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## INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

## ADMINISTRATIVE AND LEGAL COMMITTEE

Twenty-seventh Session  
Geneva, June 25 to 29, 1990

REVISION OF THE CONVENTION:

ORDER OF THE PROVISIONS

Document prepared by the Office of the Union

1. The Council of UPOV, at its twenty-first ordinary session, charged the Administrative and Legal Committee (hereinafter referred to as "the Committee") with the preparation of the revision of the UPOV Convention. Draft revision proposals were considered by the Committee at its twenty-second session, in April 1988, and three revised drafts were considered at the three ensuing sessions of the Committee, the last of which drafts was also submitted for comments to the Fourth Meeting with International Organizations in document IOM/IV/2. All four drafts followed the order of the provisions of the Revised Text of October 23, 1978, of the UPOV Convention.

2. At its twenty-third ordinary session, held on October 16 and 17, 1989, the Council of UPOV endorsed a decision of the Consultative Committee taken at its fortieth session, on October 16, 1989 (see paragraph 23 of document CC/XL/5), that "the Office of the Union should submit to the First Preparatory Meeting for the Revision of the Convention (April 23 to 27, 1990) a new proposed text based on the structure which had been proposed by the Delegation of the Netherlands at the 1978 Diplomatic Conference but had not been retained in view of its belatedness."

3. The text of the revision proposals in document PM/1/2, submitted to the twenty-sixth session of the Committee (the First Preparatory Meeting), followed the proposal of the Netherlands. At that session, the Committee received a proposal from the Delegation of the Federal Republic of Germany for a revised order of the Articles, such proposal being set out in Annex III to the summary report of that session (document CAJ/26/1).

4. The Delegation of the Federal Republic of Germany has since that session, by letter dated May 15, 1990, submitted a proposal which, with minor amendments, follows the proposal submitted to the twenty-sixth session of the Committee. That proposal is set out in Annex I. Annex II contains the same proposal, with the addition of references to corresponding provisions in the draft text of the Convention contained in documents CAJ/27/2 and CAJ/27/4.

[Annexes follow]

## PROPOSED STRUCTURE OF THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

submitted by the delegation of the Federal Republic of Germany

		Corresponding Articles in		
		Present Text	Doc. IOM/IV/2	Doc. PM/1/2
<b>PART ONE</b>	<b>GENERAL PROVISIONS</b>			
Article 1	International Union for the Protection of New Varieties of Plants	1(1) and (2)	1	3 1
Article 2	Legal Status of the Union	24(1) and (2)	-	4
Article 3	Organs and Seat of the Union	15 1(3) 24(3)	-	5
Article 4	Definitions	-	2	2
Article 5	Field of Application	4	4	8
Article 6	National Treatment	3	3	9
<b>PART TWO</b>	<b>BREEDER'S RIGHT</b>			
<b>Chapter I</b>	<b>Conditions for the Grant of the Breeder's Right</b>			
Article 7	Varieties Eligible for Protection	6(1), Introduction, and (e)	6(1), Introduction, and (2)	11(1), Introduction, (2) and (3)
Article 8	Distinctness	6(1)(a)	6(1)(b)	11(1)(b)
Article 9	Homogeneity	6(1)(c)	6(1)(c)	11(1)(c)
Article 10	Stability	6(1)(d)	6(1)(d)	11(1)(d)
Article 11	Novelty	6(1)(b) 38	6(1)(a)	11(1)(a) 12
Article 12	Variety Denomination	13(1), first sentence, and (2) to (6)	6(2) and 13(1) to (6)	19(1) to (6)

		Corresponding Articles in		
		Present Text	Doc. IOM/IV/2	Doc. PM/1/2
<b>Chapter II</b>	<b>Application for the Granting of the Breeder's Right</b>			
Article 13	Free Choice of the Member of the Union in which an Application is Filed	11(1) and (2)	11(1) and (2)	10(1) and (2)
Article 14	Priority	12	12	13
Article 15	Examination of the Application	7(1) and (2) 30(2)	7(1) to (3)	14(1) to (3)
Article 16	Provisional Protection	7(3)	7(4)	14(4)
<b>Chapter III</b>	<b>Effects of the Breeder's Right</b>			
Article 17	Content of the Breeder's Right	5(1), (2) and (4)	5(1), (3) and (5)	17(1) and (2) 2(iv)
Article 18	Limitation of the Effects of the Breeder's Right	5(3)	5(2)(ii) to (iv) and (4)	17(3) and (4)
Article 19	Limitations in the Exercise of the Breeder's Right	9	9	18
Article 20	Exhaustion of the Breeder's Right	-	5(2)(i)	17(4)
Article 21	Use of the Variety Denomination	13(1), 2 <sup>nd</sup> sentence, (7) and (8)	13(7) and (8)	19(7) and (8)
Article 22	Independance of the Breeders' Rights in Different Members of the Union	11(3)	11(3)(a)	10(3)(a)
Article 23	Independance of the Breeder's Right from Measures for the Regulation of the Seed Trade	14	-	7
Article 24	Agreements Relating to Breeders' Rights	29	11(3)(b) and (c)	10(3)(b) and (c)
<b>Chapter IV</b>	<b>Duration and Termination of the Breeder's Right</b>			
Article 25	Duration of the Breeder's Right	8	8	15

