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GENEVA

COMMITTEE OF EXPERTS ON THE INTERPRETATION AND REVISION OF THE CONVENTION

Sixth Session

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DRAFT PROVISIONAL RULES OF PROCEDURE OF THE DIPLOMATIC CONFERENCE
prepared by the Office of the Union

1. The Office of the Union has, in February 1977, distributed to the members of the Committee of Experts on the Interpretation and Revision of the Convention (hereinafter referred to as "the Committee of Experts") a draft of the Provisional Rules of Procedure for the Diplomatic Conference scheduled for 1978 (Annex to document IRC/V/5). In its fifth session (March 1977), the Committee of Experts approved, with some amendments, the said draft (see document IRC/V/14, paragraphs 78 to 80).

2. The Office of the Union has, once again, re-examined the draft in question. In addition to the modifications necessary to reflect the amendments made by the Committee of Experts and some changes intended to clarify the text, three substantive changes are proposed, namely (i) to authorize the Diplomatic Conference to establish a Steering Committee whose main task would consist in supervising the progress made by the Diplomatic Conference (Rule 14), (ii) to provide for the treatment of motions calling for decisions on the competence of the Conference (Rule 31) and (iii) to provide for the distribution of written statements by Observer Organizations (Rule 48(5)).

3. As a result of the said re-examination, the following draft is submitted for the consideration of the Committee of Experts.

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DRAFT
of the
PROVISIONAL RULES OF PROCEDURE

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CHAPTER I: OBJECTIVE, COMPETENCE, COMPOSITION, SECRETARIAT

Rule 1: Objective and Competence

(1) The objective of the Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants meeting in Geneva from October 10 to 26, 1978 (hereinafter referred to as "the Conference") is to negotiate and adopt, on the basis of the draft contained in document UPOV/78DC/3 and in accordance with Article 27, paragraphs (1) and (3), of the International Convention for the Protection of New Varieties of Plants of December 2, 1961 (hereinafter referred to as "the Convention"), a revised text of the Convention and the Additional Act of November 10, 1972, amending the Convention (hereinafter referred to as "the Additional Act").

(2) The Conference, meeting in Plenary, shall be competent to:

(i) adopt and amend these Rules of Procedure (hereinafter referred to as "these Rules");

(ii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iii) establish such committees and working groups as are provided for in these Rules;

(iv) adopt a revised text (hereinafter referred to as "the new Act") of the Convention and Additional Act;

(v) adopt any recommendation or resolution whose subject matter is germane to the new Act;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

Rule 2: Composition

(1) The Conference shall consist of:

(i) delegations of the member States of the International Union for the Protection of New Varieties of Plants (hereinafter referred to as "the Union" or "UPOV");

(ii) delegations of States other than those referred to in (i) above, which are members of the United Nations, any of the specialized agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, or are party to the Statute of the International Court of Justice;

(iii) representatives of intergovernmental and non-governmental organizations, a list of which was established by the Council of UPOV in its eleventh ordinary session.

(2) Hereinafter, delegations referred to in paragraph (1)(i) are called "Member Delegations," delegations referred to in paragraph (1)(ii) are called "Observer Delegations," and representatives of organizations referred to in paragraph (1)(iii) are called "representatives of Observer Organizations." The term "Delegations," as hereinafter used, shall, unless otherwise expressly indicated, include Member Delegations and Observer Delegations. The term "Delegations," does not include the representatives of Observer Organizations.

(3) The Conference may invite to one or more of its meetings any person whose technical advice it may consider useful for its work.

Rule 3: Secretariat

- (1) The Conference shall have a Secretariat provided by the Office of UPOV.
- (2) The Secretary-General of UPOV, the Vice Secretary-General of UPOV and any other official of the Office of UPOV designated by the Secretary-General of UPOV may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may, at any time, make oral or written statements, observations, suggestions, or proposals to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

CHAPTER II: REPRESENTATION

Rule 4: Representation of Governments

- (1) Each Delegation shall consist of one or more delegates and may include alternate delegates and advisors. Each Delegation shall have a Head of Delegation and may have an Alternate or Deputy Head of Delegation.
- (2) The term "delegate" or "delegates," as hereinafter used, shall, unless otherwise expressly indicated, include both member delegates and observer delegates. The term does not include representatives of Observer Organizations.
- (3) An alternate delegate or an advisor may act as a delegate upon designation by the Head of his Delegation.

