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 UPOV

UPOV/C/VII/21
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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

REPORT

1. The seventh ordinary session of the Council of UPOV was held in Geneva at the headquarters of UPOV from October 10 to 12, 1973.

2. The list of the participants is contained in the Annex to this report.

Opening of the Session - Admission of Observers - Adoption of the Agenda (Items 1 to 3 of the Agenda)

3. The session was opened by Professor Esbo, Vice-Chairman of the Council of UPOV, who regretted that Professor Dr. L. Pielen, Chairman of the Council, was unable to chair this session owing to illness. He welcomed the participants and observers, especially those who were participating in the Council session for the first time, namely the observers from Australia, Canada, New Zealand and South Africa.

4. The Council unanimously agreed to send a telegram to Professor Pielen wishing him a quick recovery from his illness.

5. The Council unanimously admitted the observers.

6. The agenda, as set forth in document UPOV/C/VII/1, was adopted unanimously.

Adoption of the reports of the sixth ordinary and the first extraordinary sessions of the Council (Item 4 of the Agenda)

7. The reports, as contained in documents UPOV/C/VI/12 and UPOV/C(Extr.)/I/2 were unanimously adopted with the following changes and observations:

In the report of the sixth session of the Council (UPOV/C/VI/12), an additional paragraph should be inserted between paragraphs 121 and 122, reading as follows:

"121 (a) The Council elected the persons mentioned in paragraph 118."

The Council noted that document UPOV/C(Extr.)/I/2 had originally, by mistake, been marked UPOV/C(Extr.)/VII/2, and made the necessary corrections.

Summary of the meeting of the Consultative Working Committee (Item 5 of the Agenda)

8. The Chairman reported that since the last Council meeting the Consultative Working Committee had held two meetings, namely on April 4 and 5 and October 9, 1973. All the matters discussed in the two meetings were covered by the present agenda and would be re-discussed by the Council in the course of the current session.

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1972 Annual Report (Item 6 of the Agenda)

9. The Vice Secretary General introduced document UPOV/C/VII/4, which was adopted without change.

Financial Report for 1972 (Item 7 of the Agenda)

10. Discussions took place on the basis of document UPOV/C/VII/3.

11. Introducing the report, the Vice Secretary General drew attention to the conclusions of the Swiss Federal Audit Service, (chapter III of Annex B.2 to the document) which attest the accuracy of the accounts presented, and to the letter of the Federal Political Department transmitting the said report to the Secretary General, with a request that it be communicated to the Council. The Vice Secretary General registered his appreciation of the good work of the Administrative Division and of the Finance Section in particular.

12. The Vice Secretary General proceeded to explain that the large saving in 1972 was mainly due to the non-recruitment of staff during that year, which resulted in less salary expenditure than foreseen, and a reduction in activities with a consequent decrease in common expenditure.

13. The Chairman welcomed these unexpected savings and drew the Council's attention to the increase in the Reserve Fund to over 305,000 Swiss francs.

14. Dr. Böringer (Germany (Federal Republic of)) raised some questions as to the determination of the exact cost of certain missions and conferences and the Vice Secretary General explained that the splitting up of some of these expenses was difficult, if not impossible: for instance, he said that his missions to Paris, Amsterdam and London were all combined in one trip to save money and, for this reason, the cost thereof was reported as one figure.

15. Dr. Knobloch (Germany (Federal Republic of)) also pointed out an inaccuracy in the Audit Report, under Chapter I.3: Italy had also signed the Convention and its name should therefore be added. The Secretary General said that the matter would be brought to the attention of the Swiss Government.

16. The Council unanimously approved the accounts concerning the financial year 1972, in accordance with Article 21(e) of the Convention.

Draft Program and Budget for 1974 (Item 8 of the Agenda)

17. Discussions took place on the basis of document UPOV/C/VII/5 (UPOV/C/VII/5 Rev. for the English version).

18. Introducing the document, the Vice Secretary General stated that it was not known now whether the program proposed would be implemented in full as this would depend on the date on which the new Vice Secretary General would take up his duties; however, the proposals in the above-mentioned document were made on the assumption that the program would be carried out normally.

19. Mr. Rollin (United States of America), after having received the Chairman's assurance that the representatives of countries invited as observers were very welcome to participate in the discussions and to raise any questions they wished, asked what amount his country would have to pay for contributions in 1974 and for participation in the Working Capital Fund, should it decide to join UPOV on a Class I basis. The Secretary General stated that, on the basis of the present proposals, they would have to contribute 130,000 Swiss francs (5 units x 26,000 Swiss francs) for 1974, plus a once-only payment of 41,667 Swiss francs to the Working Capital Fund. The Vice Secretary General stated that the decisions concerning the Fund were contained in paragraphs 52 to 60 of document UPOV/C/VI/12.

20. Dr. Böringer (Germany (Federal Republic of)) stated that he was concerned about the yearly increases in the budget: 11% for 1974 over 1973 and some 6% for the tentative estimates for 1975 over the 1974 budget. He also expressed the opinion that, in spite of its relatively high level, the Reserve Fund should be used cautiously in order to keep the amount of the contribution unit at the present level as long as possible. The Chairman noted the German representative's remarks and said that the Secretariat would make all possible efforts to reduce unnecessary expenditure; however, this did not mean any delay in recruitment of the new Vice Secretary General.

21. The Council unanimously

- (i) adopted the budget of a total expenditure of 640,000 Swiss francs;
- (ii) fixed the amount of the contribution unit at 26,000 Swiss francs and contributions from member States accordingly as set forth in paragraph 17 of document UPOV/C/VII/5 (and Rev.);
- (iii) authorized that the budgetary deficit of 105,000 Swiss francs be covered by the Reserve Fund.

Amendment to the Rules of Procedure for Technical and Administrative Cooperation between UPOV and BIRPI (Item 9 of the Agenda)

22. The Secretary General introduced document UPOV/C/VII/7, which contained the amendments to document UPOV/C/IV/6. The changes mentioned were almost a formality, mainly to replace BIRPI by WIPO in references. No changes of substance had to be made except for the possibility of grade D.2 for the post of Vice Secretary General. This would also remain only a possibility for cases where the experience and qualities of a candidate justified such a grade and after approval by the Council.

23. Dr. Knobloch (Germany (Federal Republic of)) proposed changing the word "verfügt" to "beschliesst" on page 2 of the German version of document UPOV/C/VII/7. He also asked whether a document on the WIPO decision mentioned in the last paragraph of page 1 of the Annex to the above-mentioned document would be available for information, to which the Secretary General gave an affirmative reply. A few copies of the document in question (WO/GA/I/2) were later distributed to the representatives of the member States.

24. The Council proposed no further amendments and raised no further questions on document UPOV/C/VII/7.

Recruiting of a new Vice Secretary General (Item 10 of the Agenda)

25. The Secretary General introduced document UPOV/C/VII/9 and gave a short review of the background. According to Articles 21 and 23 of the Convention, the Council had to present a proposal for a new Vice Secretary General to the Swiss Government. The Consultative Working Committee had so far found it difficult to agree on one candidate for proposal to the Council--none of the applicants having entirely fulfilled the necessary requirements. The decision would also depend on negotiations with the new Secretary General. For these reasons the Council would be asked to agree on the proposal set forth in the above-mentioned document, to avoid having to hold an extraordinary meeting in December.

26. The Council unanimously agreed to this procedure and to the delegation of power as set forth in document UPOV/C/VII/9.

