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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Seventh Session

Geneva, May 6 to 8, 1981

CONTACTS BETWEEN THE EXAMINING AUTHORITY AND APPLICANTS
FOR PROTECTION IN CASES OF COOPERATION IN EXAMINATIONDocument prepared by the Office of the Union

1. At its sixth session, the Administrative and Legal Committee decided, at the invitation of the Technical Committee, to examine at its seventh session the question whether an examining authority acting for another member State could establish direct contact with the applicant for variety protection without passing through the competent office of that other member State (see document CAJ/VI/10, paragraph 29).

2. The UPOV Model Agreement for International Cooperation in the Testing of New Varieties and the bilateral agreements concluded on the subject between member States do not contain any provision on that question. It is therefore necessary to solve the problem at the bilateral level, in conformity with Article 11 of the Model Agreement, which reads as follows:

"Details arising out of this Agreement, including application forms, technical questionnaires, seed requirements and the form of reports and descriptions, shall be settled between the two Authorities."

3. Since it is increasingly frequent for a State to conduct the examination for several other States, it is desirable to work out and adopt a harmonized solution to avoid conflicts between different rules. The following solution is proposed:

(i) Each authority informs the person who has filed with it an application for protection or an application for entry in the national list of the conditions for the examination and for the transmission of the material necessary for the examination;

(ii) If necessary, the examining authority may establish direct contact with the applicant or with one of the applicants (who in most cases will be the person who has furnished the material) on condition that the authority of the State concerned will be notified in due course of the subject and the results of such contacts.

4. There is no need for this solution to be reflected in the Model Agreement, if adopted.

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