Rule 5: Representation of Observer Organizations

An Observer Organization may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

- (1) Each Delegation shall present credentials.
- (2) Full powers shall be required for signing the new Act. Such powers may be included in the credentials.
- (3) Credentials and full powers shall be issued by the Head of the State or Government, or by the Minister responsible for external affairs.

Rule 7: Letters of Appointment

The representatives of Observer Organizations shall present a letter or other document appointing them. Such letter or document shall be signed by the Head (Director General, Secretary General, or President) of the Organization.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary General of the Conference (see Rule 19(1)), if possible, not later than twenty-four hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

- (1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7 respectively and shall report to the Conference, meeting in Plenary.
- (2) The final decision on the said credentials, full powers, letters or other documents shall be within the competence of the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the vote on the adoption of the new Act.

Rule 10: Provisional Participation

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and representatives of Observer Organizations shall be entitled to participate provisionally in the discussions of the Conference.

CHAPTER III: COMMITTEES AND WORKING GROUPS

Rule 11: Credentials Committee

- (1) The Conference shall have a Credentials Committee.
- (2) The Credentials Committee shall consist of five members elected by the Conference, meeting in Plenary, from among the Member Delegations.
- (3) The officers of the Credentials Committee shall be elected by, and from among, its members.

Rule 12: Drafting Committee

- (1) The Conference shall have a Drafting Committee.
- (2) The Drafting Committee shall consist of seven members elected by the Conference, meeting in Plenary; five of them shall be Member Delegations and two of them shall be Observer Delegations.
- (3) The officers of the Drafting Committee shall be elected by, and from among, those of its members representing Member Delegations.
- (4) The Drafting Committee shall prepare drafts and give advice on drafting as requested by the Conference, meeting in Plenary. The Drafting Committee shall not alter the substance of texts submitted to it, but shall coordinate and review the drafting of all texts provisionally adopted by the Conference, meeting in Plenary, and shall submit the texts so reviewed for final adoption by the Conference, meeting in Plenary.

Rule 13: Working Groups, Other Committees

- (1) The Conference may establish such working groups or committees (other than the Credentials Committee and Drafting Committee) as it deems useful.
- (2) The number of the members of any working group or committee (other than the Credentials Committee and Drafting Committee) shall be decided by the Conference, meeting in Plenary, which shall elect them from among the Member Delegations and Observer Delegations.
- (3) The officers of any working group or committee established under this Rule shall be elected by, and from among, those of its members representing Member Delegations.

Rule 14: Steering Committee

- (1) The Steering Committee of the Conference shall consist of the President of the Conference, the Chairman of the Credentials Committee and the Chairman of the Drafting Committee.
- (2) If the President of the Conference or the Chairman of the Credentials Committee or the Chairman of the Drafting Committee finds it necessary to be absent during a meeting of the Steering Committee, one of the Vice-Presidents of the Conference or of the Vice-Chairmen of the Credentials Committee or of the Vice-Chairmen of the Drafting Committee, as the case may be, in the order of precedence indicated in Rule 15(3), shall sit and vote in the Steering Committee.
- (3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including in particular decisions on the coordinating of the meetings of the Plenary, the committees and the working groups.
- (4) The Steering Committee shall propose for adoption by the Conference, meeting in Plenary, the text of any final act of the Conference.

CHAPTER IV: OFFICERS

Rule 15: Officers

(1) The Conference, meeting in Plenary and presided over by the Secretary-General of UPOV, shall elect its President, and, presided over by its President, elect two Vice-Presidents.

(2) The Credentials Committee and the Drafting Committee shall each have a Chairman and two Vice-Chairmen.

(3) Precedence among the Vice-Presidents and Vice-Chairmen shall depend on the place occupied by the name of the State of each of them in the list of Member Delegations established in the French alphabetical order.