Reports on Legislative, Administrative and Technical Progress from Signatory States and Interested States (Item 11 of the Agenda)

27. Mr. Derveaux (Belgium) said that the delays in Belgium in the introduction of plant variety protection were primarily due to administrative and financial factors. The Belgian Bill on the protection of plant varieties was now going through the stage of legal and professional consultations and was ready to be placed before Parliament, where it would be examined at once. In fact two bills would be presented: the one mentioned above, by the Minister of Agriculture, and the one constituting ratification of the Convention, which is to be presented by the Minister for Foreign Affairs and will probably be considered at the same time. There arose the question of ratification of the Additional Act of November 10, 1972. If the official translation of the Act into Dutch was established by the Secretary General pursuant to its Article VIII, it would be possible for the competent Minister to ratify it at the same time as the principal Act, that is, the Convention itself. It was of interest, of course, to know how many genera and species would be protected as from the entry into force of the law. This was a question to which Mr. Derveaux was unable to reply with the necessary accuracy. It would be examined as soon as the consideration of the law by the Belgian Senate commission was certain. Any reply to this question was conditioned, in particular, by considerations of technical and administrative feasibility, and by the exigencies of the economy.

28. Mr. Miauton (Switzerland) stated that in Switzerland the drafting of the Federal Law on the Protection of Plant Varieties, which would enable Switzerland to ratify the Convention, had progressed since November 1972 more or less according to the program outlined at the previous meeting of the Council. As a result of an initial consultation, a revised draft had been prepared: it was at present before the official departments and the professional organization concerned. This second consultation would be completed at the end of the month, but it was already apparent that the amended draft met with the approval of interested circles. It should therefore be possible to put the finishing touches to the Bill by the end of the year and submit it to the Federal Chancellery in January, in such a way that it could be considered by the Federal Parliament in the course of 1974. Parallel to the preparation of the Protection Bill, Switzerland was also working on the constitution of plant variety files, which would be necessary for the implementation of the Plant Varieties Law. No final choice had yet been made as to the genera in the list annexed to the Convention to which Switzerland would initially apply its provisions. Of the criteria which would be applied in the making of this choice, the following are worthy of mention:

(i) the existence of a variety file for the genus in question, or the possibility of making one on the basis of legislation on the seed and plant trade;

(ii) the possibility of entering into agreements with the services of other member States for the preliminary examination of new varieties of the genus concerned.

Being only a small country, Switzerland could only envisage the possibility of making preliminary examinations itself for a very small number of species, if any at all. It was therefore extremely interested in the possibilities of joint examination, and was particularly grateful to the Council for the trouble it was taking in that connection.

29. Mr. Croll (Australia) pointed out that a number of organizations and individuals in his country were very interested in what UPOV stood for and had made representations to the Australian Government in this connection. At present the Australian Government was not committed to any viewpoint in respect of a plant breeders' rights scheme. Inquiries, both internal and external, were being made in order to develop a considered attitude and to determine feasible courses of action. His attendance at this Council Meeting was evidence of Australia's interest in the activities of UPOV. Information on the efficiency of UPOV in attracting and influencing membership was of special value. Naturally, the likelihood of UPOV spreading its influence to Australia's neighbors in South East Asia was of particular relevance.

30. Dr. Meinx (Austria) pointed out that his country had in the previous year succeeded in reaching a uniform understanding on the subject of UPOV. Austria had two different laws, one on plant breeding and one on the seed trade. At first it had been thought sufficient to revise the law on the seed trade but, as both were closely interrelated, a complete change of both was found necessary. The main obstacles that confronted them were the competence difficulties between the Federal Government and the federated states. They hoped to solve these in the coming year.

31. Mr. Jefferson (Canada) said that his country did not have any legislation providing plant breeders' rights. Neither the Patents Act nor the Seeds Act lent themselves to amendment for this purpose. Therefore a new law would be necessary. The subject of Plant Variety Rights had been given serious attention for many years and particularly during the past three years. Information was being collected on rights legislation from all available sources and was being studied, as was the Paris Convention which established UPOV. There was much support for Plant Variety Rights in the seed trade, among seed growers and in the agricultural departments of the Provinces as well as in the Federal Department of Agriculture. Canada's experience was almost solely with public plant breeding in the Department of Agriculture and Agricultural Colleges: public varieties dominated the market for agricultural crops. Nonetheless, as a trading nation interested in the international seed market it was felt that provision had to be made for the grant of plant variety rights. Canada was at this stage proceeding with the drafting of a law and hoped to have a draft for consideration by all concerned in the near future.

32. Professor Manner (Finland) stated that there had been two Bills in Finland, one in 1966 and the other in 1971. Both had been rejected owing to an excess of proposals on the part of breeders and insufficient support. In March 1973 the Ministry of Agriculture had appointed a nine-member Governmental Committee to investigate the whole problem of plant breeders' rights and draft a new Bill by the end of June 1974. It now seemed for the first time that a solution had been found which would be satisfactory to all parties. It might well be possible to enact a law on plant breeders' rights in Finland within two or three years. The opportunity for Finnish representatives to take part in Council and Committee meetings was of quite considerable importance for the development of plant breeders' rights in Finland.

33. Mr. Rasten (Norway) stated that most plant breeding in his country was official in view of the considerable climatic differences within his country, which meant that many varieties were needed and the market for each variety was too limited to attract private breeders. Most private breeders concerned themselves only with ornamental plants. Public varieties needed no protection within the country, and only a few of them could be exported. Plant variety protection in Norway would therefore essentially consist in protecting foreign varieties. Up to now Norway had not had a system for testing ornamental varieties in accordance with the UPOV Convention and satisfactory testing of varieties existed only for cereals and potatoes. Testing for distinctness, homogeneity and stability had just started for grasses and other fodder plants, and would follow soon for vegetables and different horticultural plants. It had been proposed that the State Seed Council should be responsible for testing and acceptance of all kinds of varieties, both agricultural and horticultural, as well as for the whole system of seed certification and the administration of a system for the protection of breeder's rights. However, Norway would not be able to join UPOV in the near future.

34. Mr. van Wyk stated that in South Africa plant protection was granted in terms of the Plant Breeders' Rights Act which came into operation in 1966. This Act was due to be revised within the near future on the lines of the Convention. Plant breeding in South Africa had in recent years moved into the hands of private breeders for the most part. Some official breeding work, mostly on species not covered by private breeders, was, however, also being carried out. Their Administration had set up a section charged with variety identification and verification. That section had available the necessary trial grounds, staff and facilities for carrying out its function. The section not only carried out tests in terms of the Plant Breeders' Rights Act but also for inscription of varieties in the Variety List maintained in terms of the Seeds Act. During the period July 1, 1972, to June 30, 1973, 91 applications for protection of plant breeders' rights and/or admission to the Variety List had been received. The most important kinds for which applications were usually received were: maize, sorghum, cotton, castor, tomato, bean, wheat, rose, soybean, pea, peach, lupin. In terms of the Seeds Act this section also carried out variety verification tests on imported and certified seed and seed sold in the domestic trade. For that purpose approximately 5,000 samples were currently grown annually for establishment of varietal purity. The most important species involved in verification testing were maize, tomato, sorghum, brassicas, pea, onion, soybean. South Africa's Plant Breeders' Rights Act made provision for reciprocal arrangements with other countries regarding plant breeders' rights protection. That country was prepared to consider applications from countries seeking reciprocity in the matter. Although their Plant Breeders' Rights Act did not restrict the species for which protection might be obtained, the kinds of plants involved in such reciprocal arrangements would in the beginning have to be limited to those of economical importance to South Africa and settled by negotiation between the authorities in the applicant's country and South Africa respectively. South Africa was very interested in the activities of UPOV and was at present investigating the desirability and possibility of becoming a member of UPOV. It was impossible to say at that time whether and when South Africa was likely to join.

