



C(Extr.)/15/7

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Fifteenth Extraordinary Session
Geneva, April 3, 1998

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 fifteenth extraordinary session in Geneva, on April 3, 1998, under the chairmanship of Mr. Ryusuke Yoshimura (Japan), President of the Council.
2. The session was opened by the President, who welcomed the participants.
3. The President welcomed in particular the Delegations of Bulgaria, the Russian Federation, and Trinidad and Tobago, countries which had become members of UPOV or had deposited an instrument of accession since the last (thirty-first) ordinary session of the Council. He also announced that the 1991 Act of the UPOV Convention would enter into force on April 24, 1998, on which day it would bind the following six countries: Bulgaria, Denmark, Israel, the Netherlands, the Russian Federation and Sweden.
4. The list of participants is given in the Annex to this report.

Adoption of the Agenda

5. The Council adopted the agenda as given in document C(Extr.)/15/1 after having noted that it was called upon to consider the laws and draft laws of Brazil, Nicaragua and Venezuela under item 3.

Examination of the Conformity of the Legislation of the Republic of Croatia with the 1991 Act of the UPOV Convention

6. Discussions were based on document C(Extr.)/15/2.

7. The Council decided, on the basis of the conclusions drawn by the Office of the Union in paragraphs 25 and 26 of document C(Extr.)/15/2,

(a) to advise the Government of Croatia that the Law, when supplemented by Regulations and with the incorporation of suitable amendments, would provide the basis for a law conforming with the 1991 Act;

(b) to request the Office of the Union to offer its assistance to the Government of Croatia in respect of the amendments and the Regulations that were necessary to achieve conformity;

(c) to further advise the Government of Croatia that

(i) after the enactment of a law on the revision of the Law in accordance with the suggestions of the Office of the Union, but without other substantial changes, and the making of necessary Regulations, and

(ii) after consultation of the Office of the Union as to whether the amendments to the Law and the Regulations were adequate,

it would be able to deposit an instrument of accession to the 1991 Act.

Examination of the Conformity of the Legislation of Brazil with the 1978 Act of the UPOV Convention

8. Discussions were based on document C(Extr.)/15/4.

9. The Council decided, on the basis of the conclusions drawn by the Office of the Union in paragraph 17 of document C(Extr.)/15/4,

(a) to advise the Government of Brazil that its Law and Regulations conformed with the 1978 Act of the UPOV Convention;

(b) to request the Secretary-General to inform the Government of Brazil of its decision.

Examination of the Conformity of a Bill of the Republic of Nicaragua with the 1978 Act of the UPOV Convention

10. Discussions were based on document C(Extr.)/15/5.

11. The Council decided, on the basis of the conclusions drawn by the Office of the Union in paragraphs 34 to 36 of document C(Extr.)/15/5,

(a) to advise the Government of Nicaragua that the Bill, when supplemented by implementing regulations and after elimination of Article 69, provided the basis for a law conforming with the 1978 Act;

(b) to request the Office of the Union to offer its assistance to the Government of Nicaragua in respect of the amendments and improvements to be made to the Bill and the drafting of the implementing regulations;

(c) to further advise the Government of Nicaragua that

(i) after the enactment into law of the Bill incorporating the amendments suggested by the Office of the Union, but without other substantial changes, and the making of necessary regulations, and

(ii) after consultation of the Office of the Union as to whether the amendments and Regulations were adequate,

it would be able to deposit an instrument of accession to the 1978 Act by April 24, 1999, at the latest.

12. The Council further noted that the Bill incorporated essential features of the 1991 Act and would conform to the latter if the following main changes were effected:

(a) an extension of the material basis of the breeder's right to harvested material under the condition set out in Article 14(2) of the 1991 Act;

(b) the introduction of provisional protection;

(c) an extension of the duration of protection.

It requested the Office of the Union to advise the Government of Nicaragua on the rationale of the provisions referred to above and the benefits that would be derived from them.

