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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

MEETING
WITH INTERNATIONAL ORGANIZATIONS

Geneva, November 9 and 10, 1983

COMMENTS FROM INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

CIOPORADocument prepared by the Office of the UnionIntroduction

1. In accordance with the consultation procedure adopted by the Consultative Committee at its twenty-seventh session, the Office of the Union requested the international non-governmental organizations that had been invited to participate in the current meeting to communicate before July 31, 1983, in order to prepare this meeting, any preliminary comments they had on the items entered on the agenda.

2. The Office of the Union has received comments from the International Community of Breeders of Asexually Reproduced Fruit Tree and Ornamental Varieties (CIOPORA) by letter of July 20, 1983, from the Secretary General of CIOPORA addressed to the Secretary-General of UPOV. Their comments are as follows.

UPOV Recommendations on Variety Denominations

3. CIOPORA fully maintains the position it took at the Conference organized by UPOV in December 1972 on this same question.

4. Firstly, the role of a denomination should be strictly to "reference," to identify, a new variety in the same way as a serial number identifies an industrial patent. It is therefore not necessary, in the opinion of CIOPORA, to require that the denomination be "easy to pronounce" and "easy to remember" since it is not normally intended to play a part in trade or advertising for the variety it identifies.

5. Secondly, it is necessary to take into account national and international trade customs in this respect. In this context, CIOPORA has drafted rules for making up denominations, which the UPOV recommendations should take into consideration.

Minimum Distances Between Varieties

6. The feeling of the members of CIOPORA is that the level of differentiation beyond which a given variety may be considered new in relation to well-known varieties should be raised.

7. The criteria for assessing minimum distances should nevertheless be assessed and drawn up in a specific way, taking into account each given species. The problem of minimum distances does not exist with the same acuteness for all species; it should be looked into and resolved with speed for those species in particular where the varieties are subject to frequent or easily provoked variations.

8. Various members of CIOPORA have requested that it approach UPOV with a view to plant variety protection legislation (that is to say, primarily the Convention itself) recognizing them a right of control over the mutations derived from their varieties, without this control being necessarily linked to the question of minimum distances.

9. CIOPORA generally feels that it is difficult, or even undesirable, in a discussion on minimum distances to separate the technical matters from the legal matters. This debate has or will have obvious implications for the scope of the breeders' rights (definition of the "orbit" of variety protection) and for infringement proceedings. It would therefore seem preferable to link the technical and legal matters during the meeting.

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