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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

DIPLOMATIC CONFERENCE
ON THE REVISION OF THE INTERNATIONAL CONVENTION
FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva, October 9 to 23, 1978

PROPOSAL FOR THE AMENDMENT OF ARTICLE 38

submitted by the Delegation of the Netherlands

It is proposed that Article 38 be drafted as follows:

- Article 38

"Settlement of disputes"

(1) (no change)

(2) After the words "at the request of all the parties concerned" is added "in accordance with the following procedure."

(a) Each disputing party, whether constituted by one or more Parties to this Convention, shall designate one arbitrator.

These two arbitrators shall propose a Chairman who shall be a national of a State not party to the dispute, and who shall be designated by common agreement by the disputing parties. The arbitrators shall be designated within two months and the Chairman within three months from the date of submission to arbitration of the dispute.

If these time limits are not met, and the parties to the dispute have not agreed on another designation procedure, the disputing parties may request the President of the Council or one of the Vice-Presidents, in accordance with the provision of Article 18(1), who shall be a national of a State not party to the dispute, to make the necessary designations.

(b) The arbitrators shall establish their own arbitration procedure.

Decisions shall be taken by a majority of the arbitrators.

The decision of the arbitration tribunal shall be binding on the parties to the dispute.

(c) Each party shall bear the cost of its representation before the arbitration tribunal as well as the cost of its own arbitrator. The costs of the Chairman of the tribunal and other costs involved in the arbitration shall be shared equally between the parties in the dispute.

(d) The arbitration tribunal shall decide on the basis of respect for law.

- (e) The foregoing provision shall not prejudice the power of the tribunal to decide the dispute ex aequo et bono if the parties agree thereto.
- (f) Notwithstanding the foregoing provisions, the parties may agree to submit the dispute to arbitration in accordance with another arrangement operating between them.

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