	Corresponding Articles in		
	Present Text	Doc. IOM/IV/2	Doc. PM/1/2
Article 26 Nullity of the Breeder's Right	10(1) and (4)	10(1) and (4)	16(1), (2) and (5)
Article 27 Forfeiture of the Breeder's Right	10(2) to (4)	10(2) to (4)	16(3) to (5)
<b>PART THREE INSTITUTIONAL PROVISIONS</b>			
<b>Chapter I The Council, the Office of the Union</b>			
Article 28 Composition of the Council	16(1) and (2)	-	-
Article 29 Presidency	18	-	-
Article 30 Sessions	19	-	-
Article 31 Observers	17	-	-
Article 32 Tasks	21 and 20	-	-
Article 33 Votes	22	-	-
Article 34 Office of the Union	16(3) and 23	-	-
Article 35 Languages	28	-	-
<b>Chapter II Financial Provisions</b>			
Article 36 Meeting of Expenses	26(1)	-	-
Article 37 Contributions of the Members of the Union	26(2) to (5)	-	-
Article 38 Auditing of the Accounts	25	-	-
<b>PART FOUR EFFECTS ON THE MEMBERS OF THE UNION</b>			
Article 39 Implementation of the Convention on the Domestic Level	30	-	-
Article 40 Relations Between Members of the Union Bound by Different Texts	34	-	-
Article 41 Special Agreements	29	-	-

	Corresponding Articles in		
	Present Text	Doc. IOM/IV/2	Doc. PM/1/2
<b>PART FIVE FINAL PROVISIONS</b>			
Article 42 Signature	31	-	-
Article 43 Ratification, Acceptance or Approval; Accession	32	-	-
Article 44 Reservations	40	-	-
Article 45 Territorial Scope of Application	36	-	-
Article 46 Communications	35	-	-
Article 47 Exception for Protection under Two Forms	37	-	-
Article 48 Entry into Force	33	-	-
Article 49 Duration	41(1)	-	-
Article 50 Revision	27	-	-
Article 51 Denunciation	41(2) to (4)	-	-
Article 52 Preservation of Existing Rights	39	-	-
Article 53 Languages of the Convention; Depositary Functions	42(1) and (3)	-	-
Article 54 Transmission and Notifications	42(2), (5) and (4)	-	-

[Annex II follows]

PROPOSED STRUCTURE OF THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS  
submitted by the delegation of the Federal Republic of Germany and updated by the Office of the Union

		Corresponding Articles in			
		Present Text	Doc. IOM/IV/2	Doc. PM/1/2	Docs CAJ/27/2 and 4*
<b>PART ONE</b>	<b>GENERAL PROVISIONS</b>				
Article 1	International Union for the Protection of New Varieties of Plants	1(1) and (2)	1	3 1	17(1)
Article 2	Legal Status of the Union	24(1) and (2)	-	4	17(2) and (3)
Article 3	Organs and Seat of the Union	15 1(3) 24(3)	-	5	18 17(4) and (5)
Article 4	Definitions	-	2	2	1
Article 5	Field of Application	4	4	8	5
Article 6	National Treatment	3	3	9	6
<b>PART TWO</b>	<b>BREEDER'S RIGHT</b>				
<b>Chapter I</b>	<b>Conditions for the Grant of the Breeder's Right</b>				
Article 7	Varieties Eligible for Protection	6(1), Introduction, and (e)	6(1), Introduction, and (2)	11(1), Introduction, (2) and (3)	8(1) and (2)
Article 8	Distinctness	6(1)(a)	6(1)(b)	11(1)(b)	8(4)
Article 9	Homogeneity	6(1)(c)	6(1)(c)	11(1)(c)	8(5)
Article 10	Stability	6(1)(d)	6(1)(d)	11(1)(d)	8(6)
Article 11	Novelty	6(1)(b) 38	6(1)(a)	11(1)(a) 12	8(3)
Article 12	Variety Denomination	13(1), first sentence, and (2) to (6)	6(2) and 13(1) to (6)	19(1) to (6)	16(1) to (6)

\* Articles 1 to 16 appear in document CAJ/27/2, and Articles 17 to 40 in document CAJ/27/4.

