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UPOV/JT/3  
Original: English  
Date: March 1, 1971

INTERNATIONALER VERBAND  
ZUM SCHUTZ VON  
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE  
POUR LA PROTECTION  
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION  
FOR THE PROTECTION OF  
NEW PLANT VARIETIES

Meeting of Experts concerning Joint Trial Arrangements  
held in Geneva on February 2, 1971

REPORT

1. The meeting was held in Geneva, at the headquarters of UPOV, on February 2, 1971.
2. The list of participants appears in the Annex to this Report.
3. The Secretary General welcomed the participants and pointed out that no interpretation facilities had been provided for. He asked the participants to agree that the discussion be carried out in English. Linguistic difficulties could be overcome by mutual help.
4. As the meeting had been convened by the Secretariat as a consultant meeting to assist the Secretariat in preparing a paper for the Council, the Secretary General proposed that the Vice Secretary General should take the chair. This was generally agreed upon.
5. The Chairman introduced documents UPOV/JT/1 (prepared by the Secretariat) and UPOV/JT/2 (prepared by the UK Delegation). These papers contained two different problems:
  - (i) the rose scheme presented by the UK, according to which the first country which receives an application undertakes the examination and passes its results to the other countries who base their decisions on these results without further examination, and

- (ii) the allocation schemes according to which certain varieties are examined only in one country agreed upon by the member States.

6. After a discussion as to which problem should be discussed first, it was agreed to start with the rose scheme.

7. Dr. Böringer pointed out that several difficulties had to be overcome before the scheme could be implemented, first of all that of the difference of fees in the different countries.

8. The following information was given regarding fees:

UK:

Application fee (administrative)	£ 10
Trial	£ 20 p.a.
Grant of rights	£ 30
Annual renewal fee	£ 30

Netherlands:

Application fee	£ 12
1st year of research	£ 40
2nd " " "	£ 30
4th " " "	free of charge
Annual fee	from £ 80 (1st year) to £ 75 (6th year)
Grant of rights	free of charge

Germany:

Application fee	DM 150
Trial fee	DM 300 p.a.
Decision to grant rights	DM 150
Annual fee	from DM 150 in the first year to DM 600 at the end of the 20th year.

Denmark:

Application fee	£ 50
Trial fee	£ 25 p.a.
Annual fee after grant of rights	£ 25

There are no other fees.

9. Miss Thornton agreed that the trial fees represented a difficult problem, and that the UK would have to increase its trial fee. She would be prepared to try to raise this fee, which could take effect from April 1, 1971. She requested her statement to be regarded as confidential.
10. Dr. Böringer pointed out that the method of checking should be harmonized before making the scheme. In Germany it was necessary that the Federal Minister publish a notification stating that the trial methods applied in other countries were equivalent to those used in Germany, and this could be done only after the formal adoption by the Council of guidelines for tests of roses.
11. Mr. Hutin asked for a standardized form for the presentation of the results.
12. Mr. Schneider and Mr. Evans, both members of the Technical Working Party for Ornamental Plants, said that the Working Party had already made agreements on all important points relating to research and on a standard method for the presentation of the results: a written technical description in a common form, photos and color slides taken under standardized conditions; photos of inflorescence; botanical features represented by silhouettes; herbarium material of stems and prickles. The Working Party had found important characters which did not vary. The system was in use in the Netherlands and could also be made available to other countries.
13. Dr. Böringer wanted to know if there existed a harmonized questionnaire for the description to be made by the breeder when presenting his application; Mr. Schneider and Mr. Evans answered that the Working Party had finally agreed upon a technical questionnaire. The reporting form, however, would need some amendment.
14. Dr. Böringer emphasized the need for uniformity of the trial guidelines for the different species. Therefore it would be an advantage to compare a final rose paper with papers from the other Working Parties and bring them all into line before agreement on joint trials.
15. Mr. Kelly pointed out that there could be differences between vegetatively and generatively propagated species and, regarding the latter, between cross and self-fertilized species. The rose species was good to start with and the rose scheme could not be projected to all other species.

16. Dr. Böringer agreed on this. In the light of what had been said previously, he found that the most important matters should be discussed now. Such questions as the number of years of checking and the influence of the environment would have to be kept in mind but could be put aside for the time being. The same applied to the fact that some varieties were very close to each other.

17. Mr. Dorsman raised the question of the exchange of plant material, which was essential in order to check that the same variety would be protected in all countries. He would prefer the material to be sent from the examining country to other countries before plant breeders' rights were granted.

18. Dr. Böringer mentioned the legal obstacles for sending material before the grant of rights without the breeder's consent. He pointed out that the reference collection should be established only with material received from the breeder.

19. Mr. Hutin said that it was intended in France that the breeder should be asked to give his consent to the exchange of material. He agreed with Dr. Böringer's remark on the reference collection and would favor the principle according to which the institute which had received plant material from the breeder should send part of it to the other countries and this should be done as soon as possible.