35. Mr. Vadell (Spain) stated that some progress had been made in his country since the previous year. Seed and nursery legislation had been adopted. The Ministry of Agriculture would be responsible for regulating the protection of plant breeders' rights. New posts had been created in the Instituto Nacional de Semillas (National Seed Institute) to take care of everything concerning the protection of plant breeders. A working group had prepared a Bill in conformity

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with the Convention and submitted it to the Minister of Agriculture. The Minister had announced that the Bill would be discussed in Parliament shortly. In view of the urgent need for protection, a provisional order had been published which granted provisional protection to a few ornamental species.

36. Mr. Rollin stated that the United States had had a Plant Variety Protection Act since 1970 and Regulations since 1972. Since then several variety description forms had been devised (20) for computerization. At the moment 59 species were involved in applications. About 380 applications had been received but over 300 were still pending, 49 had been cancelled, 15 certificates had been issued on the two species lettuce and soybean. Others such as wheat, cotton, beans and peas and several flowers would follow soon. No steps had been taken to join the vegetative system of protection under a patent with that granted by the Plant Variety Protection Act, as it had first to be demonstrated that the new system worked well. But it was intended to combine both in the future, as at the moment for some species such as Poa (Kentucky bluegrass (smooth stalked meadow-grass)) protection was possible under both systems (both for 17 years), the one protected only propagation by seed, the other only propagation with vegetative material. Thus a breeder needed both if he wished complete protection. To combine both systems it would primarily be necessary to add the word "asexual" in the new law. So far in the United States they had not had time to correct the problems which might prevent that country from joining UPOV.

37. The Chairman regretted that several States were not present and that the Council could therefore not hear statements from: Italy, Gabon, Israel, Kenya and New Zealand. Kenya had recently introduced a law on plant breeders' rights and it would have been interesting to know to what extent it also contained the same merit requirements as were mentioned in a publication of FIS. Miss Thornton added that in the United Kingdom they had seen New Zealand's draft law and they could see that New Zealand was taking active steps towards the introduction of a plant breeders' rights Act. Also, Japan, which had been represented at the last Council meeting, had consulted the United Kingdom and was investigating the possibility of a plant breeders' rights Act.

Relations with Non-member States (Item 12 of the Agenda)

38. The Secretary General gave a short introduction to this problem and pointed out that the Consultative Working Committee had met the previous day to deal with the problem. It finally decided on the following.

39. The Consultative Working Committee would meet at the beginning of 1974 to discuss mainly two items:

(a) the question of reciprocity between the member States of UPOV (on the basis of information to be provided before December 1, 1973) and also the question between UPOV member States and non-member States;

(b) the possibility of the revision of the Convention, with special reference to the difficulties which face non-member States, and means of facilitating their accession to it.

After this meeting, a meeting at governmental level had been envisaged for the autumn of 1974 to study what steps were necessary to enlarge the number of member States of UPOV. On a question by the representative of South Africa as to whether papers produced as a result of the Consultative Working Committee meeting would also be presented to non-member States, it was assured that this would be so, in order to have a good basis for discussion at the next meeting. In view of the meetings envisaged above, the Secretary General proposed postponement of the discussion on this item until after those two meetings. This was unanimously accepted.

Symposium or Other Informative Meeting (Item 13 of the Agenda)

40. The Secretary General reminded the Council that a symposium had been planned for the current year, but, unfortunately, owing to a number of difficulties in the United Kingdom, mainly the change of office from London to Cambridge, and entry into the EEC, the United Kingdom was unable to provide the necessary facilities and therefore it had been decided to postpone the symposium. Although there had been a certain impression that only few applications for participation had been received, the Vice Secretary General pointed out that the total correspondence, even after the cancellation, had reached an amount which showed that there still was great interest in a symposium and also good reason to discuss the possibility of a symposium in the future.

41. Dr. Böringer (Germany (Federal Republic of)) pointed out that it would be necessary to make it more clear that the envisaged meeting in the autumn of the following year would be quite a different thing from the planned symposium: it would be at governmental level and the main object would be to collect ideas from non-member States as to where the Convention might be too stringent and to try to reach a wide discussion for a possible amendment or revision of the Convention. He therefore asked the non-member States for their opinions on a meeting of this kind.

42. Mr. Rollin (United States of America) pointed out that he had studied the UPOV requirements and tried to find out the difficulties which prevented the United States from joining UPOV. Although the list he could give at the moment would not be complete, the main problems would be:

(i) the separation in the United States between offices which grant protection for seed-propagated plants and those which grant protection for propagation on a vegetative basis (as an example he mentioned Kentucky bluegrass (smooth stalked meadow-grass), which could enjoy protection under both systems);

(ii) the difficulty in being forced, eight years after joining UPOV, to afford protection to all 13 species mentioned in the Annex. For example, the United States had exempted potatoes from protection, but as the list included this species, it required any future member States to protect it after a certain time. Therefore he proposed the list should not be so binding as, on the other hand, the United States gave protection to hundreds of other species;

(iii) the difficulty of the different lengths of the protection periods. For vines, for example, UPOV required 18 years of protection, while the United States only granted 17;

(iv) the differences in examination for the grant of rights. In the United States no official field examination was necessary and he proposed to give the concept of examination a broader interpretation which could also cover examination without field tests;

(v) the nomenclature regulations which UPOV was preparing at the moment. In the United States, the Plant Protection Act did not contain nomenclature regulations. Only in the Seed Act did regulations of this kind exist.

At the request of the Vice Secretary General, he added that of course some of the aforementioned points were less important while others were so important that it seemed impossible to change them. The most difficult one seemed to be point (iv), the examination question, whereas the difference in the protection period between 18 and 17 years as mentioned could more easily be overcome. Of course also on this smaller item UPOV could consider accepting to agree, for example, to mention a protection period of 15 or more years, as even a small change in the law would require a lot of time.

43. Mr. van Wyk (South Africa), Mr. Jefferson (Canada) and Mr. Croll (Australia) pointed out that they were interested in having the opportunity to make some proposals and comments on the Convention and to present their difficulties in bringing their laws into agreement with it.

44. Dr. Böringer (Germany (Federal Republic of)) pointed out that the discussion might give some States the impression that they did not need to change their national laws at the moment, as UPOV intended to revise the Convention and it might be useful for them to wait. In his opinion, this would be wrong as, although there would be a discussion on the revision of the Convention, it would still take several years before any changes would actually take place.

Denomination Questions (Item 14 of the Agenda)

45. The Council agreed to postpone the discussion on item 15 of the agenda and to proceed with item 15.

Guidelines for the Preliminary Examination of New Plant Varieties and Joint Trial Arrangements (Item 15 of the Agenda)

46. The Vice Secretary General gave a short introduction, stating that, following approval by the Technical Steering Committee, a General Introduction to Guidelines and the three Guidelines for maize, wheat and garden peas had been adopted and finally printed and distributed. Many other Test Guidelines were in a very advanced stage of preparation and would be presented to the next meeting of the Technical Steering Committee. The item on the agenda was mainly to inform the Council of this activity.

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47. Mr. Butler (Netherlands) raised the question of standardized application forms, which appeared in the report of the last Technical Steering Committee under paragraph 124 of document UPOV/ST/II/6 (English version: /6 Rev.). In that paragraph it was pointed out that the problem of the harmonization of the application forms should be brought before the Council. As nothing had been done so far, he proposed to put the item on the agenda of the next Technical Steering Committee meeting. Although the agenda had already been sent out, it would still be a good idea to present a new agenda with the inclusion of this item.

