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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COMMITTEE OF EXPERTS ON
INTERNATIONAL COOPERATION IN EXAMINATION

Fifth Session

Geneva, May 5, 1976

COMMENTS ON THE DRAFT HARMONIZED APPLICATION FORM
TRANSMITTED BY ASSINSELRecapitulation prepared by the Office of the Union

1. Pursuant to a decision taken by the Committee of Experts on International Cooperation in Examination (see document ICE/IV/4, paragraph 10), the Office of the Union has sent the draft harmonized application form to four international non-governmental organizations active in the field of plant breeding and the seed trade. The said draft appears in Annex II to document ICE/V/2.
2. The Office of the Union has so far received a number of comments from breeders and national breeders' organizations; these were transmitted to it by the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL). A recapitulation of these comments appears in the Annex to this document.

[Annex follows]

RECAPITULATION OF COMMENTS

General Remarks

1. In transmitting the comments, ASSINSEL pointed out that, owing to the rather short period that the international organizations were allowed for submitting comments, the members of the Association had not been able to meet and discuss the draft. It will therefore be reconsidered at the General Assembly of ASSINSEL, which will take place in Amsterdam (Netherlands) on June 3 and 4, 1976.
2. The Association of German Plant Breeders (Bundesverband Deutscher Pflanzenzüchter e.V.) points out that it welcomes the elaboration of a harmonized application form for the grant of plant breeders' rights. It considers appropriate the proposed method and the preparation of the form on the basis of the draft submitted to them, particularly in view of the increasing possibilities offered by data processing.

Comments on the Layout

3. According to a reply from Belgium, the question whether the form should be on one page or two pages should be settled in the light of the possibilities of computerized processing.
4. An application form on one page is favored by an Italian firm because the use of data processing machines would thus be facilitated.
5. An application form on two pages is favored by a breeder from the Federal Republic of Germany (a blank underside being necessary for photocopying with certain machines), and also by a breeder from Sweden and by the Swiss Community for the Protection of Plant Varieties (Schweizerische Interessengemeinschaft für den Schutz von Pflanzenzüchtungen--Commission suisse pour la protection des obtentions végétales (SISP)) since it would allow more space for the applicant's indications. The Association of German Plant Breeders sees an advantage in the two-page form because of the fact that bigger typewriter characters can be used.

General Comments on the Contents

6. The Swiss Community for the Protection of Plant Varieties (SISP) wonders why the specific requirements of the United Kingdom are mentioned in the Explanatory Notes (ad items 1 and 5) and whether such remarks are justified in a model form for several States.

Specific Comments on Item 9

7. The Association of German Plant Breeders suggests that item 9 should be amended to the effect that information may only be exchanged among UPOV member States. With regard to non-member States, the clause provided in the draft for hybrid varieties should be extended to all varieties. Another possibility would be to provide that the supply of information to non-member States should be made dependent on the agreement of the breeder concerned.
8. The Dutch Breeders' Association (Nederlandse Kwekersbond) makes the following remarks:
 - (i) The rights of the applicant are to be safeguarded in the case of confidential information concerning all varieties, whatever their breeding history may be.
 - (ii) The Dutch Breeders' Association objects--in general terms--to the possibility of material of the variety (seed, tubers, etc.) moving from one State to another free of control by the applicant and without his specific approval, especially where a UPOV non-member State receives the material.

(iii) It does, therefore, have objections to this compulsory authorization.

(iv) It suggests that the applicant be given the option to authorize exchange between:

(a) UPOV member States,

(b) any States,

(c) specific States.

[End of Annex
and of document]