



C/49/18

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

COUNCIL**Forty-Ninth Ordinary Session
Geneva, October 29, 2015**

REPORT ON THE DECISIONS

*adopted by the Council*Opening of the session

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its forty-ninth ordinary session in Geneva on October 29, 2015, chaired by Ms. Kitisri Sukhapinda (United States of America), President of the Council.
2. The list of participants is reproduced in Annex I to this report.
3. The session was opened by the President who welcomed the participants.
4. The Council took the decisions recorded below under each relevant agenda item.
5. The President reported that Montenegro had deposited its instrument of accession to the 1991 Act of the UPOV Convention on August 24, 2015, and had become the seventy-third member of the Union on September 24, 2015.
6. The President reported that the United Republic of Tanzania had deposited its instrument of accession to the 1991 Act of the UPOV Convention on October 22, 2015, and would become the seventy-fourth member of the Union on November 22, 2015.
7. The President reported that Canada, which had been a member of the Union since March 4, 1991, had deposited its instrument of ratification of the 1991 Act of the UPOV Convention on June 19, 2015, and had become bound by the 1991 Act on July 19, 2015.
8. The Council noted the intervention made by the Delegation of Montenegro.
9. The Council noted the intervention made by the Delegation of the United Republic of Tanzania.
10. The Council noted the intervention made by the Delegation of Canada.
11. The Secretary-General reported on staff developments in the Office of the Union.
12. The draft detailed report on the session will be submitted to the Council for adoption by correspondence.

Adoption of the agenda

13. The Council adopted the revised draft agenda, as presented in document C/49/1 Rev.

Examination of the conformity of the “Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003” of the Islamic Republic of Iran with the 1991 Act of the UPOV Convention

14. The Council considered document C(Extr.)/32/8.

15. The Council decided to:

(a) take note of the analysis in document C(Extr.)/32/8;

(b) recommend that the Islamic Republic of Iran incorporate the additional provisions and amendments in the “Act of Plant Varieties Registration, Control And Certification of Seeds And Plant Materials of 2003”, as provided in document C(Extr.)/32/8, 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 the Islamic Republic of Iran in drafting the necessary additional provisions and amendments to the Law; and

(d) authorize the Secretary-General to inform the Government of the Islamic Republic of Iran of that decision.

16. The Council noted the intervention made by the Delegation of the Islamic Republic of Iran.

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

17. The Council noted the intervention made by the Association for Plant Breeding for the Benefit of Society (APBREBES).

18. The Council noted the work of the Consultative Committee at its ninetieth session, as reported in document C/49/16.

Adoption of documents

19. The Council considered document C/49/14.

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

20. On the basis of the amendments proposed in document C/49/14, Annex I, the Council adopted a revision of document TGP/5 “Experience and Cooperation in DUS Testing”, Section 3 “Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders’ Rights, Section 8 “Cooperation in Examination” and Section 9 “List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established”.

TGP/9: Examining Distinctness (Revision)

21. The Council adopted a revision of document TGP/9/1 “Examining Distinctness” (document TGP/9/2), on the basis of document TGP/9/2 Draft 1.

TGP/14: Glossary of Terms Used in UPOV Documents (Revision of Section 2.4)

22. The Council adopted a revision of document TGP/14/2 “Glossary of Terms Used in UPOV Documents”, Section 2.4 “Apex/tip shape characteristics”, on the basis of the amendments proposed in document C/49/14, Annex II.

TGP/0/8: List of TGP documents and latest issue dates (Revision)

23. The Council adopted a revision of document TGP/0/7 “List of TGP documents and latest issue dates” (document TGP/0/8), on the basis of document TGP/0/8 Draft 1.

UPOV/EXN/CAN: Explanatory Notes on Cancellation of the Breeder's Right under the UPOV Convention (Revision)

24. The Council adopted a revision of document UPOV/EXN/CAN/1 “Explanatory Notes on Cancellation of the Breeder's Right under the UPOV Convention” (document UPOV/EXN/CAN/2), on the basis of document UPOV/EXN/CAN/2 Draft 4.

UPOV/EXN/NUL: Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention (Revision)

25. The Council adopted a revision of document UPOV/EXN/NUL/1 “Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention” (document UPOV/EXN/NUL/2), on the basis of document UPOV/EXN/NUL/2 Draft 4.

UPOV/EXN/PRP: Explanatory Notes on Provisional Protection under the UPOV Convention (Revision)

26. The Council noted the request by the Delegation of the Russian Federation to discuss a possible future revision of the “Explanatory Notes on Provisional Protection under the UPOV Convention” at the seventy-third session of the Administrative and Legal Committee.

