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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

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Geneva, October 27, 2005

**RULES GOVERNING THE GRANT OF OBSERVER STATUS IN UPOV BODIES AND
ACCESS TO UPOV DOCUMENTS**

Document prepared by the Office of the Union

1. The Consultative Committee endorsed, at its seventieth session on October 26, 2005, the contents of the Annex to this document and requested that it be presented to the Council for its adoption and subsequent posting in the freely accessible area of the UPOV website.

2. The Council is invited to consider the recommendation of the Consultative Committee and to adopt the "Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies and Access to UPOV Documents" contained in the Annex to this document.

[Annex follows]

RULES GOVERNING THE GRANTING OF OBSERVER STATUS TO STATES,
INTERGOVERNMENTAL ORGANIZATIONS AND INTERNATIONAL
NON-GOVERNMENTAL ORGANIZATIONS IN UPOV BODIES
AND ACCESS TO UPOV DOCUMENTS

I. Grant of Observer Status in UPOV Bodies

1. At its twenty-second ordinary session, on October 19, 1988, the Council decided to delegate to the Consultative Committee the power to decide on matters concerning the granting of observer status to non-governmental organizations (see paragraph 128(ii) of document C/XXII/14). Since that decision, and pursuant to the practice of the Council and the Consultative Committee, the granting of observer status to States, intergovernmental organizations and international non-governmental organizations in UPOV bodies is set out in the following paragraphs.

2. The granting of observer status to intergovernmental and international non-governmental organizations is reserved to those organizations with competence in areas of direct relevance in respect of matters governed by the UPOV Convention. The constituent treaty for intergovernmental organizations and the statutes for international non-governmental organizations will form the basis to determine that competence.

(a) Council (ordinary and extraordinary sessions):

(i) The Office of the Union is authorized to grant observer status to additional States if it considers that they have officially expressed an interest in becoming a member of UPOV and in participating in the sessions of the Council.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular Council session. Such invitations will subsequently be reported to the Consultative Committee.

(b) Consultative Committee – This Committee normally holds closed sessions restricted to the members of the Union. Observer States and certain intergovernmental organizations may be invited by the Office of the Union to participate within an item of the agenda concerning the preliminary examination of their legislation in order to respond to any questions raised by the Consultative Committee, but would not be present during the discussions of the legislation.

(c) Administrative and Legal Committee (CAJ):

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of the CAJ.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council, the Chair of the CAJ and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular CAJ session. Such invitations will subsequently be reported to the Consultative Committee.

(d) Technical Committee (TC):

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of the TC.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council, the Chair of the TC and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular TC session. Such invitations will subsequently be reported to the Consultative Committee.

(e) Technical Working Parties (TWPs):

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of one or several TWPs.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the Chair of the relevant TWP and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization or a relevant expert to attend a particular session of a TWP. Such invitations will subsequently be reported to the Consultative Committee.

3. The following procedure should be followed by an organization wishing to obtain observer status:

(a) In the first instance, the head of the organization should send a letter to the Secretary-General of UPOV requesting the granting of observer status to the Council and, if appropriate, to the CAJ, the TC and/or the TWPs.

(b) The letter should contain a brief description of the organization's objectives, activities, structure and membership and: for intergovernmental organizations, a copy of the constituent treaty; and for international non-governmental organizations a copy of the statutes.

(c) Organizations which have been granted observer status to the Council may subsequently request, by means of a letter from the head of the organization, observer status to the CAJ, the TC and/or the TWPs, if this was not initially requested.

4. Unless specified otherwise, observer status in sessions of relevant UPOV bodies (Council, CAJ, TC and/or TWPs) is granted for an unspecified duration.

5. The Consultative Committee will be informed, on a regular basis, of the list of observer States and organizations in UPOV bodies and *ad hoc* invitations to attend a particular session of a UPOV body.

II. Access to UPOV Documents

6. The “UPOV Documents” section of the UPOV website is divided into the following areas:

Council
First Restricted Area
Second Restricted Area

Council

7. Documents concerning the ordinary and the extraordinary sessions of the Council are placed under the heading “Council” in the “UPOV Documents” section of the UPOV website, where no password is required for access.

First Restricted Area

8. Documents concerning the sessions of Administrative and Legal Committee (CAJ), the Technical Committee (TC) and the Technical Working Parties (TWPs) are placed in the first restricted area of the “UPOV Documents” section of the UPOV website. The criteria for the granting of passwords for access to the first restricted area of “UPOV Documents” in the UPOV website are as follows:

(a) Access to the first restricted area is granted to members of the Union and to States or organizations with observer status at the Council, Administrative and Legal Committee, Technical Committee or Technical Working Parties.

(b) The Office of the Union issues the password for the first restricted area to:

(i) the representative in the Council of each member of the Union. Where a member of the Union does not formally notify the Office of the Union of its representative in the Council of UPOV, the password is issued to the official(s) nominated by the member of the Union to attend the Council;

(ii) the designated person(s) of an observer State or observer organization in the Council. In the case of observer States, the designated person(s) is (are) taken as the person(s) nominated to attend the Council by the government. In the case of an observer organization, the designated person(s) is (are) taken as the person(s) nominated to attend the Council by the head of the organization; and

(iii) the designated person(s) of each member of the Union, observer State or observer organization in the Administrative and Legal Committee, Technical Committee and

Technical Working Parties. Such designated persons are those notified as such by the recipient of the password as set out in (i) or (ii), as appropriate.

(c) Individuals contacting the Office of the Union for the password are referred to the relevant recipient of the password, as specified in (b), who is responsible for deciding whether to disclose the password.

9. It is the responsibility of the recipients of the passwords, as specified in paragraph 8(b)(i) and (ii) above, to nominate to the Office of the Union its designated person(s) to the Administrative and Legal Committee, the Technical Committee and the Technical Working Parties.

Second Restricted Area

10. The documents of the Consultative Committee are placed in the second restricted area of the “UPOV Documents” section of the UPOV website. The second restricted area is accessible only by a password issued to the representative and alternate of each member of the Union to the Council. Where a member of the Union does not formally notify the Office of the Union of its representative and alternate to the Council, the password is issued to the official(s) nominated by the member of the Union to attend the Council.

Temporary Password Areas

11. Links to temporary password areas are made available to participants who do not have access to the first restricted area of the UPOV website in order to enable them to access documents for a specific session, meeting or event. The temporary password area for a specific session, meeting or event is deleted at an appropriate time after it has taken place. A password for the relevant temporary password area to access the necessary documents is issued to recipients of *ad hoc* invitations addressed under paragraph 2 (c)(iii), (d)(iii) and (e)(iii), above.

Password Policy

12. Passwords for the first and second restricted areas will be changed on a regular basis and recipients will be notified accordingly.

[End of Annex and of document]