(4) All officers must be delegates of Member Delegations.

Rule 16: Acting President or Acting Chairman

(1) If the President of the Conference or any Chairman is absent from any meeting of the body to be chaired by him (the Conference, meeting in Plenary, committee or working group), such meeting shall be presided over, as Acting President or Acting Chairman, by that Vice-President or Vice-Chairman of that body who, among the Vice-Presidents or Vice-Chairmen present, has precedence over the other.

(2) If both the President and the Vice-Presidents or both the Chairman and the Vice-Chairmen are absent from any meeting of the body in which they hold a function (the Conference, meeting in Plenary, committee or working group), an Acting President or Acting Chairman as the case may be, shall be elected by that body.

Rule 17: Replacement of President or Chairman

If the President or any Chairman is, for the rest of the duration of the Conference, unable to perform his functions, a new President or Chairman shall be elected by the body concerned (the Conference, meeting in Plenary, committee or working group).

Rule 18: Presiding Officer Not Entitled To Vote

No President or Chairman, whether elected as such or Acting (hereinafter referred to as "the Presiding Officer"), shall vote. Another member of his Delegation may vote in the name of his State.

CHAPTER V: SECRETARIAT

Rule 19: Secretariat

(1) The Secretary-General of UPOV shall, from among the staff of UPOV, designate the Secretary General of the Conference, and, from among the staff of UPOV or of the International Bureau of the World Intellectual Property Organization (WIPO), the Secretary of the Credentials Committee, the Secretary of the Drafting Committee, the Secretary of the Steering Committee and a Secretary for each other committee and for each working group.

(2) The Secretary General of the Conference shall direct the staff required by the Conference.

(3) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents; the interpretation of oral interventions; and the performance of all other secretarial work required for the Conference.

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(4) The Secretary-General of UPOV shall be responsible for the custody and preservation in the archives of UPOV of all documents of the Conference; the publication of the summary minutes (see Rule 44) of the Conference after the Conference; and the distribution of the final documents of the Conference to the participating Governments.

CHAPTER VI: CONDUCT OF BUSINESS

Rule 20: Quorum

(1) A quorum shall be required in the Conference, when meeting in Plenary. It shall be as provided in Article 27(3), first sentence, of the Convention.

(2) A quorum shall not be required in the meetings of committees and working groups.

Rule 21: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon him elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. He shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the meeting the limiting of time to be allowed to speakers, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers, or the closure of the debate. He may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected by the majority of the Member Delegations present and voting.

Rule 22: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 23 and 24, the Presiding Officer shall call upon speakers in the order in which they signify their desire to speak.

(2) The Presiding Officer may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 23: Precedence

(1) Member Delegations asking for the floor may be accorded precedence over Observer Delegations asking for the floor, and either may be accorded precedence over representatives of Observer Organizations.

(2) The Chairman of a committee or working group may be accorded precedence for the purpose of explaining the conclusions arrived at by his committee or working group.

(3) The Secretary-General of UPOV or his representative may be accorded precedence for making statements, observations, suggestions or proposals relevant to the subject under discussion.

Rule 24: Points of Order

(1) During the discussion of any matter, any participant may rise to a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Delegation may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless overruled by a majority of the Member Delegations present and voting.

(2) Any participant rising to a point of order may not speak on the substance of the matter under discussion.

Rule 25: Limit on Speeches

In any meeting, the Member Delegations may decide to limit the time to be allowed to each speaker and the number of times each Delegation or representative of an Observer Organization may speak on any question. When the debate is limited and a Delegation or Observer Organization has used up its allotted time, the Presiding Officer shall call it to order without delay.

Rule 26: Closing of List of Speakers

During the discussion of any given question, the Presiding Officer may announce the list of participants who have signified their wish to speak and, with the consent of the Member Delegations, declare the list closed as to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after he has declared the list of speakers closed, makes it desirable.

