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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Forty-Fourth Ordinary Session
Geneva, October 21, 2010

ADOPTION OF DOCUMENTS

Document prepared by the Office of the Union

1. The purpose of this document is to provide relevant information concerning the documents that the Council will be invited to adopt at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010:

(a) TGP documents:

TGP/5, Section 2/3	Experience and Cooperation in DUS Testing: UPOV Model Form for the Application for Plant Breeders' Rights (document TGP/5 Section 2/3 Draft 1)
TGP/7/2	Development of Test Guidelines (document TGP/7/2 Draft 6)
TGP/8/1	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (document TGP/8/1 Draft 16)
TGP/14/1	Glossary of Terms Used in UPOV Documents (documents TGP/14/1 Draft 12)
TGP/0/3	List of TGP Documents and Latest Issue Dates (document TGP/0/3 Draft 1)

(b) Explanatory notes:

UPOV/EXN/CAL Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization in respect of Propagating Material under the UPOV Convention (document UPOV/EXN/CAL Draft 3)

UPOV/EXN/VAR Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention (document UPOV/EXN/VAR Draft 5)

(c) Information documents:

UPOV/INF/4/1 Financial Regulations and Rules of UPOV (document UPOV/INF/4/1 Draft 4)

UPOV/INF/10/1 Internal Audit (document UPOV/INF/10/1 Draft 2)

UPOV/INF/12/3 Explanatory Notes on Variety Denominations under the UPOV Convention (document UPOV/INF/12/3 Draft 1)

UPOV/INF/15/1 Guidance for Members of UPOV on Ongoing Obligations and Related Notifications (document UPOV/INF/15/1 Draft 2)

UPOV/INF/16/1 Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies (document UPOV/INF/16/1 Draft 1)

UPOV/INF/17/1 Rules Governing the Access to UPOV Documents (document UPOV/INF/17/1 Draft 1)

UPOV/INF/18/1 Exchangeable Software (document UPOV/INF/18/1 Draft 1)

(d) Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction ("BMT Guidelines") (document BMT Guidelines (proj.17))

A. TGP DOCUMENTS

TGP/5, Section 2/3: Experience and Cooperation in DUS Testing: UPOV Model Form for the Application for Plant Breeders' Rights (document TGP/5 Section 2/3 Draft 1)

2. The Administrative and Legal Committee (CAJ), at its sixtieth session held in Geneva on October 19, 2009, considered "Proposal 1: Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ", on the basis of paragraphs 21 to 30 of document CAJ/60/5 and approved the:

(i) standard UPOV references for the UPOV Model Application Form and UPOV Model TQ, as set out in Annexes I and III of document CAJ/60/5;

(ii) inclusion of an explanation of the standard references in the revision of document TGP/7 and in a revision of document TGP/5 Section 2/2;

(iii) posting of standard references and "linear blank forms" (in "Word" format) on the freely-accessible area of UPOV website, on the basis of Annexes II and IV of document CAJ/60/5.

3. The CAJ, at its sixtieth session, agreed that Proposal 1 "Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ", as approved by the CAJ at its sixtieth session, would be put forward for adoption by the Council in October 2010.

4. The CAJ, at its sixty-first session held in Geneva on March 25, 2010, agreed with the conclusion of the Technical Committee (TC), at its forty-sixth session, held in Geneva from March 22 to 24, 2010, that inclusion of an explanation of the standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes III and IV of document TC/46/13 (Annexes III and IV of document CAJ/60/5), would benefit from discussion in the Technical Working Parties (TWPs) and TC and should not be included in document TGP/7/2, but should be considered for a future revision of document TGP/7 (document TGP/7/3).

5. In accordance with the decision of the CAJ at its sixtieth session, the standard references for the UPOV Model Application Form, on the basis of Annex I of document CAJ/60/5, and the linear blank forms for the UPOV Model Application Form, on the basis of Annex II of document CAJ/60/5, have been introduced in document TGP/5 Section 2/3 Draft 1.

6. The CAJ, at its sixty-first session, agreed that in order to explain the standard references in the UPOV Model Application Form, the following text be added to document TGP/5: Section 2, in "Instructions for converting the UPOV Model Form for the Application for Plant Breeders' Rights into an Authority's own form":

“A. General Instructions

“[...]”

