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INTERNATIONALER VERBAND
ZUM SCHUTZ VON
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE
POUR LA PROTECTION
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION
FOR THE PROTECTION OF
NEW PLANT VARIETIES

COUNCIL

Seventh Ordinary Session
Geneva, October 10 to 12, 1973

COOPERATION WITH THE INTERNATIONAL COMMISSION
FOR THE NOMENCLATURE OF CULTIVATED PLANTS

Report by the Secretary General

1. The Delegation of the Federal Republic of Germany has asked that the working paper contained in the Annex to this document be submitted to the Council for discussion and decision under item 14(ii) of the Draft Agenda.

2. The Council is invited to consider the question raised by the Delegation of the Federal Republic of Germany.

/Annex follows/

Working Paper of the German Delegation

Subject: Harmonization between the UPOV Principles on Variety Denominations and the International Code of Nomenclature of Cultivated Plants (ICNCP)

At the hearing of the professional organizations organized by the UPOV Working Group on Variety Denominations on December 6, 1972 (see document UPOV/VD/VII/6), some representatives of the professional organizations raised the question of harmonizing the UPOV rules for variety denominations with those applied in non-UPOV States.

Such harmonization is worth considering in order to limit as much as possible the difficulties in changing over to the UPOV denomination system in the event of further species being included in the List of Species and of further States acceding to the International Convention for the Protection of New Varieties of Plants. The question should therefore be examined to what extent the UPOV rules and the ICNCP drawn up by the International Commission for the Nomenclature of Cultivated Plants of the International Union of Biological Sciences could be harmonized in a meaningful way.

In so doing, it should be made clear that the ICNCP in its present form is by no means suited to be taken over by UPOV as to its contents. On the one hand, the ICNCP deals with a classification by biological categories (Articles 7 to 26) which are irrelevant for the UPOV rules for variety denominations, and, on the other hand, the definitions of terms do not always coincide with those of UPOV (for example, the definition of the term "variety"* in Article 10 of the ICNCP differs from that given in Article 2, paragraph (2), of the Convention) and, finally, the ICNCP apparently regards the variety denomination in the first place as a means of registration (see Article 4) and allows for variety denominations (for instance, similar denominations in cases of related varieties--Recommendation 12 A) which are at variance with the purpose of the variety denomination in the sense of the Convention, namely that it must be an unequivocal means of recognition for the buyer, telling him exactly which variety he is dealing with.

On the other hand, the ICNCP has a number of essential points of contact with the UPOV rules, such as the principle according to which the variety denomination must be a fancy name (Article 27) consisting of one to three words (Article 30) and should not refer to common attributes (Recommendation 31A g).

It would therefore appear worthwhile to aim at a certain harmonization between the ICNCP and the UPOV rules in the long run. In practice, this could be achieved through a future participation by UPOV representatives in the International Commission for the Nomenclature of Cultivated Plants of the International Union of Biological Sciences and, conversely, through attendance, by representatives of that Commission, at meetings of the UPOV Working Group on Variety Denominations. The question should be considered whether the Commission should be made an offer to that effect.

* The International Code of Nomenclature of Cultivated Plants uses the term "cultivar," while the Convention uses the term "variety." (Note by the Secretariat.)