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UPOV

UPOV/C/IV/5

Original: English

Date: August 28, 1970

INTERNATIONALER VERBAND
ZUM SCHUTZ VON
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE
POUR LA PROTECTION
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION
FOR THE PROTECTION OF
NEW PLANT VARIETIES

ADMINISTRATIVE AND FINANCIAL REGULATIONS
UNDER ARTICLE 20 OF THE CONVENTION

Report by the Secretary General

1. At its third meeting on October 8 and 9, 1969, the Council unanimously adopted the Draft Administrative Regulations contained in CPU Doc. 9 as modified by CPU Doc. 17 (see paragraph 26 of the Minutes of the meeting (CPU 20)).
2. At the same meeting the Council unanimously adopted the Draft Financial Regulations contained in CPU Doc. 10 as amended by CPU Doc. 17 (see paragraph 29 of the above-mentioned minutes).
3. The consultation of the Swiss Government, provided for in Article 20, paragraph 2, of the Convention has now taken place and on March 3, 1970, the Swiss Government approved both the Administrative Regulations and the Financial Regulations. However, with respect to Article 4(e) of the Financial Regulations, the Swiss Government proposed that the provision "The Council approves the accounts" should be completed by "after they have been audited in accordance with Article 24 of the Convention," considering that the Council may only approve the accounts after having received the report of the Swiss Government.
4. The Administrative and Financial Regulations follow as annexes A and B to this report (the latter with the proposed amendment).

5. Attention is being drawn to the fact that by virtue of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, BIRPI will disappear sooner or later to be succeeded by WIPO, and that, consequently, the Administrative and Financial Regulations will have to be changed accordingly at some later date.

6. The Council is invited to take note of the above and to accept the proposal made by the Swiss Government.

/End of document UPOV/C/IV/5.
Follow two Annexes/

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ADMINISTRATIVE REGULATIONS

Article 1

Adoption of the Staff Regulations
and Staff Rules of BIRPI

The Administrative Regulations of the International Union for the Protection of New Plant Varieties shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Staff Regulations (hereinafter referred to as "the Regulations") and the Staff Rules (hereinafter referred to as "the Rules") of the United International Bureaux for the Protection of Intellectual Property (BIRPI), as established on October 21, 1969, including all subsequent amendments to such Regulations and such Rules.

Article 2

Classification Committee

When the Classification Committee (Article 2.1 of the Regulations) is called upon to express its views on the classification of a post provided for in the UPOV budget, the Vice-Secretary General of UPOV shall be made a member of that Committee.

Article 3

Salary of the Secretary General

The salary of the Secretary General shall be ten per cent of the salary, including post adjustment, which he receives in his capacity as Director of BIRPI, in accordance with Articles 3.1 and 3.5 of the Regulations.

Article 4

Appointment of Staff Members

Paragraphs (a) and (b) of Article 4.8 of the Regulations shall be replaced by the following provisions:

- (a) Any staff member who is to occupy a post provided for in the UPOV budget with a grade of P.4 or above shall be appointed by the Government of the Swiss Confederation, on the recommendation of the Council of UPOV, which shall first have sought the advice of:

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- (i) the Secretary General when the post to be filled is that of the Vice-Secretary General;
 - (ii) the Secretary General and the Vice-Secretary General when a post other than that of the Vice-Secretary General is to be filled.
- (b) Any staff member who is to occupy another post provided for in the UPOV budget shall be appointed by the Secretary General on the recommendation of the Vice-Secretary General and, in the case of a post with grade P.3, after the opinion of the Council of UPOV has been heard.

Article 5Selection Committee

When the Selection Committee (Article 4.9 of the Regulations) is called upon to advise the Secretary General concerning a vacancy in a post provided for in the UPOV budget, that Committee shall be presided over by the Vice-Secretary General.

Article 6Letter of Appointment

The letter of appointment (Article 4.12(a) of the Regulations) of any staff member of the Office of UPOV whose appointment lies within the competence of the Government of the Swiss Confederation shall be signed by a duly authorized member of that Government.