“0.4 A standard UPOV reference has been provided for each field in the UPOV Model Form. For example,

“for item 1.(a) Applicant(s) Name(s),

“the standard UPOV reference is “UPOV A1: 1(a)(i)”

“To facilitate harmonization and to assist applicants, an Authority may include that standard UPOV reference in the corresponding field of the Authority’s own form. It is a matter for each Authority to decide if the field in the Authority’s own form corresponds sufficiently precisely to the field in the UPOV Model Application Form for the standard UPOV reference to be included.”

7. At its sixty-first session, the CAJ also agreed that, in the revision of document TGP/5, Section 2/2, a footnote be added to the first standard reference (UPOV A1: 1(a)(i)) stating “standard UPOV reference – see Section A. General Instructions, item 0.4”.

8. The Council is invited to adopt document TGP/5, Section 2/3 “Experience and Cooperation in DUS Testing: UPOV Model Form for the Application for Plant Breeders’ Rights” on the basis of document TGP/5 Section 2/3 Draft 1.

TGP/7/2: Development of Test Guidelines (document TGP/7/2 Draft 6)

9. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed the changes to the text of document TGP/7/2 Draft 5 and, on that basis, agreed that a draft of document TGP/7/2 should be put forward for adoption by the Council at its forty-fourth ordinary session. The French, German and Spanish translations of the original English text have been reviewed by the relevant members of the Editorial Committee prior to submission of document TGP/7/2 Draft 6 to the Council.

10. The Council is invited to adopt document TGP/7/2 “Development of Test Guidelines” on the basis of document TGP/7/2 Draft 6.

TGP/8/1: Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (document TGP/8/1 Draft 16)

11. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed the changes to the text of document TGP/8/1 Draft 15, and on that basis, agreed that a draft of document TGP/8/1 should be put forward for adoption by the Council at its forty-fourth ordinary session. The French, German and Spanish translations of the original English text have been reviewed by the relevant members of the Editorial Committee prior to submission of document TGP/8/1 Draft 16 to the Council.

12. The Council is invited to adopt document TGP/8/1 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability” on the basis of document TGP/8/1 Draft 16.

TGP/14/1: Glossary of Terms Used in UPOV Documents (document TGP/14/1 Draft 12)

13. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed that document TGP/14/1 Draft 11 should be amended as indicated in the document, but agreed that no further modifications were required. The TC and the CAJ further agreed that a draft of document TGP/14/1 should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010, on the basis of document TGP/14/1 Draft 11. The French, German and Spanish translations of the original English text have been reviewed by the relevant members of the Editorial Committee prior to submission of document TGP/14/1 Draft 12 to the Council.

14. The Council is invited to adopt document TGP/14/1 “Glossary of Terms Used in UPOV Documents” on the basis of document TGP/14/1 Draft 12.

TGP/0/3: List of TGP Documents and Latest Issue Dates (document TGP/0/3 Draft 1)

15. The TC, at its forty-sixth session, held in Geneva from March 22 to 24, 2010, and the CAJ, at its sixty-first session, agreed to propose the adoption of document TGP/0/3 in conjunction with the adoption and revision of TGP documents, as appropriate.

16. The Council is invited to adopt document TGP/0/3 “List of TGP Documents and Latest Issue Dates” on the basis of document TGP/0/3 Draft 1.

B. EXPLANATORY NOTES

UPOV/EXN/CAL: Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization in respect of Propagating Material under the UPOV Convention (document UPOV/EXN/CAL Draft 3)

17. The CAJ, at its sixty-first session, approved document UPOV/EXN/CAL Draft 2 and agreed that a draft of document UPOV/EXN/CAL be proposed for adoption by the Council at its forty-fourth extraordinary session, on the basis of UPOV/EXN/CAL Draft 2.

18. The Council is invited to adopt document UPOV/EXN/CAL "Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization in respect of Propagating Material under the UPOV Convention", on the basis of document UPOV/EXN/CAL Draft 3.

UPOV/EXN/VAR: Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention (document UPOV/EXN/VAR Draft 5)

19. The CAJ, at its sixty-first session, approved document UPOV/EXN/VAR Draft 4 and agreed that a draft of document UPOV/EXN/VAR be proposed for adoption by the Council at its forty-fourth extraordinary session, on the basis of document UPOV/EXN/VAR Draft 4.

