

INTERNATIONAL UNION

SWITZERLAND

Ratification

of the Additional Act to the Arrangement of The Hague

(7th November, 1962)

In a Note dated 21st November, 1962, we have been informed by the Swiss Federal Political Department that Switzerland deposited on 7th November, 1962, its instrument of ratification in respect of the Additional Act, signed at Monaco on 18th November, 1961, to the Arrangement of The Hague concerning the International Deposit of Industrial Designs or Models of 6th November, 1925, revised at London on 2nd June, 1934.

In compliance with paragraph (3) of Article 7 of the above mentioned Additional Act, the ratification by Switzerland will take effect from the 21st December, 1962.

CONVENTIONS AND TREATIES

Amendments

suggested by the British Government to the English Text of the Convention of Paris for the Protection of New Varieties of Plants which has been circulated by the International Bureau for the Protection of Industrial Property¹⁾

(Except where stated the text already circulated would remain unchanged)

Title Page

Convention of Paris for the Protection of New Varieties of Plants.

Article 2

(1) Each Member State of the Union may recognise the right of the breeder provided for in the present Convention by the grant either of a special title of protection or of a patent. Nevertheless, a Member State of the Union whose national law admits of protection under both these forms may *only provide* one of them for one and the same botanical genus or species.

Article 4

(5) Any Member State of the Union may, on signing the present Convention or on depositing its instrument of ratification or accession, declare that it will apply, *with regard*

to the protection of new plant varieties, Articles 2 and 3 of the Paris Convention for the Protection of Industrial Property.

Article 6

(1) The breeder of a new variety or his successor in title shall [...] benefit from the protection provided for in the present Convention when the following conditions are satisfied:

(a) Whatever may be the origin, artificial or natural, of the initial variation from which it resulted, the new variety must be clearly distinguishable by one or more important characteristics from any other variety whose existence is a matter of common knowledge at the time when protection is applied for. Common knowledge may be established by various references such as: cultivation or commercialisation already proceeding, entry in an official register of varieties already made or in course of being made, inclusion in a reference collection or a precise description in a publication.

A new variety may be defined *and distinguished* by morphological or physiological characteristics. In all cases, such characteristics must be capable of precise description and recognition.

(b) The fact that a variety has been entered in trials, or has been submitted for registration *or registered* in an official register, may not be held against the breeder of such variety or his successor in title.

At the time of the application for protection in a Member State of the Union, the new variety must not have been offered for sale or commercialised, with the agreement of the breeder or his successor in title, in the territory of that State, or for longer than four years in the territory of any other State.

(d) The new variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each cycle.

Article 10

(1) The right of the breeder shall be declared null and void, in accordance with the provisions of the national law of each Member State of the Union, if it is established that the conditions laid down in sub-paragraphs (a) and (b) of paragraph (1) of Article 6 were not effectively complied with at the time when the title of protection was delivered.

Article 13

(2) Such denomination must identify the variety; in particular, it may not consist solely of figures.

The denomination must not be liable to mislead or to lead to confusion concerning the characteristics, value or identity of the new variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in any Member State of the Union, existing varieties of the same or a closely related botanical species.

(3) Line 7: Insert a *comma* after the word "names".

(6) Line 4: Insert a *comma* after "15".

¹⁾ Published in *Industrial Property*, January 1962, pp. 6 et seq.