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UPOV

CAJ/I/7

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

First Session

Geneva, April 17 to 19, 1978

HARMONIZATION OF PLANT BREEDERS' RIGHTS GAZETTES

Observations Transmitted by the
Representative of France on the Council

In a letter dated March 14, 1978, addressed to the Vice Secretary-General of UPOV, the Representative of France on the UPOV Council transmitted observations on the Draft Model Gazette. The updated version of the Draft Model Gazette appears in Annex I of document CAJ/I/5 and the observations are attached in the Annex to the present document.

[Annex follows]

ANNEX

OBSERVATIONS ON THE MODEL GAZETTE

I. ORDER OF CONTENTS

Independently of the items specific to each State, the order of the contents calls for the following remarks:

(a) Item II should deal solely with the withdrawal of applications for protection. The second line (rejection of applications for protection) should come after item V because either protection is granted, and that case falls under item V, or it is not, and that case falls under item Vbis, which should in fact be item VI.

(b) An item IIbis should be inserted after item III for changes in variety denominations. Changes are frequent and should be indicated very clearly.

(c) It would seem that item UK-9; ZA-7 (proposed surrender of protection) should be put under item IX.

(d) Finally, licensing questions should be grouped together under a separate heading with its own Roman numeral.

The proposed new order of the contents is as follows, subject to the insertion of those items specific to each State:

- I Applications for Protection
- II Withdrawal of Applications for Protection
- III Variety denominations - Applications - Approval
- IV Changes in Variety Denominations (Whether Already Approved or Not)
- V Changes in the Person of the Applicant (or the Agent)
- VI Grant of Protection
- VII Rejection of Applications for Protection
- VIII Surrender of Protection
- IX Termination of Protection
- X Changes in the Denominations of Protected Varieties (Applications - Approval)
- XI Changes in the Person of the Holder (or the Agent)
- XII Licenses
- XIII Official Notices

II. MODEL TABLE ON APPLICATIONS FOR PROTECTION

The problem, which will also arise in connection with the other tables, is to know what order to adopt:

(a) Alphabetical Order of the Common Names (National Order): In this case, is the letter to be taken into consideration that of the name of the species as such or that of the first word where the name of the species is composed of several words: Spring Oats, Spring Wheat, or Oats (Spring), Wheat (Spring)?

(b) Alphabetical Order of the Latin Names

According to the order adopted, should groups be established, such as ornamental plants, agricultural crops and horticultural crops, or should it be the straightforward alphabetical order of the Latin or common names that is adopted?

With respect to Table V, the desirability of indicating the term of protection for all States should be discussed. Since the main purpose of the Gazette is to inform the member States, it should be remembered that they do not always know what the duration of protection is in the other States. This point is particularly important where, under transitional provisions, a State grants protection retroactively in respect of a variety of a species newly eligible for protection.