20. The Council is invited to adopt document UPOV/EXN/VAR "Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention" on the basis of document UPOV/EXN/VAR Draft 5.

C. INFORMATION DOCUMENTS

UPOV/INF/4/1: Financial Regulations and Rules of UPOV (document UPOV/INF/4/1 Draft 4)

21. The Consultative Committee, at its seventy-ninth session, held in Geneva on March 26, 2010, considered document UPOV/INF/4/1 Draft 3 and the communication received from the Delegation of Germany on March 22, 2010, which had been circulated to the Consultative Committee on March 26, 2010. At that session, the Consultative Committee requested the Office of the Union to convene a second meeting of the *Ad hoc* Working Group on the Financial Regulations and Rules of UPOV ("FRR Working Group") in order to consider the matters raised by the Delegation of Germany. It was agreed that the conclusions of the FRR Working Group at its second meeting be reflected, as appropriate, in the version of the document UPOV/INF/4/1 to be submitted for consideration by the Consultative Committee at its eightieth session on October 20, 2010.

22. The FRR Working Group, at its second meeting held in Geneva on June 28, 2010, agreed that document UPOV/INF/4/1 Draft 4 should be prepared based on its conclusions at

its second meeting for consideration by the Consultative Committee at its eightieth session and by the Council at its forty-fourth ordinary session. In relation to Rule 101.3(n), on whether the word “unforeseen” should be added after “Council in which”, FRR Working Group decided that that matter should be considered by the Consultative Committee at its eightieth session. In relation to Regulation 4.6, it agreed that the decision on the maximum level of the reserve funds, for which the FRR Working Group proposed 10 percent or 15 percent as a basis for discussion, should be considered by the Consultative Committee at its eightieth session. The recommendation of the Consultative Committee, at its eightieth session, on the maximum level of the reserve funds will be communicated in an oral report to the Council at its forty-fourth ordinary session.

23. The Council is invited to consider the recommendation made by the Consultative Committee to:

(a) modify document UPOV/INF/4/1 Draft 4 in order to specify:

(i) whether the word “unforeseen” should be added after “Council in which” in Rule 101.3(n); and

(ii) that the maximum level of the reserve funds should be either of 10 percent or 15 percent in Regulation 4.6; and

(b) adopt document UPOV/INF/4/1 “Financial Regulations and Rules of UPOV” on the basis of document UPOV/INF/4/1 Draft 4 modified in accordance with any decision under (a) above.

UPOV/INF/10/1: Internal Audit (document UPOV/INF/10/1 Draft 2)

24. The Consultative Committee, at its seventy-ninth session, held in Geneva on March 26, 2010, recommended to the Council at its forty-fourth ordinary session, that it request the Internal Audit and Oversight Division (IAOD) of the World Intellectual Property Organization (WIPO) to conduct independent internal audit, inspections and investigations of UPOV in accordance with the provisions, applied *mutatis mutandis*, of the WIPO Internal Audit Charter. For information purposes, the version in force of the WIPO Internal Audit Charter is reproduced in the Annex to this document.

25. The recommendation of the Consultative Committee, at its seventy-ninth session held on March 26, 2010, not to establish an Audit Committee for the time being and the request to the Secretary-General to transmit the WIPO Audit Committee’s report on the Internal Audit and Oversight Division (IAOD) to the Consultative Committee is presented in document C/44/13 “Audit Committee” for consideration by the Council at its forty-fourth ordinary session.

26. In order to facilitate future access to the Council decision concerning internal audit, document UPOV/INF/10/1 Draft 1 “Internal Audit” was prepared and considered by the FRR Working Group at its second meeting held in Geneva on June 28, 2010. The FRR Working Group, at its second meeting, agreed that a draft of document UPOV/INF/10/1 should be presented for adoption by the Council at its forty-fourth ordinary session.