	Corresponding Articles in			
	Present Text	Doc. IOM/IV/2	Doc. PM/1/2	Docs CAJ/27/2 and 4
<b>Chapter II Application for the Granting of the Breeder's Right</b>				
Article 13 Free Choice of the Member of the Union in which an Application is Filed	11(1) and (2)	11(1) and (2)	10(1) and (2)	7(1) and (2)
Article 14 Priority	12	12	13	10
Article 15 Examination of the Application	7(1) and (2) 30(2)	7(1) to (3)	14(1) to (3)	11(1) to (3)
Article 16 Provisional Protection	7(3)	7(4)	14(4)	11(4)
<b>Chapter III Effects of the Breeder's Right</b>				
Article 17 Content of the Breeder's Right	5(1), (2) and (4)	5(1), (3) and (5)	17(1) and (2) 2(iv)	14(1) and (2) [1(ix)]
Article 18 Limitation of the Effects of the Breeder's Right	5(3)	5(2)(ii) to (iv) and (4)	17(3) and (4)	14(3)
Article 19 Limitations in the Exercise of the Breeder's Right	9	9	18	15
Article 20 Exhaustion of the Breeders' Rights	-	5(2)(i)	17(4)	14(4)
Article 21 Use of the Variety Denomination	13(1), 2 <sup>nd</sup> sentence, (7) and (8)	13(7) and (8)	19(7) and (8)	16(1), 2 <sup>nd</sup> sentence (7) and (8)
Article 22 Independance of the Breeder's Right in Different Members of the Union	11(3)	11(3)(a)	10(3)(a)	7(3)
Article 23 Independance of the Breeder's Right from Measures for the Regulation of the Seed Trade	14	-	7	4
Article 24 Agreements Relating to Breeders' Rights	29	11(3)(b) and (c)	10(3)(b) and (c)	31
<b>Chapter IV Duration and Termination of the Breeder's Right</b>				
Article 25 Duration of the Breeder's Right	8	8	15	8

		Corresponding Articles in			
		Present Text	Doc. IOM/IV/2	Doc. PM/1/2	Docs CAJ/27/2 and 4
Article 26	Nullity of the Breeder's Right	10(1) and (4)	10(1) and (4)	16(1), (2) and (5)	13
Article 27	Forfeiture of the Breeder's Right	10(2) to (4)	10(2) to (4)	16(3) to (5)	13
<b>PART THREE INSTITUTIONAL PROVISIONS</b>					
<b>Chapter I The Council, the Office of the Union</b>					
Article 28	Composition of the Council	16(1) and (2)	-	-	19
Article 29	Presidency	18	-	-	21
Article 30	Sessions	19	-	-	22
Article 31	Observers	17	-	-	20
Article 32	Tasks	21 and 20	-	-	24, 23
Article 33	Votes	22	-	-	25
Article 34	Office of the Union	16(3) and 23	-	-	26
Article 35	Languages	28	-	-	30
<b>Chapter II Financial Provisions</b>					
Article 36	Meeting of Expenses	26(1)	-	-	28(1)
Article 37	Contributions of the Members of the Union	26(2) to (5)	-	-	28(2) to (5)
Article 38	Auditing of the Accounts	25	-	-	27
<b>PART FOUR EFFECTS ON THE MEMBERS OF THE UNION</b>					
Article 39	Implementation of the Convention on the Domestic Level	30	-	-	2(2)
Article 40	Relations Between Members of the Union Bound by Different Texts	34	-	-	35
Article 41	Special Agreements	29	-	-	31

	Corresponding Articles in			
	Present Text	Doc. IOM/IV/2	Doc. PM/1/2	Docs CAJ/27/2 and 4
<b>PART FIVE FINAL PROVISIONS</b>				
Article 42 Signature	31	-	-	32
Article 43 Ratification, Acceptance or Approval; Accession	32	-	-	33
Article 44 Reservations	40	-	-	38(1)
Article 45 Territorial Scope of Application	36	-	-	-
Article 46 Communications	35	-	-	36
Article 47 Exception for Protection under Two Forms	37	-	-	38(2)
Article 48 Entry into Force	33	-	-	34
Article 49 Duration	41(1)	-	-	-
Article 50 Revision	27	-	-	29
Article 51 Denunciation	41(2) to (4)	-	-	39
Article 52 Preservation of Existing Rights	39	-	-	37
Article 53 Languages of the Convention; Depository Functions	42(1) and (3)	-	-	40(1) and (3)
Article 54 Transmission and Notifications	42(2), (5) and (4)	-	-	40(2), (4) and (5)

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