



C/42/20

ORIGINAL: English

DATE: October 30, 2008

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

**COUNCIL**

**Forty-Second Ordinary Session**  
**Geneva, October 30, 2008**

REPORT ON THE DECISIONS

*adopted by the Council*

Introduction

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its forty-second ordinary session in Geneva on October 30, 2008, chaired by Mr. Doug Waterhouse (Australia), President of the Council.
2. The list of participants is reproduced in the Annex to this document.
3. The session was opened by the President who welcomed the participants.
4. The Council paid tribute to Mrs. Valerie Sisson, former delegate of Canada to UPOV meetings, who had passed away in recent months.
5. The President informed the Council that Georgia had deposited its instrument of accession on October 29, 2008, and would become the sixty-sixth member of UPOV on November 29, 2008.
6. The President reported to the Council that Switzerland had ratified the 1991 Act of the UPOV Convention on September 1, 2008.
7. The Council took the decisions recorded below under each relevant agenda item.

8. The draft detailed report on the session will be submitted to the Council for adoption by correspondence.

#### Adoption of the Agenda

9. The Council adopted the draft agenda, as proposed in document C/42/1, after the inclusion of document C/42/16 Add. under item 3, documents C/42/18 and C/42/19 and the comments of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) of October 28, 2008, under item 4, and document C/41/7 Rev. under item 18(b).

10. The Council noted that, in the Spanish version of the draft agenda (document C/42/1), reference to “document C/42/13” under item 18 should be replaced by “document C/42/14”.

#### Appointment of the new Secretary-General

11. The Council considered documents C/42/16 and C/42/16 Add.

12. The Council decided to appoint Mr. Francis Gurry as the new Secretary-General of UPOV for the period from October 30, 2008 to September 30, 2014.

13. The Council noted that the Secretary-General renounced his indemnity as Secretary-General of UPOV and expressed his wish for that indemnity to be used in the UPOV program and budget for financing activities of particular interest to developing countries (see paragraph 7 of document C/42/16 Add.).

#### Examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention

##### *The former Yugoslav Republic of Macedonia*

14. The Council considered document C/42/18.

15. The Council decided to

(a) take note of the analysis in document C/42/18 document;

(b) take a positive decision on the conformity of the Draft Law on the Breeder’s Rights of the former Yugoslav Republic of Macedonia with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows that, once the Draft Law is adopted and the Law in force, the former Yugoslav Republic of Macedonia may deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of the former Yugoslav Republic of Macedonia of that decision.

*Bosnia and Herzegovina*

16. The Council considered document C/42/19.

17. The Council decided to

(a) take note of the analysis in document C/42/19;

(b) recommend that Bosnia and Herzegovina incorporate the additional provisions and amendments in the Law, as provided in document C/42/19, and recommend that once the additional provisions and amendments have been incorporated in the Law, the amended Law should be submitted to the Council for examination in conformity with Article 34(3) of the 1991 Act;

(c) request the Office of the Union to offer its assistance, at the earliest opportunity, to the Government of Bosnia and Herzegovina in drafting the necessary additional provisions and amendments to the Law; and

(d) authorize the Secretary-General to inform the Government of Bosnia and Herzegovina of that decision.

Report by the President on the work of the seventy-sixth session of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee

18. The Council noted the oral report by the President on the seventy-sixth session of the Consultative Committee, held on October 29 and on the morning of October 30, 2008, in particular, that the Consultative Committee had:

(a) approved an arrangement between UPOV and WIPO, concerning the UPOV Plant Variety Database whereby WIPO would undertake the collation of data for the UPOV-ROM and provide the necessary assistance to deliver a program of improvements and UPOV would agree that data in the UPOV-ROM Plant Variety Database could be included in the WIPO Patentscope® search service. It was explained that, in the case of data provided by parties other than members of the Union (e.g. the Organisation for Economic Co-operation and Development (OECD)), permission for the data to be used in the WIPO Patentscope® search service would be a matter for the parties concerned;

(b) approved the development of an “Assistance” webpage on the UPOV website to provide information on relevant forms of assistance in the development of plant variety protection according to the UPOV Convention and an approach to seek to enhance extra-budgetary sources of funding for assistance;

(c) noted the developments concerning the Second World Seed Conference “Responding to the challenges of a changing world: the role of new plant varieties and high quality seed in agriculture”, to be held from September 8 to 10, 2009, at the Food and Agriculture Organization of the United Nations (FAO) headquarters, Rome and had approved the allocation of 10,000 SFr. for operating costs of that Conference.

Adoption of document TGP/10/1 “Examining Uniformity” and revisions to document TGP/5 “Experience and Cooperation in DUS Testing” (document C/42/12)

19. The Council considered documents C/42/12, TGP/10/1 Draft 10 and the proposed revisions to document TGP/5.

*TGP/10: Examining Uniformity (document TGP/10/1 Draft 10)*

20. The Council adopted document TGP/10/1 “Examining Uniformity” on the basis of document TGP/10/1 Draft 10.

*TGP/5: Experience and Cooperation in DUS Testing (revisions)*

21. The Council adopted the revisions to document TGP/5 “Experience and Cooperation in DUS Testing”, on the basis of the following documents:

Introduction Draft 3:	Introduction;
Section 1/2 Draft 6:	Model Administrative Agreement for International Cooperation in the Testing of Varieties;
Section 2/2 Draft 6:	UPOV Model Form for the Application for Plant Breeders’ Rights;
Section 4/2 Draft 6:	UPOV Model Form for the Designation of the Sample of the Variety;
Section 5/2 Draft 6:	UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results;
Section 6/2 Draft 6:	UPOV Report on Technical Examination and UPOV Variety Description;
Section 7/2 Draft 6:	UPOV Interim Report on Technical Examination; and
Section 11/1 Draft 4:	Examples of Policies and Contracts for Material Submitted by the Breeder.