27. *The Council is invited to adopt document UPOV/INF/10/1 “Internal Audit” on the basis of document UPOV/INF/10/1 Draft 2.*

UPOV/INF/12/3: Explanatory Notes on Variety Denominations under the UPOV Convention (document UPOV/INF/12/3 Draft 1)

28. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed the following changes to the text of document UPOV/INF/12/2 Annex I, and on that basis, agreed that a draft of document UPOV/INF/12 should be put forward for adoption by the Council at its forty-fourth ordinary session:

(a) in relation to document UPOV/INF/12/2 Annex I, Part I “Classes within a genus”, Class 4:

(i) the CAJ, at its sixty-first session, noted that there might be advantages in retaining Tomato rootstock species in the same variety denomination class as Tomato, but agreed with the TC conclusion, at its forty-sixth session, that the Technical Working Party for Vegetables (TWV) in its session of 2010 should be invited to consider that matter, on the basis of the following two alternatives for an amendment to document UPOV/INF/12/2 Annex I, Part I “Classes within a genus”, Class 4:

Alternative 1

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum lycopersicum</i> var. <i>lycopersicum</i>	SOLAN_LYC_LYC
Class 4.3	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.4	<i>Solanum</i> other than classes 4.1, 4.2 and 4.3	other than classes 4.1, 4.2 and 4.3

Alternative 2

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.3	<i>Solanum</i> other than classes 4.1 and 4.2	other than classes 4.1 and 4.2

(ii) the TWV, at its forty-fourth session held in Veliko Tarnovo, Bulgaria, from July 5 to 9, 2010, endorsed the following modification of document UPOV/INF/12/2 Annex I, Part I “Classes within a genus”, Class 4:

	<u>Botanical names</u>	<u>UPOV codes</u>	<u>Current UPOV codes</u>
Class 4.1	Solanum tuberosum L.	SOLAN_TUB	SOLAN_TUB
Class 4.2	Tomato & Tomato rootstocks		
	Solanum lycopersicum L. (synonym: Lycopersicon esculentum Mill.)	SOLAN_LYC	LYCOP_ESC
	Solanum cheesmaniae (L. Ridley) Fosberg (Lycopersicon cheesmaniae L. Riley)	SOLAN_CHE	-
	Solanum chilense (Dunal) Reiche (Lycopersicon chilense Dunal)	SOLAN_CHI	-
	Solanum chmielewskii (C.M. Rick et al.) D.M. Spooner et al. (Lycopersicon chmielewskii C. M. Rick et al.)	SOLAN_CHM	-
	Solanum galapagense S.C. Darwin & Peralta (Lycopersicon cheesmaniae f. minor (Hook. f.) C. H. Müll.) (Lycopersicon cheesmaniae var. minor (Hook. f.) D. M. Porter)	SOLAN_GAL	-
	Solanum habrochaites S. Knapp & D.M. Spooner (Lycopersicon agrimoniifolium Dunal) (Lycopersicon hirsutum Dunal) (Lycopersicon hirsutum f. glabratum C. H. Müll.)	SOLAN_HAB	LYCOP_HIR
	Solanum pennellii Correll (Lycopersicon pennellii (Correll) D'Arcy)	SOLAN_PEN	-
	Solanum peruvianum L. (Lycopersicon dentatum Dunal) (Lycopersicon peruvianum (L.) Mill.)	SOLAN_PER	-
	Solanum pimpinellifolium L. (Lycopersicon pimpinellifolium (L.) Mill.) (Lycopersicon racemigerum Lange)	SOLAN_PIM	-
	and hybrids between those species		
Class 4.3	Solanum melongena L.	SOLAN_MEL	SOLAN_MEL
Class 4.4	Solanum other than classes 4.1, 4.2 and 4.3	other than classes 4.1, 4.2 and 4.3	

(iii) The CAJ, at its sixty-first session, agreed that the alternative endorsed by the TWV be put forward as a revision of document UPOV/INF/12/2 for adoption by the Council at its forty-fourth ordinary session;

(b) the CAJ, at its sixty-first session, took note that the TC, at its forty-sixth session, had agreed to the amendment of the UPOV codes for the relevant taxa, simultaneously with any revision of the “Explanatory Notes on Variety Denominations under the UPOV Convention”, document UPOV/INF/12/2, in accordance with the TC proposals, at its forty-sixth session, contained in paragraph 25 of document CAJ/61/10; and

(c) the TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed that document UPOV/INF/12/2 Annex I, Part II “Classes encompassing more than one genus”, as amended to include a new class (Class 212) for *Verbena* L. and *Glandularia* J. F. Gmel., be put forward for adoption by the Council at its forty-fourth ordinary session.

