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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Ninth Session
Geneva, April 26 and 27, 1982

PERIODICAL PUBLICATION OF FEES PAYABLE

Document prepared by the Office of the Union

1. At its eighth session, the Administrative and Legal Committee decided to include in the agenda of its ninth session the matter of the desirability of periodically publishing fees payable (see paragraph 27 of document CAJ/VIII/11).

2. This decision was taken in response to a proposal by the Delegation of France to the effect that member States should publish their scales of fees annually in their official plant variety protection gazettes (hereinafter "official gazettes"), and a proposal by the Vice Secretary-General that the same information should also be published in the UPOV Gazette and Newsletter. The question arose from the fact that, in certain cases of cooperation in examination--namely where the authority of one member State ("Authority B") asks the authority of another member State ("Authority A") to carry out testing on its behalf--Authority B has to pay Authority A a remuneration "equal to the appropriate examination fee payable in the State of Authority A," and that the applicant has to pay Authority B an amount "which shall, as far as possible, correspond to the consideration referred to [earlier]" (Article 2 of the Recommendation on Fees in Relation to Cooperation in Examination). These circumstances create a need for information on foreign examination fees that affects:

(i) the authorities of member States;

(ii) breeders.

3. At present, the majority of authorities in member States publish their scales of fees in their official gazettes when they are fixed for the first time and whenever they are subsequently altered. Moreover, the Office of the Union publishes a summary of those scales on the same occasions in the UPOV Gazette and Newsletter (provided of course that it is informed accordingly by the authority of the State concerned or by consultation of its official gazette). In order that full information may be circulated by the above routes, it should therefore be recommended to the authorities of member States:

(i) that they all publish their scales of fees when those fees are fixed for the first time and whenever they are subsequently altered;

(ii) that they inform the Office of the Union of those scales as soon as possible on those same occasions.

4. There are two drawbacks to circulating information by the above routes:

(i) with regard to national gazettes, the information may be difficult to understand if it takes the form of the reproduction of a legislative text amending earlier texts, especially for those unfamiliar with the earlier texts. This is compounded by the language barrier, as the national gazette is obviously drafted in the national language;

(ii) with regard to national gazettes and the UPOV Gazette and Newsletter, the information is published with some delay owing to the intervals between issues of the gazettes: experience has shown that it is rare for the publication of a new scale of fees to be published in the national gazette before the scale comes into effect.

5. The Office of the Union proposes the following to remedy these drawbacks, for the benefit of the authorities concerned:

(i) As soon as it receives a communication from a member State, it will draft the item to appear in the UPOV Gazette and Newsletter, and will send a copy to the authorities of member States, which in turn will include it in a file set aside for the purpose; alternatively (or in addition):

(ii) the Office of the Union will draw up a recapitulatory table of the fees in force in member States for the benefit of the authorities of those States and, when amendments have been made in any member State, it will send an updated table to the various authorities.

In view of the growing complexity of scales of fees, the recapitulatory table should be confined to examination fees charged for examination carried out at the national level.

6. The Office of the Union considers that the above solutions would be more effective for national authorities than an annual publication of fees in force, which rapidly becomes out of date in view of the number of member States and the frequency of amendments. It seems sufficient to inform breeders by means of national gazettes and the UPOV Gazette and Newsletter--not to mention other sources such as the official journals and bulletins of breeders' associations--as their interest is generally confined to certain species and certain countries only, so that an annual publication of the scale of fees is not indispensable.

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