Article 7Joint Consultative Committee

When the Joint Consultative Committee (Rule 8.2.1) examines questions which directly or indirectly concern the staff of the Office of UPOV, a member of the staff of the said Office, designated by the Secretary General, shall be made a member of that Committee.

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Article 8Dismissal

1. The provisions of paragraphs (a)(1) to (3) of Article 9.1 of the Regulations shall apply to staff members whose post is provided for in the UPOV budget, with the following reservations:

- (a) The dismissal of any staff member with a grade of P.4 or above shall be decided by the Government of the Swiss Confederation, on the recommendation of the Council of UPOV, which shall first have sought the advice of:
 - (i) the Secretary General when the Vice-Secretary General is concerned;
 - (ii) the Secretary General and the Vice-Secretary General when a staff member other than the Vice-Secretary General is concerned.
- (b) The dismissal of any staff member occupying a post with a grade lower than those referred to in paragraph (a) shall be decided by the Secretary General on the recommendation of the Vice-Secretary General and, when it concerns a staff member occupying a post with grade P.3, after having sought the advice of the Council of UPOV.

2. The provisions of paragraphs (a)(4) and (5), and those of paragraph (d) of Article 9.1 of the Regulations shall not apply.

Article 9Amendment of the Administrative Regulations

1. Subject to the provisions of the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, the Regulations Concerning the Procedure for Technical and Administrative Cooperation Between UPOV and the Unions Administered by BIRPI, approved by the Swiss Federal Council on October 21, 1969, and the rights of staff members, as established by Article 12.1 of the Regulations and Rule 12.2.1, these Administrative Regulations--including any changes resulting from the amendment of the Regulations and Rules (see Article 1)--may be amended by the Council of UPOV.

2. All amendments shall be adopted by a majority of three-fourths of the States members of UPOV, after the opinion of the Government of the Swiss Confederation has been heard.

/End of Annex A.
Follows Annex B/

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Annex B

FINANCIAL REGULATIONS

Article 1

Adoption of the BIRPI Financial Regulations

The Financial Regulations of the International Union for the Protection of New Plant Varieties (UPOV) (hereinafter referred to as "the present Regulations") shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Financial Regulations of the United International Bureaux for the Protection of Intellectual Property (BIRPI) and the Rules Implementing the Financial Regulations of BIRPI (hereinafter referred to as "the Regulations" and "the Rules" respectively), as established on October 21, 1969, including all subsequent amendments to such Regulations and such Rules.

Article 2

Preparation of the Budget

Articles 3.2, 3.3 and 3.4 of the Regulations are replaced by the following provisions:

- (a) By August 1 of each year the Secretary General shall submit the budget for the following year to the Council of UPOV for approval.
- (b) The budget shall be approved by the Council before the beginning of the financial period.
- (c) The approval of the budget shall constitute authorization, for the Secretary General, to incur expenses and make payments for the purposes stated in the budget, and up to the amounts so stated.

Article 3

Management Reports

Article 6 of the Regulations is replaced by the following provisions:

- (a) Within six months after the end of each financial period, the Secretary General shall submit to the Council of UPOV, and to the Government of the Swiss Confederation in its capacity as Supervisory

Authority, a management report (rapport de gestion) dealing with its management and the activities and financial position of UPOV.

- (b) The Secretary General shall transmit the management report to all the member States of the Union after it has been examined by the Council.

Article 4

Administrative Accounts (final accounts)

Article 7 of the Regulations is replaced by the following provisions:

- (a) Within five months after the end of each financial period, the Secretary General shall submit the UPOV final accounts to the Council of UPOV, and to the Government of the Swiss Confederation in its capacity as Supervisory Authority.
- (b) The Council shall examine the accounts. It may propose adjustments to the share of UPOV in common expenses, if it finds that this share has not been correctly estimated and assessed by the Secretary General. The Government of the Swiss Confederation, in its capacity as Supervisory Authority, shall establish the final allocation, after having consulted the Interunion Coordination Committee of BIRPI on the proposals made by the Council of UPOV.
- (c) The Council shall approve the final accounts, after they have been audited in accordance with Article 24 of the Convention.