29. *The Council is invited to adopt document UPOV/INF/12/3 “Explanatory Notes on Variety Denominations under the UPOV Convention” on the basis of document UPOV/INF/12/3 Draft 1.*

UPOV/INF/15/1: Guidance for Members of UPOV on Ongoing Obligations and Related Notifications (document UPOV/INF/15/1 Draft 2)

30. The CAJ, at its sixty-first session, approved the procedure for the consideration of document UPOV/INF/15/1 Draft 1 “Guidance for Members of UPOV on Ongoing Obligations and Related Notifications” by correspondence, as the basis for adoption of document UPOV/INF/15/1 by the Council.

31. Document UPOV/INF/15/1 Draft 1 was posted in the UPOV languages on the first restricted area of the UPOV website on July 19, 2010 and the CAJ members and observers were notified accordingly (Circular E-1348). No comments were received after the deadline of August 19, 2010, therefore a draft of document UPOV/INF/15/1 has been prepared for adoption by the Council at its forty-fourth ordinary session, on the basis of document UPOV/INF/15/1 Draft 1 (document UPOV/INF/15/1 Draft 2).

32. *The Council is invited to adopt document UPOV/INF/15/1 “Guidance for Members of UPOV on Ongoing Obligations and Related Notifications” on the basis of document UPOV/INF/15/1 Draft 2.*

UPOV/INF/16/1: Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies (document UPOV/INF/16/1 Draft 1)

33. 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” (Rules) were adopted by the Council at its thirty-ninth ordinary session, on October 27, 2005 (Annex to document C/39/13).

34. For the purposes of clarity and in order to facilitate direct access to relevant information concerning the Rules, the Consultative Committee, at its seventy-eighth session, held in Geneva on October 21, 2009, agreed to propose the creation of separate documents for the Rules governing the granting of observer status in UPOV bodies and the Rules governing access to UPOV documents. As agreed by the Consultative Committee at its seventy-eighth session, document UPOV/INF/16/1 Draft 1 “Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental

Organizations in UPOV Bodies” reproduces the content of paragraphs 1 to 5 of the Annex to document C/39/13.

35. The Consultative Committee agreed that document UPOV/INF/16/1 be prepared for consideration at its eightieth session and be proposed for adoption by the Council at its forty-fourth ordinary session.

36. The Council is invited to adopt document UPOV/INF/16/1 “Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non Governmental Organizations in UPOV Bodies” on the basis of document UPOV/INF/16/1 Draft 1.

UPOV/INF/17/1: Rules Governing the Access to UPOV Documents (document UPOV/INF/17/1 Draft 1)

37. As explained in relation to document UPOV/INF/16/1 above, the Consultative Committee, at its seventy-eighth session, agreed to propose the creation of separate documents for the Rules governing the granting of observer status in UPOV bodies and the Rules governing access to UPOV documents. As agreed by the Consultative Committee, at its seventy-eighth session, document UPOV/INF/17/1 Draft 1 “Rules Governing Access to UPOV documents” reproduces the content of paragraphs 6 to 12 of the Annex to document C/39/13.

38. The Consultative Committee agreed that document UPOV/INF/17/1 be prepared for consideration at its eightieth session and be proposed for adoption by the Council at its forty-fourth ordinary session.

39. The Council is invited to adopt document UPOV/INF/17/1 “Rules Governing the Access to UPOV Documents” on the basis of document UPOV/INF/17/1 Draft 1.

UPOV/INF/18/1: Exchangeable Software (document UPOV/INF/18/1 Draft 1)

40. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed that document UPOV/INF/Software Draft 3, reproduced as document UPOV/INF/18/1 Draft 1, should be put forward for adoption by the Council at its forty-fourth ordinary session. The French, German and Spanish translations of the original English text have been reviewed by the relevant members of the Editorial Committee prior to submission of the draft of document UPOV/INF/18/1 to the Council.

41. The Council is invited to adopt document UPOV/INF/18/1 “Exchangeable Software” on the basis of document UPOV/INF/18/1 Draft 1.

