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UPOV

C(Extr.)/12/5

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL**Twelfth Extraordinary Session****Geneva, April 28, 1995****REPORT**adopted by the Council**Opening of the Session**

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its twelfth extraordinary session in Geneva on April 28, 1995, under the chairmanship of Mr. Bill Whitmore (New Zealand).
2. The list of participants is given in the Annex to this report.
3. The session was opened by the President, who welcomed the participants.
4. The President welcomed in particular the Delegations of Chile and Paraguay.

Adoption of the Agenda

5. The Council adopted the agenda as appearing in document C(Extr.)/12/1 Rev.

Examination of the Conformity of the Legislation of Chile with the UPOV Convention

6. Discussions were based on document C(Extr.)/12/2.
7. At the request of the Delegation of Denmark, the Delegation of Chile:

(i) stated that the "farmer's privilege" would apply to species for which the harvested product would be the same plant part as the propagating material;

(ii) confirmed that compulsory licences would only be granted for reasons of public interest;

(iii) confirmed that the regulations would provide detailed rules to fully implement Article 13(7) of the 1978 Act of the Convention (obligation to use the variety denomination).

8. At the request of the Delegation of Spain, the Delegation of Chile confirmed that protection was already available for all genera and species.

9. At the request of the Delegation of Japan, the Delegation of Chile stated that Article 6, third paragraph, could apply, for instance, where the right holder attempted to control exploitation up to and including the export of the harvested product. At the request of the same Delegation and of the Delegation of the United States of America, it also elaborated on "the strongest claim" in Article 30 of the Law.

10. Pursuant to Article 32(3) of the 1978 Act of the Convention and on the basis of the conclusion drawn by the Office of the Union in paragraph 43 of document C(Extr.)/12/2, the Council unanimously decided to take a positive decision in respect of the conformity of the Law of Chile on the Rights of Breeders of New Varieties of Plants with the provisions of the said Act.

11. The Council asked the Secretary-General to inform the Government of Chile of the decision recorded in the preceding paragraph.

Examination of the Conformity of the Legislation of Paraguay with the UPOV Convention

12. Discussions were based on document C(Extr.)/12/3.

13. At the request of the Delegation of Denmark, the Delegation of Paraguay stated that Article 35 of the Law ("farmer's privilege") would apply only in respect of seeds of agricultural crops.

14. The Council noted that the Law of Paraguay on Seeds and Cultivar Protection conformed to the 1978 Act of the UPOV Convention in its main features, and that any departure from that Act would be remedied upon the incorporation into its domestic laws of the text of the 1978 Act of the Convention pursuant to its accession procedure; upon such incorporation, the 1978 Act would prevail over national legislation.

15. Several delegations expressed the wish that the Secretary-General should specify to the Government of Paraguay the provisions which conflict with the 1978 Act, so that the Government of Paraguay might correct its legislation, through an amendment of the Law (for instance in its law authorizing accession to the UPOV Convention as had been the case in Argentina) or appropriate provisions in the Regulations, at the earliest possible opportunity, and so that the Seed Directorate might be able to apply the legislation without having to resort to interpretation in the light of international treaty obligations. This wish was endorsed by the Council as a whole.

16. Pursuant to Article 32(3) of the 1978 Act of the Convention and subject to the action described in the preceding paragraph, the Council unanimously decided to take a positive decision in respect of the conformity of the Law of Paraguay on Seeds and Cultivar Protection with the provisions of the said Act.

17. The Council asked the Secretary-General to advise the Government of Paraguay in accordance with the preceding paragraph.

Prolongation of the Appointment of the Vice Secretary-General

18. Discussions were based on document C(Extr.)/12/4.

19. The Council unanimously decided to prolong the appointment, as Vice Secretary-General, of Mr. Barry Greengrass until November 30, 2001.

Departure of a Staff Member

20. The Council was informed that Mr. Makoto Tabata would return to his country at the end of June 1995. It thanked him for his outstanding contribution to the working of UPOV and wished him success in his new career.

21. The Council unanimously adopted this report at the close of its session.

[Annex follows]

ANNEXE/ANNEX/ANLAGE

LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS/
TEILNEHMERLISTE

(dans l'ordre alphabétique des noms français des Etats/
in the alphabetical order of the names in French of the States/
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