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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Seventh Session

Geneva, May 6 to 8, 1981

OBSERVATIONS OF THE DELEGATION OF SOUTH AFRICA

Document prepared by the Office of the Union

By letters dated April 15, 1981, Mr. J.F. van Wyk, Director of the Division of Plant and Seed Control of the Department of Agriculture and Fisheries of South Africa, has made some observations on documents CAJ/VII/4 and CAJ/VII/6:

(i) Concerning document CAJ/VII/4 (Free access for breeders to tests being made by testing authorities acting for other States), he has cited the provisions of the national legislation that refer to the rendering of information. The letter concerning that document is reproduced, in its original language, in the Annex to this document.

(ii) Concerning document CAJ/VII/6 (Proposals for amendment of the Guidelines for Variety Denominations), he has agreed to the proposals for the amendment of Articles 1 to 7. Concerning Article 10, he has declared that he would still prefer its deletion. However, if for any reason, unknown to him, prevailing in other member States it is considered that the Article should be retained, he would prefer that it be amended on the lines of Article 48 of the 1980 edition of the International Code of Nomenclature for Cultivated Plants.

[Annex follows]

CAJ/VII/9

ANNEX/ANNEXE/ANLAGE

LA 30/14

Telegrafiese adres:
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"Sativa PRETORIA"
Tel. 213111



Verwys asb. in u antwoord na:
In reply please quote:

No. 11/1/13/2/5

REPUBLIEK VAN SUID-AFRIKA - REPUBLIC OF SOUTH AFRICA

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DEPARTMENT OF AGRICULTURE AND FISHERIES

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AIRMAIL

1981-04-15

The Secretary-General
UPOV 34, chemin des Colombettes
1211 GENEVA 20 SWITZERLAND.

FREE ACCESS FOR BREEDERS TO TESTS BEING MADE:
DOCUMENT CAJ/VII/4 of 11 March 1981

In view of the comment made by the Delegation of the Federal Republic of Germany in paragraph 4 of the above document, I wish to quote from our plant breeders' rights legislation as far as it pertains to disclosure of information:

1. Section 4 (1), (2) and (3) of the Plant Breeders' Right Act reads as follows:
 - "(1) The registrar shall keep a register in which the prescribed particulars in respect of plant breeders' rights granted in terms of this Act shall be entered.
 - (2) The register shall, upon payment of the prescribed fee, be open for inspection at the office of the registrar during office hours.
 - (3) The registrar shall furnish, at the request of any person and upon payment of the prescribed fee, a copy of any particulars in the register or a certificate in respect thereof."
2. Regulation 22(1) of the Plant Breeders' Rights Regulations reads as follows:
 - "(1) In the register of plant breeders' rights referred to in section 4 of the Act shall be entered -
 - (a) the kind of plant to which each new variety belongs;
 - (b) the denomination of each new variety and any approved alteration thereof;
 - (c) the principal characteristics of each new variety and, where varieties are produced by a cross between certain hereditary components, the principal characteristics of such components;

- (d) the full name and address of the original breeder of each new variety;
- (e) the name and address of the holder of the plant breeder's right in each new variety and the name and address of each person to whom such right has been transferred;
- (f) the name and address of the person who has been appointed as the agent of any person referred to in paragraph (e);
- (g) the date of inception of the plant breeder's right in each new variety;
- (h) the date on which a plant breeder's right ceases to exist and the reason therefor;
- (i) the name and address of each person to whom a licence has been issued in terms of the Act for the use of a plant breeder's right;
- (j) the name and address of each person to whom a compulsory licence has been issued in terms of the Act for the use of a plant breeder's right; and
- (k) such other particulars as the registrar may, subject to the provisions of the Act, deem necessary."

(NOTE: The "other particulars" referred to under paragraph (k) are at present the following:

- (a) Transfer of Plant Breeders' Rights;
- (b) Maintainer of Source of Material;
- (c) Foreign Plant Breeders' Rights: Grants and Terminations;
- (d) Countries in which the relevant varieties appear in the National Variety Lists; and
- (e) Special Directions e.g. to be sold only as certified seed.)

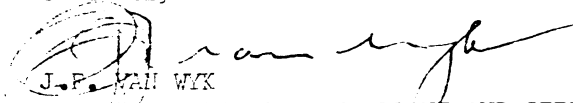
3. Section 40 of the Plant Breeders' Rights Act reads as follows:

"No person shall, except -

- (a) to the Minister, the board, the registrar or any other person for the purpose of carrying out his duties or the performance of his functions under this Act;
- (b) to a police official for the purpose of an inquiry relating to the enforcement of the provisions of this Act; or
- (c) when required to do so by any court or under any law, disclose any information acquired by him in the carrying out of his duties or the performance of his functions under this Act in relation to any new variety for which an application for the grant of a plant breeder's right has been made, or in relation to the business affairs of an applicant or the holder of such right."

I thought the above could be of interest to you.

Sincerely


J.P. VAN WYK
DIRECTOR: DIVISION OF PLANT AND SEED CONTROL

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Ende des Dokuments]