Examination of the Conformity of the Legislation of Venezuela with the 1978 and 1991 Acts of the UPOV Convention

13. Discussions were based on document C(Extr.)/15/6.

14. The Council decided, on the basis of the conclusions drawn by the Office of the Union in paragraphs 45 and 46 of document C(Extr.)/15/6,

(a) to take a positive decision on the conformity of the legislation of Venezuela with the provisions of the 1978 Act and the 1991 Act, subject to some amendments being made to the draft Regulations;

(b) to request the Office of the Union to offer its assistance to the Government of Venezuela in respect of the amendments to be made to the draft Regulations;

(c) to further advise the Government of Venezuela that

(i) after consultation with the Office of the Union as to whether the amendments to the Regulations were adequate, and

(ii) after adoption of the Regulations incorporating such amendments, but without other substantial changes,

it would be able to deposit an instrument of accession to the 1978 Act prior to April 24, 1999, or to the 1991 Act at any time.

Amendment of the Program and Budget of the Union for the 1998-99 Biennium

15. Discussions were based on document C(Extr.)/15/3.

16. The Council reiterated its appreciation to the Secretary-General for his decision to renounce his right to receive an indemnity from UPOV, and adopted the amendments to the program and budget of UPOV for the 1998-99 biennium set out in document C(Extr.)/15/3.

Any Other Business: Relations Between UPOV and WTO

17. The Council noted that the Administrative and Legal Committee had considered the question of the relations of UPOV and WTO in the context of the review, in 1999, of Article 27.3.b) of the TRIPS Agreement, and had recommended that the representatives of member States in UPOV circles contact their counterparts in WTO in order to make them aware of the need to give a more prominent place to the UPOV Convention in the TRIPS Agreement.

18. The Council decided to request the Secretary-General to enter into consultations with the Chairman of the Council for TRIPS ensure that the UPOV Convention be specifically mentioned in Article 1 of the TRIPS Agreement as another Convention providing standards for intellectual property protection, on the occasion of the general review of the implementation of the Agreement in the year 2000.

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

[Annex follows]

ANNEXE/ANNEX/ANLAGE/ANEXO

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS/TEILNEHMERLISTE/LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States/
in alphabetischer Reihenfolge der französischen Namen der Staaten/
por orden alfabético de los nombres en francés de los Estados)

I. ÉTATS MEMBRES/MEMBER STATES/VERBANDSSTAATEN/
ESTADOS MIEMBROS

AFRIQUE DU SUD/SOUTH AFRICA/SÜDAFRIKA/SUDÁFRICA

Martin JOUBERT, Assistant Director of Variety Control, Directorate of Plant and Quality Control, Registrar of Plant Breeders' Rights and of Plant Improvement, Department of Agriculture, Private Bag X258, Pretoria 0001

ALLEMAGNE/GERMANY/DEUTSCHLAND/ALEMANIA

Rolf JÖRDENS, Präsident, Bundessortenamt, Osterfelddamm 80, 30627 Hannover

ARGENTINE/ARGENTINA/ARGENTINIEN/ARGENTINA

Raimundo LAVIGNOLLE, Director, Dirección de Registro de Variedades, Instituto Nacional de Semillas, Secretaria de Agricultura, Ganadería, Pesca y Alimentación, Ministerio de Economía y Obras y Servicios Públicos, Avenida Paseo Colón 922, 1063 Buenos Aires

Andrea REPETTI (Mrs.), Secretario de Embajada, Misión Permanente, route de l'Aéroport 10, 1215 Ginebra, Suiza

AUTRICHE/AUSTRIA/ÖSTERREICH/AUSTRIA

Reiner HRON, Leiter des [Sortenschutzamtes](#), Bundesamt und Forschungszentrum für Landwirtschaft, Postfach 400, Spargelfeldstraße 191, 1226 Wien

Birgit KUSCHER (Frau), Referentin für den Sortenschutz, Rechtsabteilung, Bundesministerium für Land- und Forstwirtschaft, Referat IA2a, Stubenring 1, 1010 Wien

BELGIQUE/BELGIUM/BELGIEN/BÉLGICA

Françoise BEDORET (Mme), Ingénieur agronome, Service Matériel de reproduction, Protection des obtentions végétales et catalogues nationaux, Administration de la Qualité des Matières premières et du Secteur végétal (DG4), Ministère des classes moyennes et de l'agriculture, WTC 3, Boulevard Simon Bolívar 30, 6ème étage, 1000 Bruxelles