48. A discussion took place on the question of what forms should be discussed during the next meeting of the Technical Steering Committee. Should the Technical Steering Committee limit itself only to the technical questionnaire or should it also have a look at the application form?

49. On the one side it was pointed out that the Technical Steering Committee would not be the appropriate place to discuss the application forms as it would involve essentially legal questions, which the Technical Steering Committee would not be able to solve. This idea was mainly supported by the United Kingdom and France.

50. On the other hand, it was pointed out that it would be good to see together all forms and annexes which a breeder had to complete for application. Although some of the forms might also involve legal matters, it would at least be good to have a look at all of them first, after which there would still be time for a decision on whether the Technical Steering Committee should deal with it or, for example, the Consultative Working Committee.

51. Finally, the Council agreed that all the member States would, as time was short, send at the same time to all the other member States as well as to the Secretariat, a copy of all the forms a breeder had to complete for application regarding wheat, roses and peas, which included the technical questionnaire, the application form and any other annexes which might be required by some countries. The application form would be presented only for information, and the Consultative Working Committee would perhaps have to deal with it later.

52. A discussion arose on the problem as to whether the individual Test Guidelines should somewhere mention a central testing station and/or central testing facilities.

53. Miss Thornton (United Kingdom) supported the idea of mentioning the central testing facilities in the respective Guidelines as this would provide useful information, not only for the breeders but also for other States, on where testing facilities existed.

54. Dr. Böringer (Germany (Federal Republic of)) pointed out that the Technical Steering Committee had discussed this problem for the Test Guidelines for *Euphorbia fulgens* and apples, and had agreed not to mention the central testing station and facilities mainly for the following two reasons:

(i) the Technical Steering Committee should deal only with technical things and leave aside the administrative matters which would be involved with a central testing station;

(ii) there might be cases where a national authority would find it necessary to undertake the examination itself, for instance on account of special climatic requirements. Furthermore, difficulties might arise for a testing authority, such as lack of staff, glasshouses or other testing facilities, which would render it impossible for such authority to maintain its offer to undertake the examination for other countries. In both cases the competent authority would be entitled to discontinue the arrangement and the Guidelines would become incorrect.

However, Dr. Böringer stressed the importance of joint trial arrangements and welcomed the offers which had been made for testing on behalf of other countries. He stated that, as a general rule, member States should make use of these offers.

55. As a compromise, it was finally agreed that there would be no mention of the testing facilities in the Test Guidelines, but that a special document would be prepared containing information as to which countries offered testing facilities, and for which species. As the Council would have to prepare this document, the Secretariat offered to prepare a draft before the end of this Council session containing the information the Secretariat had so far received.

Cooperation with ASSINSEL and Other Professional Organizations

56. Discussions took place on the basis of document UPOV/C/VII/10.

57. Mr. Laclavière (France) pointed out that he had participated since 1949 in the meetings of ASSINSEL and, as ASSINSEL had also taken part in the preparation of the meeting which led to the UPOV Convention, he considered it wise to try and achieve cooperation especially with ASSINSEL and CIOPORA.

58. A discussion took place on this item, during which it was pointed out that ASSINSEL and CIOPORA in particular, but perhaps also FIS, should be allowed to participate in the work on the Test Guidelines. As, of course, any further work on the Test Guidelines, and especially the waiting for comments from ASSINSEL and CIOPORA would delay by probably a year the drafts of Test Guidelines which at present were almost in their final form, it was agreed that the Technical Steering Committee should continue with those Test Guidelines and those which would be approved by it at the next meeting should be published and distributed. Also the other Test Guidelines should be produced as soon as possible for all crops. The Secretariat would have to draft a letter to ASSINSEL and CIOPORA inviting them to send their remarks on the distributed Test Guidelines. The remarks would then be looked at by the Technical Steering Committee, which would decide whether the Test Guidelines should undergo revision. Depending on the number of remarks and problems raised--for the moment this should only be done by mail--the Technical Steering Committee would then consider whether it was appropriate to convene the organizations to a hearing at some of the following Technical Steering Committee meetings.

Reports from Member States on the Harmonization of Lists of Species Eligible for Protection (Item 16 of the Agenda)

59. The Vice Secretary General reminded the Council that it had decided in 1971 to invite member States to consider species which were protected in at least three other member States and whether they could possibly extend protection to the same species in their States (if they had not already done so). A list of species protected in three or more member States appeared in document UPOV/C/V/32. An additional document (UPOV/C/VII/12) contained a complete list of species protected in at least one member State. Document UPOV/C/VII/13 contained an addendum to this list.

60. Mr. Laclavière (France) pointed out that France was currently preparing a list of genera which would receive protection in the future in France. This list would contain rape, sunflower, egg plant, chestnut, blackcurrant, raspberry, apple, chrysanthemum and almond.

61. Mr. Butler (Netherlands) informed the Council that his country intended to extend the list to the following species: *Poa compressa*, *Poa palustris*, *Anthurium*, *Rhododendron* (including azaleas), *Cyclamen*, *Gerbera*, *Lilium*, *Nerine*, *Allium* (ornamentals), African violet and *Begonia elatior*.

62. Miss Thornton (United Kingdom) informed the Council that her country planned to extend protection to timothy, tall fescue, meadow fescue, red clover, white clover, lilies, amenity grasses (with the help of the testing facilities of the Netherlands) and maize (with the help of the testing facilities of France).

63. Dr. Böringer (Germany (Federal Republic of)) informed the Council that the list in his country would probably be extended as described in document UPOV/C/VII/13, which contained an error, mentioning January 1, 1973, instead of 1974. He added that, in his country, it had become clear that the central testing stations were very helpful in extending the list of species protected but that professional organizations were often against an extension of protection to further species, especially where there were only a few breeders in the country concerned, but the propagating material was nevertheless imported from other countries. Therefore, discussions should take place in order to reach agreement between member States on the grant of protection to some species at the same time in the different countries.

64. Mr. Mejegaard (Sweden) pointed out that since the entry into force of the Plant Variety Rights Act in Sweden in 1971 no changes had been made to the list, but it was planned to extend protection to *Chrysanthemum*, *Euphorbia* and other ornamentals, although there were no testing facilities for them at the moment.

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65. Mr. Søndergaard (Denmark) informed the Council that his country had extended their protection for Poa, as previously they had only granted protection to Poa pratensis and Poa trivialis, whereas they had now extended it to all Poa species. In addition, they had extended the protection to Streptocarpus and were discussing an extension of protection also to saintpaulias and begonias. The present Danish law provided that if test results received from other countries were being used, some additional testing had to be done in the country itself. It was the intention to propose to Parliament in the near future to abolish this provision, and only then could the protection be extended to saintpaulias and begonias, since it was not possible to undertake any testing on these species in his country.

66. Mr. Butler (Netherlands) pointed out that the list of species, as reproduced in document UPOV/C/VII/12, had a twofold purpose:

(a) the mentioning of the species which were protected in the different member States and

(b) a glossary of names for those species.

As the limits of a botanical name and common names were not always the same, it was difficult to give a good translation of the Latin name, and therefore he proposed to separate the two items. He also thought it less important to have a glossary at the moment, as glossaries were made in other places also.

67. Some further difficulties in the use of Latin names and also in that of common names were mentioned. It was pointed out that the correction of the Latin names should not be the task of UPOV. For the common names, Miss Thornton promised to send in some information on common names in English which ought to be changed, as the list still contained some very old ones.