Rule 27: Adjournment or Closure of Debate

Any Delegation may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has signified his wish to speak. In addition to the proposer of the motion to adjourn or close the debate, permission to speak on that motion shall be accorded to one Delegation seconding and two Delegations opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

Rule 28: Suspension or Adjournment of the Meeting

During the discussion of any matter, any Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

Rule 29: Order of Procedural Motions; Content of Interventions on Such Motions

(1) Subject to Rule 24, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate on the question under discussion;
- (iv) to close the debate on the question under discussion.

(2) Any speaker who has been given the floor on a procedural motion may not speak on the substance of the matter under discussion.

Rule 30: Basic Proposal and Proposals for Amendments

(1) Document UPOV/78 DC/3 shall constitute the basis of the discussions in the Conference ("basic proposal").

(2) Any Delegation may propose amendments.

(3) Proposals for amendments shall, as a rule, be submitted in writing and handed to the Secretary of the competent body (the Conference, meeting in Plenary, committee or working group). The Secretariat shall distribute copies to the Delegations and Observer Organizations represented in the body concerned. As a general rule, no proposal for amendment shall be discussed or put to the vote in any meeting unless copies of it have been made available not later than three hours before it is called up for discussion. The Presiding Officer may, however, permit the discussion and consideration of a proposal for amendment even though copies have not been distributed or have been made available less than three hours before it is called up for discussion.

Rule 31: Decisions on Competence

Subject to Rule 24, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal or an amendment submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or the amendment in question.

Rule 32: Withdrawal of Procedural Motions and Proposals for Amendments

Any procedural motion and any proposal for amendment may be withdrawn by the Delegation which has made it, at any time before voting on it has commenced, provided that no amendment to that motion or proposal has been proposed by another Delegation. Any motion or proposal which has thus been withdrawn may be reintroduced by any other Delegation.

Rule 33: Reconsideration of Matters Decided

When any matter has been decided by a body (the Conference, meeting in Plenary, committee or working group), it may not be reconsidered by that body, unless so decided by a two-thirds majority of the Member Delegations present and voting. In addition to the proposer of the motion to reconsider, permission to speak on that motion shall be accorded only to one Delegation seconding and two Delegations opposing the motion, after which the question of reconsideration shall immediately be put to the vote.

CHAPTER VII: VOTING

Rule 34: Voting Rights

Each Member Delegation shall have the right to vote in the Conference, meeting in Plenary, and in each committee or working group of which it is a member. A Member Delegation shall have one vote and shall represent and vote in the name of its own Government only.

Rule 35: Required Majorities

(1) Final adoption of the new Act shall require the majority prescribed in Article 27(3), second sentence, of the Convention.

(2) Subject to Rules 33 and 49(3), any other decision of the Conference, meeting in Plenary, and all decisions in any committee or working group shall require a simple majority of the Member Delegations present and voting.

(3) For the purpose of these Rules, references to Member Delegations "present and voting" shall be construed as references to Member Delegations present and casting an affirmative or negative vote. Express abstention, non-voting or absence during the vote shall not be considered as votes cast.

Rule 36: Requirement of Seconding; Method of Voting

(1) Any procedural motion and any proposal for amendment made by a Delegation shall be put to a vote only if it is seconded by at least one other Delegation.

(2) Voting shall be by show of hands unless any Member Delegation, seconded by another Member Delegation, requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the French alphabetical order of the names of the States, beginning with the Member Delegation whose name is drawn by lot by the Presiding Officer.

Rule 37: Conduct During Voting

(1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.

(2) The Presiding Officer may permit Member Delegations to explain their votes, either before or after the voting.

Rule 38: Division of Proposals

Any Delegation, seconded by another Delegation, may move that parts of the basic proposal or of proposals for amendments be voted upon separately. If objection is made to the request for division, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Delegation in favor and two Delegations against. If the motion for division is carried, all parts separately approved shall again be put to the vote, together, as a whole. If all operative parts of the basic proposal or of the proposal for amendment have been rejected, the basic proposal or the proposal for amendment shall be considered to have been rejected as a whole.

Rule 39: Voting on Proposals for Amendments

Any proposal for amendment shall be voted upon before voting upon the text to which it relates. Proposals for amendments relating to the same text shall be put to a vote in the order in which their substance is removed from the said text, the furthest removed being put to a vote first and the least removed being put to a vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such proposal or text shall not be put to the vote. If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to a vote. Any proposal to add to, or delete from, a text shall be considered a proposal for amendment.