BULGARIE/BULGARIA/BULGARIEN/BULGARIA

Iskra VALTCHEVA (Mrs.), Expert, International Cooperation, State Plant Variety Testing Commission, Ministry of Agriculture, Forestry and Agrarian Reform, 1A Mednikarska Str., 1040 Sofia

CANADA/KANADA/CANADÁ

Glenn HANSEN, Commissioner of Plant Breeders' Rights, Agriculture and Agri-Food Canada, Food Production Inspection Branch, Plant Industry Directorate, Camelot Court, 59 Camelot Drive, Nepean, Ontario K1A 0Y9

Quan-Ling SIM, First Secretary, Permanent Mission, 1, rue du Pré-de-la-Bichette, 1202 Geneva, Switzerland

CHILI/CHILE

Enzo CERDA, Sub-Director, Departamento de Semillas, Servicio Agrícola y Ganadero, Ministerio de Agricultura, Avenida Bulnes 140, piso 2, Casilla 1167, Santiago

DANEMARK/DENMARK/DÄNEMARK/DINAMARCA

Hans Jørgen ANDERSEN, Head of Division, The Danish Plant Directorate, [Skovbrynet 20, 2800 Lyngby](#)

ÉQUATEUR/ECUADOR

José Antonio RUIZ ENRIQUEZ, Director Nacional Agropecuario, Ministerio de Agricultura y Ganadería, Avenida Eloy Alfaro y Amazonas, Piso 11, Quito

Alba CABRERA (Sra.), Responsable del Registro de Variedades, Dirección Nacional Agropecuaria - Registro de Variedades, Ministerio de Agricultura y Ganadería, Avenida Eloy Alfaro y Amazonas, Piso 11, Quito

Federico MENESES, Consejero, Misión permanente, 139, rue de Lausanne, 1202 Ginebra, Suiza

ESPAGNE/SPAIN/SPANIEN/ESPAÑA

Martín J. FERNÁNDEZ DE GOROSTIZA, Subdirector General de Semillas y Plantas de Vivero, Subdirección General de Semillas y Plantas de Vivero, Ministerio de Agricultura, Pesca y Alimentación, José Abascal 4-6, 28003 Madrid

[Luis SALAICES](#), Jefe de Área de Registro de Variedades, [Subdirección General de Semillas y Plantas de Vivero](#), [José Abascal 4](#), [28003 Madrid](#)

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA/VEREINIGTE STAATEN VON AMERIKA/ESTADOS UNIDOS DE AMÉRICA

H. Dieter HOINKES, Senior Counsel, Patent & Trademark Office, Office of Legislative and International Affairs, Department of Commerce, Washington, D.C. 20231

Alan A. ATCHLEY, Plant Variety Examiner, United States Plant Variety Protection Office, NAL Building, Room 500, 10301 Baltimore Avenue, Beltsville, Maryland 20705

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION/RUSSISCHE FÖDERATION/FEDERACIÓN DE RUSIA

Mikhail CHVEDOV, Attaché, Mission permanente, 15, avenue de la Paix, 1211 Genève 20, Suisse

FINLANDE/FINLAND/FINNLAND/FINLANDIA

Arto VUORI, Director, Plant Variety Rights Office, Ministry of Agriculture and Forestry, Kaisaniemenkatu 4 A, 00100 Helsinki

FRANCE/FRANKREICH/FRANCIA

Nicole BUSTIN (Mlle), Secrétaire général, Comité de la protection des obtentions végétales (CPOV), Ministère de l'agriculture, 11, rue Jean Nicot, F-75007 Paris

HONGRIE/HUNGARY/UNGARN/HUNGRÍA

Gusztáv VÉKÁS, Vice-President, Hungarian Patent Office, Garibaldi u. 2, 1370 Budapest

Jenő KERTÉSSY, Deputy Head, Patent Department for Chemistry and Biology, Hungarian Patent Office, Garibaldi u. 2, 1370 Budapest