20. There followed a discussion as to whether or not all countries should maintain full reference collections of protected rose varieties in which it was pointed out that it was necessary to have collections in all countries in so far as all countries undertook to test rose varieties. In addition to the purpose of the preliminary examination, it would also be necessary to maintain a reference collection for the purpose of assisting the breeders in the case of infringements, and Mr. Dorsman felt that such a collection ought to exist in all countries. Dr. Böringer could not see the necessity of having collections in all countries, as the check could be made in the country which maintains the collection, and Mr. Kelly stressed the importance of having competent people within the framework of UPOV; from an economic point of view, he said, there was a limit on what could be done; but maybe for roses several countries might need to have reference collections.

21. Mr. Hutin did not consider it necessary to have the plants if all information was coded on computer cards, but Mr. Schneider and Miss Thornton said that in the Netherlands and the United Kingdom such cards did not exist. The work was done on the basis of the knowledge of the experts. Miss Thornton added that so far no mistakes had been made.

22. The Chairman summarized by saying that the fee problem could be overcome and that technical harmonization had been practically finished by the Working Party. The Council had approved in principle the scheme at its meeting in October 1970, to be implemented as from spring 1971, if practical ways and means could be found. The difficulty was that the papers were not available in final form.

23. Miss Thornton recommended to start this year on the basis of the existing material, and this was accepted by Mr. Søndergaard and Mr. Dorsman, who believed that both Denmark and the Netherlands would be able to start on the same basis. Dr. Böringer did not believe that Germany could start before 1972. Mr. Hutin and Mr. Mejegaard foresaw that France and Sweden could follow in the same year.

24. A prolonged discussion followed on whether the breeder should contact his own national authority and pay the fee prescribed in his own country and express where he wanted the trials to be made with the effect that his national authority should forward the request to the authority designated by the breeder and transfer the fee to that authority ("contract" between two national authorities, no "contract" between breeder and testing authority). However, following a proposal by Miss Thornton, it was decided that the authority chosen by the breeder could only undertake examination of the variety on the condition that the breeder applied for protection in the country where he wished the trials to be carried out ("contract" between the breeder and the testing authority under the national law of that authority, including the payment of the fees charged by that authority).

25. It was agreed that the national authorities would decide themselves whether they considered the tested variety to be sufficiently distinct, homogeneous and stable, and that, consequently, the report on the results of the trial would serve as a basis for their decisions.

26. The Secretary General asked how the scheme should be published and said that the publication should be identical or at least similar in all countries.

27. It was agreed that each country that was able to adopt the scheme should make a unilateral declaration to the effect that, on receiving an application for the protection of a new rose variety which had been tested in another UPOV member State, the country was, normally, willing to base its decision on the trial results obtained in that other UPOV member State, and conversely, when it had carried out trials for a rose variety, it was willing to pass the results to other UPOV member States willing to base their decisions on those results. Countries which did not undertake trials would not charge trial fees.

28. It was agreed that the Secretariat should prepare a progress report of the meeting as a basis for the start of the scheme. Dr. Böringer stressed again the importance for Germany to have a formal recommendation by the Council as well as finalized technical papers.

29. The Secretary General asked whether or not it was intended to rule out the possibility of bilateral agreements according to which one national authority undertook to make rose trials for another authority.

30. Mr. Hutin answered that such agreements should also be possible but that the standard trial procedure should be fixed beforehand.

31. It was agreed to request the Working Party for Ornamental Plants to study document UPOV/JT/2, and that it was important if the Working Party could meet in March. This question should be discussed with Mr. Hallig. The results of the work of the Working Party (guidelines, etc., and administrative methods) would be presented to the Council for recommendation to member States.

32. Miss Thornton said that she would draft a note for the information of rose breeders to be inserted in the February issue of the Gazette. Neither Mr. Dorsman nor Mr. Søndergaard had objections to this.

33. Apples. Mr. Potter said that there was an active apple scheme in the UK, where there was also a large reference library (2,000 varieties).

34. In answer to a question by Mr. Dorsman, Miss Thornton said that the UK would undertake the examination of new varieties of apples submitted for protection in other countries, even if protection had not been applied for in the UK.

35. It was agreed that in the case of species where there would be only few applications (in the following referred to as "small crops") it was necessary to concentrate the examinations in one country, so as to avoid the need for reference collections in other countries and to make a division of labor. Therefore the situation regarding such species was different from that of roses. For the testing of small crops the national authorities would make multilateral (or bilateral) agreements regarding the institute to undertake the examinations of a certain species, and the breeder would have no influence as to the place where examinations would be carried out. There would be no "contract" between the breeder and the examining institute, the partners being the national authority which received the application for protection and the competent authority of the country which ran the examining institute. The agreements on such schemes would be made between the competent national authorities for plant breeders' rights.