D. GUIDELINES FOR DNA-PROFILING: MOLECULAR MARKER SELECTION AND DATABASE CONSTRUCTION (“BMT GUIDELINES”) (document BMT Guidelines (proj.17))

42. The TC, at its forty-sixth session, and the CAJ, at its sixty-first session, agreed that a draft of document BMT Guidelines on the basis of document BMT Guidelines (proj.16), should be put forward for adoption by the Council at its forty-fourth ordinary session. The French, German and Spanish translations of the original English text have been reviewed by the relevant members of the Editorial Committee prior to submission of document BMT Guidelines (proj.17) to the Council.

43. The Council is invited to adopt document “Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction (‘BMT Guidelines’)” on the basis of document BMT Guidelines (proj.17).

[Annex follows]

WIPO INTERNAL AUDIT CHARTER

A. INTRODUCTION

1. This Charter constitutes the framework for the Internal Audit function¹ of the World Intellectual Property Organization (hereinafter referred to as “WIPO” or “the Organization”) and establishes its mission: to examine and evaluate, in an independent manner, WIPO’s control and business systems and processes and to provide, recommendations for improvement, thus providing assurance and assistance to management and staff in the effective discharge of their responsibilities and the achievement of the Organization’s mission and goals. The purpose of this Charter is also to strengthen accountability, stewardship and corporate governance in the Organization.

B. DEFINITIONS

2. (a) Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization’s operations. It helps an organization to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.²

(b) An inspection is a review conducted on an ad hoc basis whenever there is a strong indication that a wasteful use of resources or poor management of performance has occurred. The review provides a diagnosis of the issues concerned and proposes remedial measures.

(c) Investigation is a legal inquiry to examine allegations of unlawful acts and wrongdoing in order to determine whether they have occurred and if so, the person or persons responsible.

C. MANDATE

3. The Internal Audit function provides the Management with systematic assurance, analyses, appraisals, recommendations, advice and information. Its objectives include endeavoring to ensure cost-effective control, and identifying means for improving effectiveness, efficiency, economy and rationalization of the internal procedures and use of resources, as well as ensuring compliance with WIPO’s Financial Regulations and Rules,

¹ The Internal Audit function, in the context of the Internal Audit Charter, refers exclusively to the oversight functions of Internal Audit, Inspection and Investigation. Evaluation, defined as the systematic and impartial assessment of an activity, project, program, strategy, policy, theme, sector, operational area, institutional performance, etc., which focuses on expected and achieved accomplishments and aims at determining their relevance, impact, effectiveness, efficiency, and sustainability, is the subject of a policy framework outside this Charter.

² This is the official definition of Internal Auditing, as established by the Institute of Internal Auditors (IIA). The Code of Ethics and the Auditing Standards for Internal Auditing applied at WIPO are those of the IIA. For Investigation and Inspection the Standards applied are those developed and used by the UN.

Staff Regulations, Staff Rules, relevant General Assembly decisions, the applicable accounting standards and the Standards of Conduct for the International Civil Service, as well as best practice.³

D. AUTHORITY AND PREROGATIVES

4. The Director of Internal Audit (hereinafter referred to as “the Internal Auditor”) is responsible to the Director General and is part of the WIPO senior staff. The Internal Auditor enjoys operational independence in the conduct of his/her duties. He/she has the authority to initiate, carry out and report on any action, which he/she considers necessary to fulfill his/her mandate. The Internal Auditor shall receive requests for his/her services from the Director General, to be included in the workplan, but he/she should be free to carry out any action within the purview of his/her mandate. The workplan of the Internal Auditor shall be based on a risk assessment, to be carried out at least annually, on which basis work would be prioritized by the Internal Auditor. In this process, the Internal Auditor shall take into account the comments of the Director General and Member States.

5. The Internal Auditor shall conduct internal audits in a professional, impartial and unbiased manner. Conflicts of interest should be avoided. Significant and material conflicts of interest are required to be reported to the Audit Committee who shall recommend such actions that may be needed to mitigate and reduce the undesirable effects of any conflicts of interest. The internal Auditor will perform all audit work with due professional care and in accordance with best practice recommended by the Institute of Internal Auditors, which is accepted and applied by the UN system organizations.

6. The Internal Auditor shall be independent of all the programs, operations and activities he/she audits, to ensure impartiality and credibility of the audit work undertaken.