IRLANDE/IRELAND/IRLAND/IRLANDA

John V. CARVILL, Controller, Department of Agriculture and Food, National Crop Variety Testing Center, Backweston, Leixlip, Co. Kildare

ISRAËL/ISRAEL

Shalom BERLAND, Registrar and Legal Advisor for Plant Breeders' Rights, Ministry of Agriculture, Arania St. 8, Hakiria, Tel Aviv 61070

ITALIE/ITALY/ITALIEN/ITALIA

Pasquale IANNANTUONO, Conseiller juridique, Service des accords de propriété intellectuelle, Ministère des affaires étrangères, Palazzo Farnesina, 00100 Rome

JAPON/JAPAN/JAPÓN

Ryusuke YOSHIMURA, Advisor, Seeds and Seedlings Division, Ministry of Agriculture, Forestry and Fisheries, 1-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100

Tetsuya OTOMO, Assistant Director, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, 1-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100

Chiemi IITAKA (Mrs.), Examiner, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, 1-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8950

Yasuhiro HAMURA, First Secretary, Permanent Mission, 3, chemin des Fins, 1211 Geneva 19, Switzerland

MEXIQUE/MEXICO/MEXIKO/MÉXICO

Eduardo BENÍTEZ PAULÍN, Director del Servicio Nacional de Inspección y Certificación de Semillas (SNICS), Lope de Vega No. 125, 2º Piso, Colonia Chapultepec-Morales, 11570 México, D.F.

NORVÈGE/NORWAY/NORWEGEN/NORUEGA

Kåre SELVIK, Director General, Head of the Plant Variety Board, Royal Ministry of Agriculture, P.O. Box 8007 Dep., 0030 Oslo

Haakon SØNJU, Advisor, Plant Variety Board, Fellesbygget, 1432 Ås-NLH

NOUVELLE-ZÉLANDE/NEW ZEALAND/NEUSEELAND/NUEVA ZELANDIA

Bill WHITMORE, Commissioner of Plant Variety Rights, Plant Variety Rights Office,
P.O. Box 24, Lincoln, Canterbury

PAYS-BAS/NETHERLANDS/NIEDERLANDE/PAÍSES BAJOS

Gerard VAN DER LELY, Chairman, Board for Plant Breeders' Rights, Postbus 104,
6700 AC Wageningen

Chris M.M. VAN WINDEN, Head, Crop Production Division, Ministry of Agriculture,
Nature Management and Fisheries, Postbus 20401, 2500 EK The Hague

Johan Pieter PLUIM MENTZ, Secretary, Board for Plant Breeders' Rights, Nudestraat 15,
Postbus 104, 6700 AC Wageningen

Marijke BOOTSMAN (Mrs.), Legal Adviser, Ministry of Agriculture, Nature Management
and Fisheries, Postbus 20401, 2500 EK The Hague

PORTUGAL

Carlos PEREIRA GODINHO, Expert, Centro Nacional de Registo de Variedades Protegidas,
Ministério da Agricultura, Edifício II da DGPC, Tapada da Ajuda, 1300 Lisboa

José Sérgio CALHEIROS DA GAMA, Conseiller juridique, Mission permanente, 33, rue
Antoine-Carteret, 1211 Genève 20, Suisse

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC/TSCHJECHISCHE REPUBLIK/
REPÚBLICA CHECA

Ivan BRANĚOVSKÝ, Head, Working Group for Seed, European Integration Department,
Ministry of Agriculture, TNĚnov 17, 117 05 Praha 1

ROYAUME-UNI/UNITED KINGDOM/VEREINIGTES KÖNIGREICH/REINO UNIDO

David A. BOREHAM, Controller of Plant Variety Rights, Plant Variety Rights Office and
Seeds Division, Ministry of Agriculture, Fisheries and Food, White House Lane, Huntingdon
Road, Cambridge CB3 0LF

SLOVAQUIE/SLOVAKIA/SLOWAKEI/ESLOVAQUIA

Bronislava BĀTOROVĀ (Mrs.), Head, Plant Breeders' Rights Department, Central
Agricultural Controlling and Testing Institute, Velké RipĚany 956 07