27. The Council adopted a revision of document UPOV/EXN/PRP/1 “Explanatory Notes on Provisional Protection under the UPOV Convention” (document UPOV/EXN/PRP/2), on the basis of document UPOV/EXN/PRP/2 Draft 4.

UPOV/INF/6: Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)

28. The Council adopted a revision of document UPOV/INF/6 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/4), on the basis of the proposed amendments to document UPOV/INF/6/3, as presented in document C/49/14, Annex IV.

UPOV/INF/12: Explanatory Notes on Variety Denominations under the UPOV Convention (Revision)

29. The Council adopted a revision of document UPOV/INF/12/4 “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/INF/12/5), on the basis of the amendments proposed in document C/49/14, Annex III.

UPOV/INF/16: Exchangeable Software (Revision)

30. The Council adopted a revision of document UPOV/INF/16/4 “Exchangeable Software” (document UPOV/INF/16/5), on the basis of document UPOV/INF/16/5 Draft 1.

UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision)

31. The Council adopted a revision of document UPOV/INF/22/1 “Software and equipment used by members of the Union” (document UPOV/INF/22/2), on the basis of document UPOV/INF/22/2 Draft 1.

UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)

32. The Council adopted a revision of document UPOV/INF-EXN/7 "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/8) on the basis of document UPOV/INF-EXN/8 Draft 1.

Examination and approval of the Draft Program and Budget of the Union for the 2016-2017 Biennium

33. The Council considered document C/49/4.

34. The Council approved the:

(a) proposals contained in the Draft Program and Budget for the 2016-2017 Biennium, as presented in the Annex to document C/49/4, including the amount of contributions from members of the Union;

(b) proposed maximum ceiling of expenditure in the regular budget; and

(c) total number of posts for the Office of the Union.

Financial Statements for 2014

35. The Council considered document C/49/12.

36. The Council approved the Financial Statements for 2014.

Report of the External Auditor

37. The Council considered document C/49/13, in conjunction with a presentation made by Mr. Didier Monnot, *Responsable de mandats, Contrôle fédéral des finances* (Switzerland), of the Report of the External Auditor.

38. The Council expressed its gratitude to the Government of Switzerland for acting as External Auditor.

Arrears in contributions as of September 30, 2015

39. The Council considered document C/49/11.

40. The Council noted the intervention made by the Delegation of Belarus.

41. The Council noted the status of payment of contributions as of September 30, 2015, and noted that due to recent payments, Belarus had no arrears.

Annual report of the Secretary-General for 2014; Report on activities during the first nine months of 2015

42. The Council considered documents C/49/2 and C/49/3.

43. The Council noted the intervention made by the Delegation of the African Intellectual Property Organization (OAPI).

44. The Council noted the report of the Secretary-General on the activities of the Union in 2014 and the results and performance indicators for 2014, as provided in document C/49/2.

45. The Council noted the report on activities during the first nine months of 2015, as provided in document C/49/3.

Progress report of the work of the Administrative and Legal Committee

46. The Council considered document C/49/9.

47. The Council noted the work of the Administrative and Legal Committee (CAJ), as reported in document C/49/9 and in the oral report made by the Chair of the CAJ (see document CAJ/72/9 "Report on the Conclusions").

48. The Chair of the CAJ noted the request by the Delegation of the Russian Federation to discuss a possible future revision of the "Explanatory Notes on Provisional Protection under the UPOV Convention" at the seventy-third session of the CAJ.

49. The Council approved the work program for the seventy-third session of the CAJ, as presented in the oral report of the Chair of the CAJ (see also document CAJ/72/9 "Report on the Conclusions").

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

50. The Council considered document C/49/10.

51. The Council noted the work of the Technical Committee (TC) and of the Technical Working Parties (TWPs) and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), as reported to the TC in document C/49/10.

52. The Council approved the work of the TC and the work programs of the TWPs and BMT, as set out in document C/49/10.

Calendar of meetings in 2016

53. The Council received a report of the recommendations of the Consultative Committee concerning the calendar of meetings in 2016 (see document C/49/16 "Report by the President on the work of the ninetieth session of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee", paragraphs 64 to 66), in which it was reported that the CAJ:

(a) proposed not to hold a CAJ session in March 2016 and to hold a two-day CAJ session in October 2016;

(b) agreed to expand the mandate and the composition of the Working Group for the Development of a UPOV Denomination Similarity Search Tool to prepare recommendations for the CAJ concerning the revision of document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention" (to become the Working Group on Variety Denominations (WG-DEN)) and proposed that the WG-DEN meet during the week of the UPOV sessions in March 2016;

(c) agreed to propose to the Council to organize a one-day seminar on propagating and harvested material, to be held in conjunction with the UPOV sessions in October 2016. The seminar should include speakers to report on cases in which the notions of harvested material and/or propagating material had been considered, and speakers from relevant academic institutions and judicial authorities to provide perspectives on the subject. CAJ members and observers would be invited to propose speakers. The Office of the Union, Chair of the CAJ and President of the Council would prepare a draft program for consideration by the Consultative Committee and approval by the Council in March 2016.