68. It was finally agreed that UPOV should keep the list up to date and that this item should appear on every agenda of the Council, thereby ensuring the most recent information at all times and facilitating the harmonization of protection in the different member States. Thus every member State would inform the Secretariat when a final decision had been taken on the extension of protection to other species.

69. The Vice Secretary General read out a letter received that morning from the Ministry of Agriculture of Kenya in which they expressed their delight at having been invited to the Council meeting but regretted that they were unable to attend the meeting due to the short notice. They thanked for the invitation and expressed the hope for good working relations with UPOV. They announced the mailing, under separate cover, of a copy of the Kenyan Seeds and Plant Varieties Act and would appreciate having a copy of the proceedings of the Council sent to them.

Revision of the Provisional Guidelines for Variety Denominations (Item 14(i) of the Agenda)

70. The Vice Secretary General introduced documents UPOV/C/VII/2 and UPOV/C/VII/14 and explained that, during the preparation of document UPOV/C/VII/2 within the Working Group, a discussion had taken place on the possibility of providing for an exception to the rules for rootstocks in the same way as for inbred lines of maize. Moreover, the paper so far did not contain comments on the problems arising in connection with Article 4. He added that the Annex contained several letters received from different organizations complaining about restrictions envisaged in the Guidelines for Variety Denominations.

71. Mr. Doughty (United Kingdom) expressed the very great concern of his country regarding the contents of Article 4 in particular: although there was no specific mention in the Article, it seemed to outlaw the custom of using a prefix in the variety denomination to denote the origin of a variety. If the real intention was to outlaw the prefix system, this should be clearly stated. He added that there were several different systems used to denote origin and the prefix system was only one of these. The existence of so many systems raised the question of why the breeder wanted the origin to be made known. He went on to say that the representatives of the different States were present at the Council meeting mainly to serve the wishes of the seed industry and the consumer, and as the industry was so firmly opposed to the Guidelines for Variety Denominations, an attempt should be made to meet their wishes, and he raised the question why there should be opposition to the breeder associating himself with the final product. This was surely a good thing and showed their confidence in the variety. He asked the members present if it was the intention to outlaw not only the separate prefix but also other indications of origin such as the syllable bar-, the ending -mo or the like. He also asked whether

the main obstacle of the house name was that, at the end of the protection period, it could not become public property. As the prefix denoted only where breeding took place, it would not lead to confusion. The Council of UPOV should seek to avoid making too many very detailed rules and thus putting additional obstacles in the way of an increase in the number of member States. He therefore asked the Council to reject Article 4 of document UPOV/C/VII/2 and to study the different indications of origin more carefully.

72. Mr. Mejegaard (Sweden) pointed out that very often a house name was protected as a trademark or, if not actually protected as a trademark, could presumably be regarded as a trademark. If this trademark was made part of the denomination, the trademark holder would automatically lose his right to the trademark. As the denomination was a generic name, there should from the outset be no barrier to its future use by the public. In some member States, however, the trademark holder would not lose his right even if the trademark was incorporated in a denomination. He said therefore that Article 4 was very important as a means of putting an end to this custom. He added that a second point in support of Article 4 was that very often the house name was the dominant element in a variety denomination and the consumer was tempted to use only the dominant element and to omit the remainder of the denomination. This happened mainly with foreign varieties. Thus the situation in Sweden occurred where the house mark ARAN, for example, was used as the only name for three different varieties: all of the three variety denominations had started with ARAN, and the consumer had simply adopted the first word in the denomination. This very real likelihood of confusion made it impossible to accept any variety denomination embodying a house name.

73. Mr. Laclavière (France) pointed out that the consideration of Guidelines for Variety Denominations had to take into account not only the interests of the professional organizations but also those of the consumer.

74. The Secretary General pointed out that most of the difficulties discussed were due merely to lack of information and the stress on having a house mark as part of a denomination was mainly due to the fact that it had not been clearly understood that a breeder might always use an indication of origin next to the variety denomination, but that it must not form part of the denomination. Article 13(7) of the Convention said that the use of a variety denomination was compulsory even after expiration of the protection period. A house name, however, could not become free for use by third parties and, even if it was used, the public would think that the variety still had the same origin although this might not be the case after the expiration of the protection period. This was where the question of confusion arose. In this connection the fact of the house name being a trademark or not was irrelevant.

75. Dr. Böringer (Germany (Federal Republic of)) pointed out that there was a misunderstanding of the problem. Even without Article 4, the exclusion of a house name from a variety denomination was prescribed by the Convention itself. The Article had therefore been intended more to make the situation clear than to introduce new restrictions. As long as the breeder was free to add a house mark to a variety denomination this sufficed to meet breeders' needs. This last possibility was used often, and in Germany it had also been found, to the consternation of the authorities, that house names placed beside the variety denomination frequently overshadowed the actual variety denomination. Therefore, if the Council considered the draft paper too narrow, it would first have to discuss whether Article 13 of the Convention should be amended.

76. Mr. Butler (Netherlands) pointed out that there were other means of indicating the origin of a variety apart from the use of a house name. Besides the use of short syllables like bar- or -mo breeders had established different series of names, for example using series of names from the Bible, names of rivers or other series. There was a difference, however, between the use of a separate house name and short syllables added to a word or series of names, as for these series the breeder was never assured of acquiring a monopoly, any other breeder being free to use the same short syllable or a denomination of the same series.

77. To make the difference between a separate house name and the other series even clearer, Mr. Kunhardt (Germany (Federal Republic of)), asked the United Kingdom whether it would accept an application from a foreign breeder with a variety denomination containing for example the word MARIS in the denomination. The Representative of the United Kingdom answered that this application would be refused in the United Kingdom, on the grounds of its leading to confusion. This answer showed that one of the differences between a house mark and other possibilities of indication of origin was that the other possibilities were open to every breeder. Mr. Butler (Netherlands) also said that in his country they were always glad to receive a variety denomination which fitted into a certain series, but which came from a different breeder, as the series would thus lose its value for the first breeder and would be discontinued.

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78. It was further pointed out during the discussion that the use of house marks in the United Kingdom was mainly limited to State Breeding Institutes and, although it was thought that this should promote discontinuation, the United Kingdom pointed out that the Government could not influence the breeder, whether private or State Breeding Institute, and could not interfere with their matters.

79. Mr. Rollin (United States) pointed out that this problem did not exist in his country as the Plant Protection Act did not lay down any rules for the denomination of a variety: only the Seed Act did this. In the United States a trademark was allowed to be placed next to a name if identified as a trademark. The United States treated misuse of names differently, depending on whether they were assigned by public institutes or private breeders. If public institutes could have a series of names, for example for oats, CLINTON, the private breeder would be allowed to use the same word CLINTON plus a number if the new variety was derived from CLINTON. Even though the word CLINTON, if first used by a private breeder, was not a trademark and was not intended to confer a monopoly, the possibility of confusion would not permit this name to be used as part of a new variety name by another breeder. From the foregoing it could be seen that the main thing to be considered when an application was filed was whether or not the denomination was misleading.

80. Mr. van Wyk (South Africa) pointed out that his country had a relatively small number of private breeders. In the absence of other acceptable guidelines, the naming of varieties was carried out, until recently, in accordance with the International Code of Nomenclature for Cultivate Plants. Experience had shown that the Code was easy to apply.

81. Miss Thornton (United Kingdom) said that during the discussion on the International Code of Nomenclature for Cultivated Plants an attempt had been made once to outlaw the use of prefixes, but very soon it had been shown that this was not possible. Thus it was that the International Code of Nomenclature for Cultivated Plants still allowed the use of them.