7. For the performance of his/her duties, the Internal Auditor shall have unrestricted, unlimited, direct and prompt access to all WIPO records, officials or personnel holding any WIPO contractual status and to all the premises of the Organization. The Internal Auditor shall have access to the Chair of the General Assembly.

8. The Internal Auditor shall be available to receive directly from individual staff members complaints or information concerning the possible existence of fraud, waste, abuse of authority, non-compliance with rules and regulations of WIPO in administrative, personnel and other matters or other irregular activities relevant to the mandate of the Internal Auditor. The Internal Auditor will liaise regularly with the WIPO Ombudsman to avoid duplication of activities. Relevant internal whistle-blowing policies and procedures shall be developed, established and applied in conjunction with this Charter.

9. The right of all staff to communicate confidentially with, and provide information to the Internal Auditor, without fear of reprisal, shall be guaranteed by the Director General. This is without prejudice to measures under WIPO Staff Regulations and Staff Rules, where

³ Conversely, the independent External Audit function is performed according to the terms of reference described in the WIPO Financial Regulations. WIPO’s External Auditor is appointed by the WIPO General Assembly for a term of office of six years non renewable consecutively.

information is transmitted to the Internal Auditor with knowledge of its falsity, or with willful disregard of its truth or falsity.

10. The Internal Auditor shall respect and keep the confidential nature of any information gathered or received that is applicable to an audit, investigation or inspection, and shall use such information only in so far as it is necessary for the performance of an audit.

E. DUTIES AND MODALITIES OF WORK

11. The Internal Auditor contributes to the efficient management of the Organization and the accountability of the Director General to the Member States.

12. To carry out his/her mandate, the activities of the Internal Auditor shall encompass in particular the undertaking of management audits, performance audits, financial audits, compliance audits, value-for-money audits, inspections and investigations.

13. To effectively implement WIPO's Internal Audit function, the Internal Auditor shall:

(a) Establish long- and short-term flexible audit plans, in coordination with the External Auditor, using risk-based methodology, to include any risks or control issues identified.

(b) In consultation with Member States, establish clear policies and guidelines for all internal audit functions i.e., internal audit, investigation and inspections. The policies and guidelines will provide clear rules and procedures on the access to reports while ensuring rights to due process and the preservation of confidentiality.

(c) Prepare, publish, disseminate and maintain an internal audit manual and an investigation procedures manual. This shall include the terms of reference of the Internal Audit function and a compilation of audit and investigation procedures.

(d) Establish and maintain follow-up systems to determine whether effective action has been taken, following the Internal Auditor's recommendations, within a reasonable time, and periodically report on situations where adequate, timely corrective action has not been implemented.

(e) Liaise and coordinate with the External Auditor and monitor the follow-up of their recommendations.

(f) Liaise and cooperate with the Internal Audit services and, more generally, the Oversight services of other Organizations within the United Nations system and of Multilateral Financial Institutions, and represent WIPO in relevant inter-agency meetings.

(g) Develop and maintain a quality assurance/improvement program covering all aspects of Internal Audit, including periodic internal and external review and ongoing self-assessment, such as tracking time taken to produce reports.

14. In particular, the Internal Auditor shall assist the Organization by performing the following:

- (a) Review and appraise the reliability, effectiveness and integrity of the Organization's internal control mechanisms.
- (b) Review and appraise the adequacy of organizational structures, systems and processes to ensure that the results are consistent with the objectives established.
- (c) Review and appraise systems aimed at ensuring compliance by WIPO staff with WIPO's Rules, Regulations and established internal policies.
- (d) Review and appraise the effective, efficient and economical use, and the safeguarding of human, financial and material resources of the Organization.
- (e) Determine the extent to which assets are accounted for and safeguarded from loss.
- (f) Identify and evaluate significant exposure of the Organization to risk and contribute to the improvement of risk management.
- (g) Undertake, when required, any investigation pertaining to cases of alleged wrongdoing or malfeasance falling within the mandate of the Internal Auditor.
- (h) Undertake *ad hoc* inspections to identify vulnerable areas and malfunctions.
- (i) Ensure completeness, timeliness, objectivity and accuracy in the reporting of internal audits, investigations and inspections.

F. REPORTING

15. At the end of each audit, an audit report shall be issued, which shall present the objectives, scope, methodology, findings and conclusions of the audit, and include, if applicable, recommendations for improvements concerning the audited program or activity.

