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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Twelfth Session

Geneva, November 7 and 8, 1983

LEGAL ASPECTS OF THE
PROBLEM OF MINIMUM DISTANCES BETWEEN VARIETIES

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OFFER FOR SALE AND MARKETING
IN RELATION WITH THE NOVELTY CONCEPTDocument prepared by the Office of the Union

The annex hereto contains the replies from the delegation of Spain to the questions asked by the Office of the Union for the purpose of preparing a study of the concept of offering for sale and marketing and of the interpretation of that concept in the various member States for the purposes of novelty within the meaning of Article 6(1)(b) of the Convention. (The questions are reproduced in paragraph 2 of document CAJ/XII/3.)

[Annex follows]

ANNEX

REPLIES OF THE DELEGATION
OF SPAIN

Extract from the letter dated August 31, 1983,
from Mr. J.M. Elena Rossello, Technical Vice Director
of the Laboratories and Register of Commercial Varieties,
to the Vice Secretary-General

1. In Article 4(3) of the "General Rules on the Protection of New Plant Varieties" (Royal Decree No. 1674/1977), the following terms are used:

"... it has already been marketed or offered for sale in Spain, with the authorization of the breeder or his successors in title, or more than four years previously in any foreign country, or where it has been the subject of sufficient advertising of any kind to be used."

Some references are made in the same paragraph to an application for a Plant Breeders' Rights Certificate.

According to paragraph (4) of Article 4, (a) the presentation at contests, collections or exhibitions, insofar as no commercial transactions take place at them, and (b) production and distribution on an experimental scale shall not be regarded as marketing.

At present we do not have cases of law or explanations of our Plant Breeders' Rights Board concerning this matter.

2. The plant breeders' rights scheme for sunflower has been in operation in Spain since 1982. We do not have at present cases of law concerning pure lines used as parents in hybrid seed production. For the other case mentioned in the circular--relating to multiplication contracts involving a transfer of possession of basic seed--we do not have special experience or interpretations of our Rules.

[End of document]