SUÈDE/SWEDEN/SCHWEDEN/SUECIA

Karl Olov ÖSTER, Permanent Under-Secretary, Ministry of Agriculture; President, National Plant Variety Board, Drottninggatan 21, 103 33 Stockholm

SUISSE/SWITZERLAND/SCHWEIZ/SUIZA

Pierre Alex MIAUTON, Chef, Service de certification et contrôle des semences et plants, Station fédérale de recherches en production végétale, RAC, Changins, 1260 Nyon

Eva BUCHELI (Frau), Wissenschaftliche Mitarbeiterin, Bundesamt für Landwirtschaft, Mattenhofstraße 5, 3003 Bern

TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO/TRINIDAD UND TOBAGO/
TRINIDAD Y TABAGO

Mary-Ann RICHARDS (Ms.), Deputy Permanent Representative, Permanent Mission, 37-39, rue de Vermont, 1211 Geneva 20, Switzerland

UKRAINE/UCRANIA

Victor VOLKODAV, Chairman, State Commission of Ukraine for Testing and Protection of Plant Varieties, 9, Suvorova st., 252010 Kyiv

Sergiy LUNOCHKIN, Head, International Relations Department, State Commission of Ukraine for Testing and Protection of Plant Varieties, 9 Suvorova st., 252010 Kyiv

Volodymyr ZHAROV, First Deputy Chairman, State Patent Office of Ukraine, 8, L'vivska Square, 254655 Kyiv

Oksana ZHMURKO (Mrs.), Head, International Organizations Division, Department for International Cooperation, State Commission of Ukraine for Testing and Protection of Plant Varieties, 9 Suvorova st., 252010 Kyiv

URUGUAY

Gustavo E. BLANCO DEMARCO, Presidente, Instituto Nacional de Semillas (INASE), Avenida Millán 4703, 12.900 Montevideo

Carlos GÓMEZ ETCHEBARNE, Director, Plant Variety Rights Register, Instituto Nacional de Semillas (INASE), Avenida Millán 4703, 12.900 Montevideo

II. ÉTATS OBSERVATEURS/OBSERVER STATES/
BEOBACHTERSTAATEN/ESTADOS OBSERVADORES

BRÉSIL/BRAZIL/BRASILIEN/BRASIL

Manoel Olimpio VASCONCELOS NETO, Chefe, Serviço Nacional de Proteção de Cultivares, Esplanada dos Ministérios, Bloco D, Anexo A, Térreo-Sala 2 A, CEP 70043-900, Brasília D.F.

Luiz Cesar GASSER, Second Secretary, Permanent Mission, 17B, Ancienne Route, 1218 Grand-Saconnex, Switzerland

BURKINA FASO

Der KOGDA, Chef, Service ONU/Institutions spécialisées, Ministère des affaires étrangères, 03 BP 7038, Ouagadougou 03

CROATIE/CROATIA/KROATIEN/CROACIA

Kruna EERMAK-HORBEC (Miss), Fachberaterin, Ministerium für Landwirtschaft, Sekretärin der Sortenkommission, Ul. grada Vukovara 78, P.P. 1034, 10000 Zagreb

Vinko KOZUMPLIK, [Professor, Faculty](#) of Agriculture Zagreb (Plant Breeding), Ministry of Agriculture and Forestry, Ul. Grada Vukovara 78, [10000 Zagreb](#)

VENEZUELA

Oscar HERNÁNDEZ, Ministro Consejero, Misión Permanente, 18A, chemin François Lehmann, 1218 Grand-Saconnex, Suiza

David VIVAS, Attaché, Misión Permanente, 18A, chemin François Lehmann, 1218 Grand-Saconnex, Suiza

III. BUREAU/OFFICERS/VORSITZ/OFICINA

Ryusuke YOSHIMURA, Chairman
Karl Olov ÖSTER, Vice-Chairman

IV. BUREAU DE L'UPOV/OFFICE OF UPOV/BÜRO DER UPOV/
OFICINA DE LA UPOV

Barry GREENGRASS, Vice Secretary-General
André HEITZ, Director-Counsellor
Max-Heinrich THIELE-WITTIG, Senior Counsellor
Nuria URQUÍA (Ms.), Senior Program Officer

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