36. The question of fees was more important with these "small crops" than with roses, as the national authority which received the application for protection within the "small crops" would have to charge the applicant the fee laid down under its national legislation, and would have to pay the fee laid down in the country where the examining institute was located. This might mean that the interested national authority would be obliged to pay a higher fee than it could itself charge. However, in spite of this fact, it was decided that the fee question would be postponed as a matter of second priority.

37. During the ensuing discussion it became apparent that the costs of the national authorities had to be met out of the fees they received from the breeders.

38. Dr. Böringer emphasized the importance of having an official paper concerning the trials of apples, recommended by the Working Party and approved by the Council. He suggested that the UK should present a draft to the Working Party for Fruit Crops. Mr. Potter agreed to that, and Mr. Hutin reminded them of the need of harmonization of the apple paper with other technical papers.

39. It was generally agreed that a draft proposal would be presented to the Fruit Group for submission to the Council, and that it was to be expected that member States would accept to ask the UK to undertake the trials, and that the UK would be willing to do so.



40. Pears. Mr. Laclavière declared that France was likely to ratify the Convention in about May of the current year. France had the necessary facilities for the examination of pears and would be willing to undertake the trials.

41. It was agreed that France would be asked to prepare a draft paper for the test of pears and otherwise to follow the same procedure for pears as agreed upon for apples.

42. Allocation of other species. In answer to a question from Mr. Dorsman regarding stone-fruit, Mr. Hutin said that in principle France could undertake the examination of apricots and peaches, but not plums and cherries.

43. Mr. Søndergaard said that he would look into the question as to whether Denmark could take plums and cherries.

44. Mr. Schneider said that the Netherlands could not undertake the examination of soft fruit, which was under the Netherlands law. He asked if other States could take these species. In reply to this Dr. Böringer said that Germany could take gooseberries, blackberries, raspberries, black, red and white currants and strawberries as well as some ornamentals (African violets, begonia and viola) and probably some vegetables. Mr. Potter would be interested in the UK taking strawberries and raspberries.

45. The Chairman referred to the ASSINSEL meeting in May 1970, in which breeders had asked for joint trial arrangements also of "bigger crops" such as peas.

46. Mr. Dorsman said that this was difficult at the present time, because all the countries were interested in having examining facilities for beans, peas and tomatoes.

47. Dr. Böringer found that regarding the main crops it was necessary first to harmonize the methods. When this had been done, the question of recognizing the examinations of the different countries could be discussed later on. He favored concentration on the smaller crops, and asked if any country could undertake the examination of rhododendrons and cotoneasters.

48. Dr. Dorsmann said that rhododendrons were a difficult crop which he would prefer not to include under a protection scheme. However, the Netherlands could offer to take bulb crops (tulips and hyacinths). He was of the opinion that only species on which real breeding work was being done should qualify for protection.

49. Further ornamentals were discussed, and during the discussion the following allocations were proposed:

Denmark:	Euphorbia pulcherrima
Netherlands:	Alstroemeria, carnations, freesia
United Kingdom:	chrysanthemums

50. It was agreed that the priority list of species agreed upon by the Council (Fruit: apples; Ornamentals: roses) would be respected, and that papers regarding the species mentioned in the priority list should be presented to the Council in October 1971. If the Working Parties could manage more species the procedure would be that the country to which a species was allocated would prepare a paper on that species to be presented to the competent Working Party and, if the Working Party had agreed upon it before the Council meeting, the present group of experts might consider discussing the paper before the Council meeting, and it was agreed that Wednesday, October 13, 1971, would be reserved for such discussion. If possible the Secretariat would make a draft report to the Council.

51. Following a suggestion by Mr. Kelly, it was agreed that the drafting of the paper should be harmonized after discussions between the Chairmen of the five Technical Working Parties on the layout of the papers.

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Annex follows/

Meeting of Experts concerning Joint Trial Arrangements  
held in Geneva on February 2, 1971

List of Participants

Dr. D. Böringer, Bemerode/Hanover (Germany /Fed. Rep.)  
Mr. J.P.L.L.A. Burg, The Hague (Netherlands)  
Mr. Ir. C. Dorsman, Wageningen (Netherlands)  
Professor H. Esbo, Solna (Sweden)  
Mr. J.M. Evans, London (United Kingdom)  
Mr. C. Hutin, Versailles (France)  
Mr. A.F. Kelly, Cambridge (United Kingdom)  
Mr. B. Laclavière, Paris (France)  
Mr. S. Mejegaard, Stockholm (Sweden)  
Mr. J.M.S. Potter, Faversham (United Kingdom)  
Mr. Ir. F. Schneider, Wageningen (Netherlands)  
Mr. E. Søndergaard, Copenhagen (Denmark)  
Miss E.V. Thornton, London (United Kingdom)

UPOV Staff

Professor G.H.C. Bodenhausen, Secretary General  
Mr. H. Skov, Vice Secretary General

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document UPOV/JT/3