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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**

GENEVA

**SECOND MEETING  
WITH INTERNATIONAL ORGANIZATIONS****Geneva, October 15 and 16, 1985**REPORT ON DEVELOPMENTS SINCE THE MEETING WITH  
INTERNATIONAL ORGANIZATIONS HELD IN NOVEMBER 1983prepared by the Office of the UnionIntroduction

1. The first Meeting with International Organizations (IOM/I) was held on November 9 and 10, 1983. A detailed record of the Meeting was reproduced in document IOM/I/12. This brief report on developments since IOM/I follows the agenda for that Meeting. It dealt with three main items, namely: Minimum Distances Between Varieties, International Cooperation and UPOV Recommendations on Variety Denominations.

Minimum Distances Between Varieties

2. It is recalled that the expression "Minimum Distances Between Varieties" was coined inside UPOV to signify the extent of the difference that has to exist between the new variety and any other variety if the new variety is to qualify for a grant of a plant variety protection.

3. Following IOM/I, the different bodies of UPOV discussed several of the questions raised at that meeting regarding minimum distances between varieties. They came to the following major conclusions:

4. UPOV sees no need to modify the interpretation of the notion ".... clearly distinguishable by one or more important characteristics ...." used in Article 6(1)(a) of the Convention. A characteristic is considered "important" if it is important for distinguishing one variety from other varieties irrespective of whether it is a value characteristic or not.

5. UPOV has set out basic principles and rules on the testing of varieties in its General Introduction to the Guidelines for the Conduct of Tests for Distinctness, Homogeneity and Stability of New Varieties of Plants and the individual Test Guidelines. It is reaffirmed that these basic principles and rules were established for the testing of varieties as well as for describing varieties. UPOV will continue collecting experience, species by species, which will be reflected in the General Introduction or the individual Test Guidelines when they are revised.

6. UPOV confirms the following three main criteria which it established to facilitate the decision on whether to include a characteristic in UPOV Test Guidelines:

(i) The characteristic should be considered an important characteristic and varieties that can be identified by that characteristic should also be expected to have a sufficient minimum distance from other varieties to justify the grant of plant variety protection.

(ii) Varieties should be expected to be homogeneous in the characteristic concerned, or to segregate according to a certain formula and

(iii) Harmonized and standardized methods to observe that characteristic should exist.

7. UPOV considers that, from the technical point of view, there is no difference between characteristics suitable for assessing distinctness as a prerequisite for the granting of plant variety protection and characteristics used for other purposes, such as for proving in the trade that a seed sample belongs to a given variety. One must remember, however, that other aspects, for example legal ones, or the uncertainty of the consequences of the acceptance of a characteristic for distinctness purposes, might not allow certain characteristics to be admitted for distinctness purposes in the procedure for the granting of plant variety protection, although they are widely used, for example in the seed trade.

8. UPOV confirms that differences which cannot be verified according to the basic testing principles as laid down in the General Introduction to the Test Guidelines or in the individual Test Guidelines should not be taken into account when assessing distinctness, homogeneity and stability. Sophisticated methods, such as electrophoresis, leading to new characteristics are so far considered not to fulfil these basic testing principles.

9. UPOV is of the opinion that additional efforts for establishing distinctness of a variety should be undertaken if the authority is convinced of the originality of a variety or if the breeder furnishes further proof. In looking for additional distinguishing possibilities, in the first instance new characteristics, i.e., those which so far are not considered in the testing of varieties, should be looked for. The reduction of minimum distances in a given characteristic is considered to be rather difficult.

10. UPOV is of the opinion that the suggestion that minimum distances should be enlarged for species where mutants occur frequently should not be followed since it has not yet been possible to prove that a mutant really is a mutant. It also notes that without a change in the UPOV Convention a droit de suite of the breeder of the original variety in respect of a mutant could not be admitted. UPOV is aware of the difficulties that exist in this area but sees no solutions at present; it was therefore decided to observe developments closely.

11. UPOV confirms that in the case of hybrid varieties the testing procedure depends on the species concerned, especially with respect to the question whether the breeding formula has to be examined and/or the lines tested. Parent lines of hybrids should not be examined automatically in each and every case. For species in which hybrid varieties are bred, the eligibility for protection should not be limited mandatorily to lines alone.

12. During the various discussions it showed that it was rather difficult to deal with the question of minimum distances in abstracto, i.e. without being able to base the discussion on specific cases. UPOV therefore decided not to continue discussing this item unless new developments change the present situation.

13. In connection with the question of minimum distances between varieties, possible ways of improving contacts with breeders and users of varieties were also discussed. As a result of further discussions inside UPOV, it was agreed that a greater number of meetings at the national level with breeders and users of varieties should be foreseen. This was considered preferable to providing, as a routine matter, for participation of representatives of breeders and users of varieties in sessions of the UPOV Technical Working Parties since it was considered that such participation might delay the technical work of UPOV.

Mention was made in this context of the fact that for Begonia elatior the German Federal Plant Varieties Office had already invited breeders and users of varieties of that species from different UPOV member States to two meetings at its testing premises at Hanover. At the request of some breeders and users of varieties, UPOV has started to respond in detail to comments made by international non-governmental organizations on draft Test Guidelines in order to inform them why certain proposals have not been found acceptable. In this context it was stated that UPOV would appreciate it if it could receive more comments by correspondence from breeders or growers on draft Test Guidelines for fruit, ornamental and forest tree species.

#### International Cooperation

14. As the item "International Cooperation" is included again in the agenda for the second meeting, the brief report on developments in that area is included in document IOM/II/4.

#### Recommendations on Variety Denominations

15. After the first meeting with international organizations, the different UPOV bodies continued their discussions on the preparation of recommendations on variety denominations and these finally led to a text which was adopted by the Council during its last session, held in October 1984. The final text of the recommendations is reproduced in document UPOV/INF/10. It is also reproduced in section 14 of the UPOV Collection of Important Texts and Documents, which is now available in all three official UPOV languages. UPOV has also started a pilot scheme for the centralized examination of proposed variety denominations. The pilot scheme will be carried out by the Office of the Federal Republic of Germany for Begonia elatior and by the Office of the United Kingdom for Chrysanthemum. Once the scheme is operational, each of those offices will make a complete examination for the other offices participating in the scheme, of the acceptability of variety denominations filed with those offices. The examination will cover all criteria for the acceptability of a variety denomination, subject to the limitations of the office carrying out the examination.

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