16. The draft audit report shall be presented to the program manager directly responsible for the program or activity that has been the object of the audit, who shall be given the opportunity to respond within the term provided therein.

17. The final internal audit reports shall include any relevant comments from the managers concerned on the facts established within the audit report and, if applicable, on the recommended plans of action, as well as on any timetable established for implementation purposes. Should the Internal Auditor and the program manager be unable to agree on the facts evidenced in that draft audit report, the final audit report shall reflect the opinion of the Internal Auditor. The managers concerned shall have the opportunity to comment on the report and the Internal Auditor shall have the opportunity to reply to the comments.

18. The Internal Auditor shall submit the final internal audit reports to the Director General, copied to the Audit Committee. The External Auditor shall also receive a copy, along with any supporting documentation. Permanent Representatives of Member States to WIPO or their designates can read final internal audit reports in the Internal Auditor's office.

19. The Internal Auditor may also issue audit communications to any concerned manager for matters of a routine nature, which do not necessitate formal reporting.
20. The Director General is responsible for ensuring that all recommendations made by the Internal Auditor are responded to promptly, indicating actions taken regarding specific report findings and recommendations.
21. The Internal Auditor shall present, on an annual basis, a report to the Director General, regarding the implementation of recommendations made by the External Auditor.
22. The Internal Auditor shall make a presentation on a regular basis on his/her activities to the Program and Budget Committee.
23. The Internal Auditor shall present, on an annual basis, a summary report to the Director General with a copy to the External Auditor and the Audit Committee, of his/her activities including the orientation and scope of such activities, the schedule of work undertaken and progress on the implementation of prioritized recommendations contained in his/her reports. This summary report shall be presented to the WIPO General Assembly as submitted by the Internal Auditor. Comments the Director General may deem appropriate may be submitted in a separate report.

When applicable, the annual report shall include the following:

- (a) A description of significant problems, abuses and deficiencies relating to the administration of the Organization in general, or a program or operation in particular, disclosed during the period;
- (b) A description of all final recommendations for corrective action made by the Internal Auditor during the reporting period relative to the significant problems, abuses or deficiencies identified;
- (c) A description of all recommendations which were not approved by the Director General, together with his reasons for not doing so;
- (d) An identification of each significant recommendation in previous reports on which corrective action has not been completed;
- (e) A description and explanation of the reasons for any significant revised management decision made during the reporting period;
- (f) Information concerning any significant management decision with which the Internal Auditor is in disagreement;
- (g) A summary of any instance where information or assistance requested by the Internal Auditor was refused;
- (h) A summarized version of the report submitted by the Internal Auditor to the Director General regarding the implementation of recommendations made by the External Auditor.

In addition, the Internal Auditor shall comment on the scope of his activities and the adequacy of resources for the purpose intended.

G. RESOURCES

24. In presenting Program and Budget proposals to the Member States, the Director General shall take into account the need to ensure the operational independence and the necessary resource requirements to ensure the effective functioning of the Internal Auditor and his/her capacity to achieve the required objectives of his/her mandate. The allocation of resources to the Internal Auditor shall be clearly identified in the Program and Budget proposal.

25. The Director General, in consultation with the Internal Auditor, will ensure that the WIPO Internal Audit function comprises professional staff, appointed in accordance with WIPO Staff Regulations and Staff Rules, with sufficient skills, experience and professional knowledge, and promote continuing professional development to meet the requirements of this Charter.

H. APPOINTMENT AND DISMISSAL OF THE INTERNAL AUDITOR

26. The Internal Auditor should be a person with high qualifications and competence in auditing. The recruitment of an Internal Auditor shall be based on an open, transparent international selection process.

27. The appointment, renewal, replacement or dismissal of the Internal Auditor shall be formally made by the Director General, taking into account the advice of the Coordination Committee. The Director General shall keep the Audit Committee informed of such actions. On the basis of such information, the Audit Committee shall provide, as appropriate, information through its reporting to the Program and Budget Committee. The Internal Auditor will have a fixed term of four years, renewable on the recommendation of the Audit Committee, for an additional term of four years. He/she would not be eligible for any further employment in WIPO.

I. REVISION CLAUSE

28. This Charter shall be subject to review every three years.

[End of Annex and of document]