82. Miss Thornton (United Kingdom) pointed out that her country had very reluctantly agreed at the last meeting of the Working Group on Variety Denominations not to mention rootstocks as another exception under paragraph 4 of Article 3, but in the meantime they had received the letter from the East Malling Research Station which is annexed to that document. Now they wished to ask the Council whether it could not agree to exclude rootstocks also, since on the one hand the group was only a very small one and they could not see that this exclusion would cause any real difficulties. On the other hand, if the system of fancy names had also to be applied to rootstocks in the future, it would be very difficult to distinguish by means of the name alone between varieties for the use of rootstocks and others to be used as scion.

83. Mr. Søndergaard (Denmark) pointed out that it would not be possible for his country to accept different rules for the two possibilities mentioned.

84. Dr. Böringer (Germany (Federal Republic of)) stated that the Working Group on Variety Denominations, after long discussions, had agreed not to allow an exception for rootstocks, as rootstocks were widely commercialized in the same way as other varieties, and the situation would be quite different from that for maize, for example, where inbred lines had only a very limited distribution in commerce. Germany (Federal Republic of) could therefore not agree to an exception for rootstocks. In Germany (Federal Republic of) rootstocks for vines had enjoyed protection since 1953 and up to now the use of actual names for rootstocks had worked very well. He repeated an earlier statement by the Secretary General that the Convention had set new standards and, although old customs might have worked very well, breeders had to comply with the new Convention if they wished to receive protection under it.

85. Mr. Laclavière (France) supported the statement of the German delegate and told the Council that in France the system used for vines was a thing of the past; since UPOV had entered a new era, it would also be useful to apply new systems and to avoid exceptions as far as possible.

86. Dr. Böringer (Germany (Federal Republic of)) added that it would be difficult to agree always on exceptions for special botanical species. If, for example, an exception were allowed for rootstocks of fruits there might be certain situations where, as with roses or vines, one variety could be used as both a rootstock and a scion.

87. A vote was taken on whether to keep paragraph 4 of Article 3 in the Guidelines. Denmark, France, Germany (Federal Republic of), the Netherlands and Sweden voted in favor of its retention, the United Kingdom against it.

88. In the following discussion the question arose whether paragraph (3) of Article 3 should also apply to paragraph (4) of the same Article. Several different means of changing the rules were tried in order to provide free naming possibilities for inbred lines for hybrids, for example, one variety name differing from another only by a different number--for example ABC 100 and ABC 101. One proposal was to start paragraph (4) of Article 3 with the phrase: "Notwithstanding paragraphs (2) and (3), etc.," another was to start the same paragraph: "Articles 2 and 3 are not applicable to paragraph (4) of Article 3"; another solution seemed to be to have a different article starting with: "Paragraphs (1) and (3) of Article 3 shall not apply to this Article." It was finally pointed out that last-minute changes were very dangerous and it might be better to leave paragraph (4) of Article 3 as it stood.

89. The Council agreed to leave paragraph (4) of Article 3 as it stood in the draft UPOV/C/VII/2.

90. Continuing the discussion on Article 4, Mr. Doughty (United Kingdom) asked the Council what was to be understood by the words "any element". Did this include also other systems of indication of origin as bar-, -mo or series of names from the Bible, names of rivers or other series.

91. The Secretary General replied that two letters at the beginning of a word could be accepted as it would not be possible to monopolize this use, but a separate word or a series containing syllables of several letters would be refused. However, it would be very difficult to decide where the exact limit lay between acceptance and refusal since this depended on the individual case. It was therefore not possible to give a clear guide on how to work; only the two opposite possibilities for acceptance and refusal could be clearly defined.

92. A vote was taken on Article 4. Denmark, France, Germany (Federal Republic of), the Netherlands and Sweden voted in favor of its inclusion, the United Kingdom against. The motion was thus adopted.

93. The Council unanimously agreed on the last line of Annex 1, mentioning that Articles 5 to 10 remained unchanged as in the former document (UPOV/C/IV/18 Rev.), and that Article 11 should be deleted. By this last decision the whole draft of the Guidelines for Variety Denominations had been adopted as laid down in Annex 1 to document UPOV/C/VII/2 without any change.

94. Miss Thornton (United Kingdom) asked the member States if they could help her country to face the new situation created by the approval of Article 4 of the Guidelines for Variety Denominations. She asked if the member States could consider the possibility of accepting denominations with prefixes that had already been approved in the United Kingdom, on the understanding that in the future they would no longer be accepted.

95. Mr. Søndergaard (Denmark) and Mr. Laclavière (France) pointed out that they would try to discuss this possibility in their countries; it would be very difficult, however, and, at the moment, they could not give any assurance.

96. Dr. Böringer (Germany (Federal Republic of)) and Mr. Butler (Netherlands) pointed out that in the past they had accepted variety denominations embodying house names, but this had been discontinued a few years previously. They now had in their countries accepted variety denominations with prefixes and others where they had convinced the breeder to use only a name without a house mark. If for the latter they were now to ask for retroactive inclusion or, for varieties currently under examination, to allow a house mark retroactively this would delay the whole operation. For varieties under examination it would delay the final decision by about six months. Therefore they were afraid that the possibilities in their countries were very limited. They agreed to consider the possibility, however, especially as the United Kingdom had promised to provide a list of all denominations with prefixes approved to date in the United Kingdom.

97. Dr. Böringer (Germany (Federal Republic of)) pointed out that now that the Guidelines for Variety Denominations had been finally adopted, the anxiety felt by professional organizations might well increase. He proposed, therefore, to mention in the letter to the professional organizations accompanying the adopted Guidelines that it was not the intention of the Council to reduce their naming possibilities but that the Guidelines for Variety Denominations contained only what had been laid down in the Convention and served only to clarify this item and actual practical use.

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98. The Council agreed to this letter, although the professional organizations were already aware of the fact and all arguments. The Secretariat was also requested to provide the member States with a copy of the letter.

Examination of the possibilities of cooperation between the Working Group on Variety Denominations and the Commission of the International Code of Nomenclature for Cultivated Plants (Item 14(ii) of the Agenda)

99. Dr. Böringer (Germany (Federal Republic of)) introduced document UPOV/C/VII/15 and gave a short introduction to its background. The main differences between the International Code of Nomenclature for Cultivated Plants and the UPOV Guidelines for Variety Denominations were that the Code of Nomenclature looked at the problem more from the botanical angle, while UPOV looked at it more from the angle of legal and formal conformity with the UPOV Convention. While parts of the UPOV Guidelines were also contained in the International Code, other parts did not agree fully. It seemed that the time had now come to bring about a harmonization of the two different possibilities. He proposed that the Chairman and a few other members of the Commission of the International Code of Nomenclature for Cultivated Plants should be invited to participate in the meetings of the Working Group for Variety Denominations and that conversely the Chairman and members of the UPOV Working Group on Variety Denominations should be invited to the meetings of the Commission of the International Code of Nomenclature. Also, the newly-adopted Guidelines should be sent to the other party. This procedure could create a good basis for international cooperation and it could no longer be said that the two groups worked independently of one another without considering the other party.

100. The Chairman told the Council that he was a member of the Committee of the International Code of Nomenclature for Cultivated Plants, but for three years no meeting had taken place, and the last addition to this Code had been made in 1969. The next meeting would probably take place during 1974.

101. The Secretary General proposed that the Secretariat write a letter to the Chairman of the Commission of the International Code of Nomenclature for Cultivated Plants proposing an exchange of delegates when meetings of one of the two parties took place. The Council unanimously endorsed this proposal.

