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UPOV

NM/I/3

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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**

GENEVA

**MEETING OF MEMBER AND NON-MEMBER STATES****Geneva, October 21 to 23, 1974****STATEMENTS BY PARTICIPANTS**Statement by Canada

The Canadian Department of Agriculture transmitted, on September 12, 1974, the annexed letter concerning the attitude of Canada towards the International Convention for the Protection of New Varieties of Plants of December 2, 1961.

[Annex follows]



O t t a w a , September 12, 1974.

UPOV/NM/I/3

UPOV/NM/I/3 618.9

Mr. Arpad Bogsch,  
Secretary General,  
UPOV,  
32, chemin des Colombettes,  
1211 Geneve 20,  
Switzerland.

Dear Mr. Bogsch:

This letter is being written in response to the invitation contained in your letter of April 30, Circular No. U 94 081.9, for comments for consideration of the Council at its upcoming meeting, October 24-26, 1974.

Canada has been actively considering the matter of Plant Breeders' Rights for this country during the past several years. The Canada Department of Agriculture at the moment is in the course of preparing a discussion document to be presented to interested parties in Canada, in November. It is anticipated that legislation will ultimately result.

Apart from the regular reasons for considering the introduction of Plant Breeders' Rights legislation in Canada, two international considerations have also been identified as follows: 1. It is desired to provide that varieties from other countries will continue to be available to Canadian farmers. It is considered that some owners of varieties protected in other countries might be reluctant to offer their varieties in Canada unless they were able to obtain comparable protection. 2. It is desired to facilitate the protection of Canadian varieties in other countries so that their usefulness may be exploited to mutual advantage.

Both of these considerations could be assisted by participation in an international organization serving as a forum to identify common interests and the development of methods, procedures and standards for common use by all countries. UPOV is seen as an organization that could fulfill this function, but there are several drawbacks in view of present constraints imposed by the guiding Convention.

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Mr. Arpad Bogsch

September 12, 1974

The first of these is the rather rigid format of the UPOV Convention which appears to have been a disincentive to membership. It is noted that the present membership totals only six countries, as compared with 23 in the OECD Seed Schemes and over 50 in the International Seed Testing Association.

A major objection to the Convention is the constraining list of genera under Article 4. This imposes a requirement to program introduction of legislation according to a list of kinds without regard to national priorities. For example, this Convention, if Canada were to be a signatory, would require within eight years the introduction of protection for kinds such as ryegrass and lettuce which are of very limited importance to Canada. Possibly the overall objectives of the Convention would be achieved if Section 3 were amended to such as the following, "Each member state of the Union shall, on the entry into force of the Convention in its territory, apply the provisions of the Convention to at least five genera, and (a) within three years to at least two further genera, and (b) within six years to at least four further genera."

The constraints with respect to denominations also seem unduly restrictive. In this country current practice for maize and sorghum varieties is that the denomination is a combination of a word or series of letters followed by a number. The word or series of letters is a house name and the numbers denote the different varieties. This system is well established and clearly identifies the varieties for the consumer. It does not seem to have created undue confusion or misrepresentation. We can thus see little justification for altering it. On the other hand, we can see considerable difficulty in continually coining and verifying new names for the very large number of new maize varieties being developed. The current rate of development sees about 40 new maize varieties being licensed in Canada each year.

The report on the discussions on variety denominations at the 1973 congress confirms that the membership of UPOV voted to disregard the advice it received from all the other international organizations which were consulted. This is a matter of considerable concern to a prospective member, particularly when the rationale for doing so does not seem to rest in furthering the usefulness of the organization in serving international needs.

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Mr. Arpad Bogsch


September 12, 1974

As the Canadian development of a Rights program proceeds, other aspects of the UPOV Convention and operation may be seen as serious impediments to membership. Two areas already noted are cost and the present operations and procedures for confirmation of uniqueness, stability and uniformity of varieties.

It is my intention to attend the upcoming Council meeting as a representative of Canada in response to the invitation of August 19. Dr. D. Huntley, a consultant to the Department with respect to Plant Breeders' Rights, is to be the other representative.

We look forward to meeting with you and other country representatives at the meeting.

Yours very truly,

  
C. H. Jefferson,  
Director,  
Plant Products Division.

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