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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 France

It is proposed that Article 38, "Settlement of Disputes," be drafted as follows:

"(1) Any dispute between two member States of the Union concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of the parties to the dispute, be submitted to the Council, which shall endeavour to bring about agreement between the member States concerned.

"(2) If such agreement is not reached within six months from the date when the dispute was submitted to the Council, the dispute shall be referred to an arbitration tribunal at the request of one of the States concerned.

"(3) The arbitration tribunal shall consist of three arbitrators. If the arbitrators have not been appointed by the States concerned within two months from the date on which the request for convening the tribunal was notified to them by the Office of the Union each of the member States concerned may request [the President of the O.A.A.] to make the necessary appointments.

"A referee shall be appointed by common consent by the two arbitrators. If the two arbitrators are unable to agree on the referee to be appointed, the referee shall be appointed by [the President of the O.A.A.]

"(4) The award of the arbitration tribunal shall be final and binding on all the States concerned.

"(5) The arbitration tribunal shall determine its own procedure, unless the States concerned agree otherwise.

"(6) Each of the States parties to the dispute shall bear the costs of its representation before the arbitration tribunal; other costs shall be borne in equal parts by each of the States."

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