Harmonization of Fees (Item 17 of the Agenda)

102. Mr. Laclavière (France) introduced document UPOV/C/VII/6. He pointed out that the document mainly contained the following three ideas: first, a recommendation to the States that they harmonize their administration fees at a level of 500 Swiss francs; second, the different member States had difficulty in balancing their accounts, as the fees charged did not cover the costs, and as they had further agreed that a total cost coverage was not desirable as a large part of the work was done in the public interest; third, cooperation on testing should be achieved between the member States and efforts should be made to avoid repetitive testing, using instead the test results of other member States and thereby reducing the expenditure of the testing stations as well as the fees charged to the breeder.

103. Dr. Böringer (Germany (Federal Republic of)) pointed out that, at the last meeting of the Working Group, agreement in principle had been reached on the Draft Resolution but that afterwards the public interest had been found to be too strongly stated, with the result that his country now had some reservations. For this reason they had prepared a different draft for consideration by the Council. This draft, a copy of which had been distributed, actually contained no new substantive elements. It had been drafted only to give a better presentation, mainly to lessen the emphasis on the public interest. He added that it would be unwise to state the public interest so strongly as breeders would in future have a weapon and would always use this document as a basis when fee questions arose, mentioning that the authority itself had agreed on the question of the public interest.

104. Miss Thornton (United Kingdom) mentioned that the administration of the protection system for plant breeders' rights was very expensive. The German draft had now watered down the original conclusion, which had more strongly stressed the public interest of the system.

105. Mr. Mejegaard (Sweden) stated that his country was very interested in the joint use of trials, for example for ornamentals, but that Swedish law did not allow the charging of testing fees to be waived, even if the results of another testing station were used. He further asked whether the testing fee was considered to represent one, two or three years of testing. He mentioned that a further difficulty for his country was that it had two different authorities, one undertaking trials and the other granting rights.

106. To clear up a misunderstanding, and also to inform the other non-member States on how the exchange of test results was intended to take place according to this document, Mr. Butler (Netherlands) pointed out that, in the Netherlands for example, the cost of the tests amounted to about 85% while the administrative costs amounted only to 15%. On the other hand, the income from testing fees amounted to only 25%, while the income from administrative fees amounted to about 75%. This meant that the actual fees charged for the tests covered only a very small part of their actual cost. If, therefore, a country making use of testing facilities in another country was requested to pay the testing fees charged in the country undertaking the test, it would in fact only be paying a very small part of the costs that would be incurred if the country provided testing facilities and undertook the tests itself. The country making use of the testing facilities of another country would thus make a very substantial profit, and it was therefore more than justified that this country should refrain from charging the breeder testing fees. The costs which the country would have to pay for making use of test results would be more than covered by the administrative fees which it would still be receiving from the breeder. They were normally intended to cover the greater part of the testing costs, but now only needed to cover the small amount of the testing fees. If the country making use of testing facilities of another country made a profit, the breeder should also share in that profit and pay a testing fee only once, since the test itself would have been undertaken only once.

107. As it was not possible to reach agreement on either of the two drafts presented on the subject, it was finally decided that a meeting of the Fee Harmonization Working Party should take place after the present meeting of the Council, for the preparation of a new draft to be considered by the Council on the following day.

Protection Period in Member States and Priority Questions (Item 18 of the Agenda)

108. The Vice Secretary General introduced document UPOV/C/VII/8. He pointed out that this document was mainly intended as an incentive to member States to note the problems mentioned and to think them over. Its chief purpose was to allow for afterthoughts.

109. The Council agreed to postpone the discussion of this item.

Amendment of the Convention (Item 19 of the Agenda)

110. The Vice Secretary General pointed out that this item was also intended merely for afterthought. He reminded the Council of the decisions of the Consultative Working Committee and the Council's discussion of the previous day. The Consultative Working Committee would discuss this problem during its next meeting at the beginning of 1974. In the autumn of 1974 a meeting at governmental level with non-member States was also planned in order to deal with the same item.

111. Although it was pointed out that it would be good to start a discussion and to collect ideas, or to set up a study group to discuss this problem, it was finally agreed that it would be better if each member State were to consider the question separately and provide the Secretariat with its ideas before December 1, as agreed the previous day.

Date of Next Meeting (Item 20 of the Agenda)

112. It was pointed out that for several participants in the Council meeting who came to Geneva from far away, it would be an advantage and a saving in costs if the Council meeting could be held close to the meeting of the OECD, in order that these countries might send one person to both meetings on one single trip. It was agreed that the Secretariat would telephone Mr. Juckes the following day to find out if a date had already been considered for the 1974 meeting of the OECD.

113. It was also mentioned that there were plans to hold an information meeting at governmental level in conjunction with the next meeting of the Council, for the discussion of problems relating to the Convention. As this would require a great deal of work on the part of the Secretariat, and as it was not yet known when the new Vice Secretary General would be available, the next meeting of the Council should take place late in the year, not before November.

Any Other Business (Item 21 of the Agenda)

114. The Secretary General pointed out that the Council had requested of the Secretariat that all WIPO proposals involving financial matters which might also affect UPOV should be made known to the Council. At the moment, the United Nations Common System was applied to WIPO salaries, which made a distinction between professional staff and general

service staff. The salaries of general service staff were in Swiss francs, whereas those of professional staff were based on dollars which in the past had caused a marked reduction in professional salaries, owing to the devaluation of the dollar, leading sometimes to higher salaries in the general service category than in the professional category. During the forthcoming WIPO meeting in November, it was proposed to change the basis of professional salaries from dollars to Swiss francs. Although nearly all the specialized agencies of the United Nations base the salaries of their professional staff on dollars, there are some which do not. Therefore there is a definite possibility of the proposal being accepted. The Council would be informed by letter immediately after a decision had been taken.

115. Dr. Knobloch (Germany (Federal Republic of)) pointed out that sometimes they received a revised version of a document from the Secretariat. He asked if it would not be possible for the Secretariat to mark in future any changes made to the former document to facilitate the work of the member States--this being a system which is widely used in similar cases. The Vice Secretary General answered that he would take note of this and study the different possibilities of marking changes.

116. The Council suspended its meeting to enable the Secretariat to prepare the draft report of the meeting and also to allow the Fee Harmonization Working Party to prepare a new combined draft for discussion the following day.

Harmonization of Fees (Item 17 of the Agenda)

117. The Council discussed the Draft Resolution on Fee Questions (UPOV/C/VII/19), elaborated at the last meeting of the Fee Harmonization Working Party on the basis of document UPOV/C/VII/6 and a proposal by Germany (Federal Republic of).

118. It was agreed that the words "the system of" in the line of the Preamble starting with "Recognizing" would be replaced by the words "plant breeding and granting of".

119. In order to indicate that it was not a recommendation but an obligation, the Council agreed to replace the word "should" in the first line of 1(a) and 1(b) by "shall", and also the words "should undertake to" in 1(c) by "shall".

120. The Council agreed that it was still desirable to harmonize in the region of 500 Swiss francs the amounts of administrative fees relating to applications for and the grant of titles of protection. However, as the new draft resolution was to serve a more general purpose, it was decided to take the figure out and to mention it only in this Report.

121. The Council unanimously adopted the Draft Resolution as set forth in document UPOV/C/VII/19, subject to the above changes.

Date of Next Meeting (Item 20 of the Agenda)

122. The Council decided to postpone the decision on the date of the next meeting. As that meeting was to be held in connection with a meeting at inter-governmental level to discuss problems arising out of the Convention, the Consultative Working Committee had to study the matter first.