Measures to improve the efficiency, effectiveness and time flexibility of the UPOV sessions

22. The Council noted the new measures agreed by the Consultative Committee to improve the efficiency, effectiveness and time flexibility of the UPOV sessions as presented in document C/42/13.

Annual report of the Secretary-General for 2007; Report on activities during the first nine months of 2008

23. The Council approved the report of the Secretary-General on the activities of the Union in 2007, as provided in document C/42/2.

24. The Council noted that a revised version of document C/42/2 would be prepared in order to reflect the participation of the Community Plant Variety Office (CPVO) of the European Community in the Regional Seminar on Plant Variety Protection under the UPOV Convention and Workshop on DUS Examination and Data Handling, which was held from June 5 to 8, 2007, at the headquarters of the Kenya Plant Health Inspectorate Service (KEPHIS), Nairobi, Kenya.

25. The Council noted the report on activities during the first nine months of 2008, as provided in document C/42/8.

Finances of the International Union for the Protection of New Varieties of Plants as at December 31, 2007

26. The Council approved the accounts for the 2006-2007 financial period. It noted the report of the auditor on the accounts of the 2006-2007 biennium, contained in document C/42/4, Annex B, and expressed its gratitude to the Government of Switzerland for its cooperation in that matter.

Arrears in contributions as of September 30, 2008

27. The Council noted the status of payment of contributions and the working capital fund participations as provided in document C/42/11 and noted the information that, as a result of recent payments, Ireland and Italy had no arrears; no decision was called for under this agenda item.

28. The Council noted that the arrears in respect of Belgium and France had arisen as a result of exchange rate variation and would be rectified shortly.

Financial Regulations and Rules of UPOV

29. The Council considered document C/42/15.

30. The Council noted that the Consultative Committee, at its seventy-sixth session, held on October 29 and on the morning of October 30, 2008, had agreed that:

(a) provisions concerning an external audit committee and internal audit for UPOV should be considered in parallel with the revision of the Financial Regulations and Rules of UPOV; and

(b) the Office of the Union should prepare a document for consideration at its seventy-seventh session, to be held on April 3, 2009, setting out possible approaches for the process of revising the Financial Regulations and Rules of UPOV, on the basis of discussions at its seventy-sixth session and a clarification of the proposal made by the Delegation of Germany. The Consultative Committee had noted that that timetable would mean that it would not be possible to make changes to the structure of the draft program and budget for the 2010-2011 biennium.

Progress report of the work of the Administrative and Legal Committee

31. The Council noted the work of the Administrative and Legal Committee (CAJ), as provided in document C/42/9 and in the oral report by the Chair of the CAJ, and approved the work program for the fifty-ninth session of the CAJ, as presented in the oral report of the Chair of the CAJ.

Progress report of the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular

32. The Council noted the work of the Technical Committee (TC), the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular, as provided in document C/42/10 and summarized in an oral report by the Chairman of the TC, and approved the programs of work set out in that document.

Calendar of meetings in 2009

33. The Council approved the calendar of meetings in 2009, as presented in document C/42/8.

34. The Council also noted the proposed dates of meetings in 2010.

Extension of the appointment of the Vice Secretary-General

35. The Council considered document C/42/17.

36. The Council decided to extend the term of the appointment of the Vice Secretary-General until November 30, 2010.

Election of the new Vice-Chairperson of the Technical Committee

37. The Council elected Mr. Joël Guiard (France) as Vice-Chairman of the TC for the term 2008 to 2010.

Election of New Chairpersons

38. The Council elected, in each case for a term of three years ending with the forty-fifth ordinary session of the Council, in 2011:

- (a) Mr. Dirk Theobald (European Community), Chairman, Technical Working Party for Agricultural Crops (TWA)
- (b) Mr. Gerie van der Heijden (Netherlands), Chairman, Technical Working Party on Automation and Computer Programs (TWC)

- (c) Mrs. Bronislava Bátorová (Slovakia), Chairperson, Technical Working Party for Fruit Crops (TWF)
- (d) Ms. Andrea Menne (Germany), Chairperson, Technical Working Party for Ornamental Plants and Forest Trees (TWO)
- (e) Mrs. Radmila Safarikova (Czech Republic), Chairperson, Technical Working Party for Vegetables (TWV)
- (f) Mr. Andy Mitchell (United Kingdom), Chairman, Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular (BMT)

Situation in the legislative, administrative and technical fields

39. The Council noted documents C/42/5, C/42/6, C/42/7 and C/42/13 and noted that a revised document on “Plant Variety Protection Statistics” for the period 2002-2006 (document C/41/7 Rev.) had been produced. It noted that document C/42/7 indicated that, in 2007, the total annual number of titles issued by UPOV members had exceeded 10,000 for the first time. It noted that a revised version of document C/42/7 would be produced if further data for 2007 was received; no decisions were called for under this agenda item.

UPOV Medal

40. The Secretary-General awarded Mr. Kamil Idris, the former Secretary-General of UPOV from December 1997 to September 2008, a UPOV Gold Medal.

*41. This report was adopted by the Council at the close of its session on October 30, 2008.*

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

LISTE PROVISOIRE DES PARTICIPANTS / PROVISIONAL LIST OF PARTICIPANTS /  
VORLÄUFIGE TEILNEHMERLISTE / LISTA PROVISIONAL DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres/  
in the alphabetical order of the names in French of the members/  
in alphabetischer Reihenfolge der französischen Namen der Mitglieder/  
por orden alfabético de los nombres en francés de los miembros)

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