Rule 40: Voting on Proposals on the Same Question

Subject to Rule 39, where two or more proposals relate to the same question, the body (the Conference, meeting in Plenary, committee or working group) concerned shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The body may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 41: Elections on the Basis of Proposals Made by the President of the Conference

The President of the Conference may propose a list of candidates for any position which is to be filled by vote of the Conference and is not yet filled through election by the Conference, meeting in Plenary.

Rule 42: Equally Divided Votes

(1) If a vote is equally divided on matters other than elections of officers, the proposal shall be regarded as rejected.

(2) If a vote is equally divided on a proposal for electing a given person as an officer, the vote shall be repeated if the nomination is maintained until either that nomination is adopted or rejected or another person is elected for the position in question.

CHAPTER VIII: LANGUAGES AND MINUTES

Rule 43: Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any body (the Conference, meeting in Plenary, committee or working group) shall be in English, French or German, and interpretation shall be provided by the Secretariat into the other two languages.

(2) Any Delegation may make oral interventions in another language provided its own interpreter simultaneously interprets the intervention into English, French or German. Interpretation into the other of the said languages by the interpreters of the Secretariat may be based on the interpretation given in one of the said languages.

(3) Any committee or working group may, if none of its members objects, decide to waive interpretation or to limit it to fewer than the languages referred to in paragraphs (1) and (2).

Rule 44: Summary Minutes

(1) Provisional summary minutes of the Plenary meetings of the Conference shall be drawn up by the Office of UPOV and shall be made available as soon as possible, after the closing of the Conference to all speakers, who shall, within two months after the making available of such minutes, inform the Office of the Union of any suggestions for changes in the minutes of their own interventions.

(2) The final summary minutes shall be published in due course by the Office of UPOV.

Rule 45: Languages of Documents and Minutes

(1) Any written proposal shall be presented to the Secretariat in English, French or German.

(2) Subject to paragraph (3), all documents distributed during or after the Conference shall be made available in English, French or German.

(3)(a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English, French or German; if the speaker has used another language, his intervention shall be rendered in English, French or German as may be decided by the Office of UPOV.

(b) The final summary minutes shall be made available in English, French and German.

CHAPTER IX: OPEN AND CLOSED MEETINGS

Rule 46: Meetings of the Conference

The Plenary meetings of the Conference shall be open to the public unless the Conference, meeting in Plenary, decides otherwise.

Rule 47: Meetings of Committees and of Working Groups

The meetings of any committee or working group shall be open only to the members of that committee or working group and the Secretariat.

CHAPTER X: OBSERVERS

Rule 48: Observers

(1) Observer Delegations may participate in the deliberations of the Conference, meeting in Plenary.

(2) Observer Delegations may participate in the deliberations of the committees or working groups of which they are members.

(3) Representatives of any Observer Organization may, upon the invitation of the Presiding Officer, make oral statements in the Conference, meeting in Plenary, on questions within the scope of their activities.

(4) Observer Delegations and Observer Organizations shall not have the right to vote.

(5) Written statements submitted by Observer Organizations on subjects of which they have a special competence and which are related to the work of the Conference shall be distributed by the Secretariat to the participants in the quantities and in the languages in which the statements are made available.

CHAPTER XI: ADOPTION OF AND AMENDMENTS TO THE RULES OF PROCEDURE

Rule 49: Adoption of and Amendments to the Rules of Procedure

(1) The Rules of Procedure, based on Provisional Rules of Procedure prepared by the Council of UPOV, shall be adopted by the Conference, meeting in Plenary. Adoption shall require a simple majority of the votes cast by the Member Delegations present and voting.

(2) With the exception of Rule 35(1) and the present Rule, the Conference, meeting in Plenary, may amend these Rules.

(3) The adoption of any amendment shall require a majority of three-fourths of the votes cast by the Member Delegations present and voting.

CHAPTER XII: FINAL ACT

Rule 50: Final Act

If a final act is adopted, it shall be open for signature by any Delegation.

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