Joint Trial Arrangements

123. A discussion took place on the basis of document UPOV/C/VII/20. As that document was intended mainly to give information on where central testing facilities existed, the Council agreed to delete the first sentence of paragraph 2, the last sentence of paragraph 3, and paragraphs 4, 5, 6 and 7 entirely.

124. In the Annex, the following corrections were mentioned: Denmark could not yet carry out tests for Pelargonium. With regard to begonias, Germany (Federal Republic of) would limit its offer to Begonia elatior while for rhododendrons it would include also potted azaleas. The Netherlands would offer, in addition to the species mentioned in the Annex, testing facilities for Streptocarpus and certain species of Poa and Agrostis.

125. The Council accepted document UPOV/C/VII/20, subject to the above amendments, and agreed that it should be reviewed by the Council at every ordinary session.

Adoption of the Report of the Seventh Ordinary Session (Item 22 of the Agenda)

126. On the basis of the draft reports set out in documents UPOV/C/VII/17 and UPOV/C/VII/18, the Council unanimously adopted paragraphs 1 to 116 of this Report (UPOV/C/VII/21). Paragraphs 117 to 129 were to be submitted for approval in writing.

127. Mrs. Crutchley (New Zealand) regretted that due to other commitments it had only been possible for her to attend the final part of the Session.

Thanks of the Council to the Secretary General and the Vice Secretary General

128. As the Secretary General and the Vice Secretary General of the Secretariat of UPOV would very soon be relinquishing their duties, the Chairman expressed the thanks of the Council of UPOV to them in the following terms:

On this occasion, before adjourning the meeting, I should like to express our special thanks to Professor Bodenhausen and Mr. Skov, the team which is now leaving us.

Professor Bodenhausen, we are very grateful to you for your invaluable assistance in starting the work of UPOV. Without your outstanding ability and your unparalleled knowledge of property rights, we would not have been able to proceed as we have. We are very grateful that you were able to devote so much time to our problems. You worked in so many fields in addition to that of plant variety rights that we would particularly like to thank you for your consideration in always being available for our business and also for the way in which you have always been prepared to co-operate with us.

I am sure that I am speaking on behalf of everyone present when I express our sincere thanks for all the years of cooperation and assistance. We wish you all the best for the future and hope that you will enjoy being free to do a little of what you want.

Thank you, Professor Bodenhausen.

We are also losing another member of our team, Mr. Skov, the first Vice Secretary General. He was the one who established the way in which we could work - the daily routine, maintaining old connections and making new ones, serving us but at the same time directing us. He handled the documents in such a way that we were always able to meet and discuss problems. He has been so very cooperative in every way, and we are sorry that he is leaving us. Yet there is nothing that we can do but face reality.

We shall miss you, and I should like to convey our sincere thanks to you too. I trust that you will be happy in your future work. Perhaps, sometime in the future, we may again benefit from your wide knowledge and experience in this field - who knows? We hope very much that this will be the case.

Good luck in the future.

129. The Chairman closed the seventh ordinary session of the Council and thanked all participants for their attendance and participation.

/Annex follows/

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LIST OF PARTICIPANTS

I. MEMBER STATES

Denmark

- Mr. P. SKIBSTED, Ministry of Agriculture, Slotsholmsgade 10,
1216 Copenhagen K.
- Mr. E. SØNDERGAARD, Chairman, Plant Variety Board, Rolighedsvej 26,
1958 Copenhagen V.
- Mr. F. RASMUSSEN, Director, Plantenyhedsnaevnet, Tystofte,
4230 Skaelskør

France

- Mr. B. LACLAVIERE, Administrateur Civil, Ministère de l'Agriculture,
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- Mr. R. E. BARBIER, Ingénieur en chef du Génie rural, 3 Rue Barbet de
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Germany (Federal Republic)

- Dr. D. BÖRINGER, Präsident, Bundessortenamt, Rathausplatz 1,
3011 Bemerode/Hanover
- Dr. W. KNOBLOCH, Regierungsdirektor, Bundesministerium für Ernährung,
Landwirtschaft und Forsten, 53 Bonn
- Mr. H. KUNHARDT, Regierungsdirektor, Bundessortenamt, Rathausplatz 1,
3011 Bemerode/Hanover

Netherlands

- Mr. W. VAN SOEST, Director, Ministry of Agriculture, le v. d. Boschstraat,
The Hague
- Mr. J. I. C. BUTLER, Chairman, Board for Plant Breeders' Rights,
Postbus 104, Wageningen
- Mr. W. R. J. VAN DEN HENDE, Lawyer, Directie J.B.O.Z., Ministry of
Agriculture and Fisheries, le v. d. Boschstraat, The Hague

Sweden

- Professor H. ESBO, Chairman, National Plant Variety Board, 171 73 Solna
- Mr. S. MEJEGAARD, Judge of the Court of Appeal, Slättgardsvägen 46,
126 58 Hägersten
- Mr. O. SVENSSON, Agronomist, Statens Växsortnämnd, 171 73 Solna

United Kingdom

- Mr. H. A. S. Doughty, Controller, Plant Variety Rights Office, White
House Lane, Huntingdon Road, Cambridge
- Miss E. V. THORNTON, Deputy Controller, Plant Variety Rights Office,
White House Lane, Huntingdon Road, Cambridge

II. SIGNATORY STATES

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Mr. R. DERVEAUX, Conseiller juridique, Ministère de l'Agriculture,
Rue Joseph II, 30, Brussels 1040

Switzerland

Mr. P.-A. MIAUTON, Chef de la section de certification et contrôle des
semences, Station fédérale de recherches agronomiques de Lausanne,
Domaine de Changins, 1260 Nyon

III. OTHER INTERESTED STATES

Australia

Mr. R. D. CROLL, Australian Scientific Liaison Office, Australian High
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Austria

Dr. R. MEINX, Direktor, Bundesanstalt für Pflanzenbau und Samenprüfung,
Postfach 64, 1201 Vienna II

Canada

Mr. C. JEFFERSON, Director, Plant Products Division, Department of
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Finland

Professor R. MANNER, Agricultural Research Center, Department of Plant
Breeding, Jokioinen

New Zealand

Mrs. V.R. CRUTCHLEY, Third Secretary, New Zealand Permanent Mission to
the Office of the United Nations at Geneva, 58 rue de Moillebeau,
Geneva

Norway

Mr. J. RASTEN, State Seed Inspector, Ministry of Agriculture, Pilestredet
57, Oslo-Dep., Oslo 1

South Africa

Mr. J. F. VAN WYK, Director, Division of Plant and Seed Control, Private
Bag 179, Pretoria

Spain

Dr. M. VADELL, Ingeniero Agronomo, Instituto Nacional de Semillas y
Plantas de Vivero, Ciudad Universitaria, Madrid (3)

Mr. R. LOPEZ DE HARO, Ingeniero Agronomo, Instituto Nacional de Semillas
y Plantas de Vivero, Ciudad Universitaria, Madrid (3)

United States of America

Mr. S.F. ROLLIN, Commissioner, Plant Variety Protection Office,
6525 Belcrest Road (No. 763), Hyattsville, Md. 20782

IV. OFFICER

Professor H. ESBO, Vice Chairman

V. REPRESENTATIVES OF UPOV

Professor G.H.C. BODENHAUSEN, Secretary General
Mr. H. SKOV, Vice Secretary General
Dr. M.-H. THIELE-WITTIG, Administrative and Technical Assistant

VI. REPRESENTATIVES OF WIPO

Mr. M. LAGESSE, Counsellor, Administrative Division
Mr. A. JACCARD, Counsellor, Head of Finance Section

/End of Annex and of document/