingdom	November 26, 1962	September 17, 1965	August 10, 1968
	November 10, 1972	July 1, 1980	July 31, 1980
	October 23, 1978	August 24, 1983	September 24, 1983
United States of America	-	-	-
	-	-	-
	October 23, 1978	November 12, 1980	November 8, 1981

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