Article 5Surpluses and Deficits

Article 8 of the Regulations is replaced by the following provisions:

- (a) If, after the approval of the final accounts, these accounts show a surplus of income, such surplus shall be paid into the Reserve Fund.
- (b) If, after the approval of the final accounts, these accounts show a deficit which cannot be covered by the Reserve Fund, the Council shall decide on the measures to be taken to remedy the situation.

Article 6Contributions of Member States

Article 9.1 of the Regulations is replaced by the following provision:

Contributions fixed for a year shall be paid during the month of January of the respective year.

Article 7Financial Control

1. The last sentence of paragraph (b) of Article 10.1 of the Regulations is replaced by the following provision:

In the exercise of his functions as Controller, such staff member shall be directly responsible to the Council of UPOV.

2. The last two sentences of Article 10.2 of the Regulations are replaced by the following provision:

In such case, the Controller shall attach a report to his authorization and shall immediately communicate the said report to the President of the Council of UPOV, who shall bring the matter to the attention of the Council.

3. Rule 1(b) is replaced by the provisions of paragraphs (1) and (2) of this Article.

Article 8

Working Capital Fund

1. UPOV shall have a special fund hereby named the Working Capital Fund, which shall be constituted by advances made by member States. Such advances shall be entered to the credit of the members which have made them.

2. The amount of the initial, or any subsequent, advance which each of the member States is called upon to make to the Working Capital Fund, and the procedure according to which such advances are to be made shall be fixed by the Council on the basis of proposals submitted by the Secretary General.

3. The purposes for which the Working Capital Fund shall be utilized shall be:

- (a) to meet budgeted expenditure pending the receipt of the contributions of member States;
- (b) to meet unavoidable unforeseen expenses arising from the execution of the approved program;
- (c) to meet such other expenses as may be determined by the Council.

4. Advances made from the Fund under paragraph (3)(a) shall be reimbursed as soon as, and to the extent that, income is available for that purpose. The amounts required for the reimbursement of advances provided for in paragraphs (3)(b) and (3)(c) shall be covered by additional budgets or by the budget for the following year. Advances provided for in paragraph (3)(c) shall be subject to prior approval by the Council.

5. Interest received on the Working Capital Fund shall be credited to the general funds of UPOV.

Article 9

Incurring of Obligations

Rule 2(a) is supplemented by the following provision:

When the expenditure concerns UPOV alone, the commitment to incur an obligation shall be signed by the Secretary General of UPOV or a staff member designated by him and the Controller.

Article 10Disbursements

1. Paragraph (a)(iii) of Rule 3 is replaced by the following when the disbursement concerns UPOV alone: "(iii) by the Secretary General of UPOV or a staff member designated by him when the disbursement concerns UPOV alone."

2. When the disbursement concerns UPOV alone, the reference to the Director at the end of the first sentence of paragraph (b) of Rule 3 shall be understood to be a reference to the Secretary General of UPOV.

Article 11Receiving of Moneys

Paragraph (c) of Rule 4 is replaced by the following provision:

Cheques made out by the Office of UPOV to its own order, as well as any other order addressed by the Office of UPOV to a bank, postal cheques office or to any other person, for the payment of cash, must be signed by two staff members, one of whom must be the Secretary General of UPOV or a staff member designated by him, and the other the Controller or, if the Controller is not available, the Head of the Finance Services.

Article 12Amendment of the Regulations

1. Subject to the provisions of the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, and the Regulations Concerning the Procedure for Technical and Administrative Cooperation Between UPOV and the Unions Administered by BIRPI, approved by the Swiss Federal Council on October 21, 1969, the present Regulations--including any changes resulting from the amendment of the Regulations and Rules (see Article 1)--may be amended by the Council.

2. All amendments must be adopted by a majority of three-fourths of the States members of UPOV, after the opinion of the Swiss Confederation has been heard.