54. The Council approved the calendar of meetings in 2016, as set out in document C/49/8, with the following changes:

Council

C(Extr.)/33	March 18 <u>17</u> (afternoon) (extraordinary session)
C/50	October 27 <u>28</u>

Consultative Committee

CC/91 March ~~18~~ 17 (morning)
 CC/92 October ~~26~~ 27

Administrative and Legal Committee

CAJ/73 March 17
 (EAF/7: March 16 (evening))
 (WG-DEN: March 18
 CAJ/7473 October 24 25 and 25 26

Seminar on propagating and harvested material in the context of the UPOV Convention

October 24

55. The Council noted the tentative dates of meetings in 2017.

Election of the new President and the new Vice-President of the Council

56. The Council elected, in each case for a term of three years ending with the fifty-second ordinary session of the Council, in 2018:

- (a) Mr. Luis Salaices Sánchez (Spain), President of the Council;
- (b) Mr. Raimundo Lavignolle (Argentina), Vice-President of the Council.

57. The Council expressed its appreciation to the outgoing President, Ms. Kitisri Sukhapinda (United States of America), for the work carried out during her term.

Situation in the legislative, administrative and technical fields*Reports by representatives of members and observers*

58. The Council considered document C/49/15.

59. The Council noted the intervention made by the Secretary of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

60. The Council noted the intervention made by the representative of the African Regional Intellectual Property Organization (ARIPO).

61. The Council noted the information provided in document C/49/15.

List of the taxa protected by the members of the Union

62. The Council considered document C/49/6.

63. The Council noted that a total of 59 members of the Union offered protection to all plant genera and species (58 in 2014), with 14 members of the Union offering protection to a limited number of plant genera and species. Of those 14, two countries (Brazil and Morocco) extended protection to additional plant genera and species in 2015.

Plant variety protection statistics for the period 2010-2014

64. The Council considered document C/49/7.

65. The Council noted that, in 2014, the number of applications in UPOV members had exceeded 15,000 for the first time. There was a 4.8 percent increase in the number of applications for plant variety protection

(15,499 in 2014; 14,788 in 2013), comprising a 2.8 percent increase in the number of applications by residents (9,770 in 2014; 9,502 in 2013) and an 8.4 percent increase in the number of applications by non-residents (5,729 in 2014; 5,286 in 2013). The number of titles granted increased from 10,052 in 2013 to 11,569 in 2014 (15.1 percent increase).

Cooperation in examination

66. The Council considered document C/49/5.

67. The Council noted that, in 2015, the number of plant genera and species for which there were agreements between members of the Union for cooperation in the examination of distinctness, uniformity and stability totaled 2002, compared to 2,005 in 2014.

Press release

68. The Council considered the draft press release contained in document C/49/17.

69. The Council approved the draft press release, as reproduced in Annex II to this report.

70. This report was adopted by the Council at the close of its session on October 29, 2015.

[Annexes follow]

ANNEXE I / ANNEX I / ANLAGE I / ANEXO I

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres /
in the alphabetical order of the French names 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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UPOV Press Release 103

Geneva, October 29, 2015

UPOV Council Holds its Forty-Ninth Ordinary Session

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its forty-ninth ordinary session on October 29, 2015.

Round-up of key developments:

Examination of the conformity of the “Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003” of the Islamic Republic of Iran with the 1991 Act of the UPOV Convention

The Council recommended that the Islamic Republic of Iran incorporate certain additional provisions and amendments in the “Act of Plant Varieties Registration, Control And Certification of Seeds And Plant Materials of 2003”, and recommended that once the additional provisions and amendments had 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.

Program and Budget of the Union for the 2016-2017 Biennium

The Council approved the Program and Budget for the 2016-2017 biennium, amounting to 6,823,000 Swiss francs, representing a 0.4% increase on the 2014-2015 biennium (6,794,000 Swiss francs). This budget contains no change in the value of the contribution unit by members of the Union and no change in the total number of posts for the Office of the Union.

Plant Variety Protection Statistics

A total of 59 members of the Union now offer protection to all plant genera and species (58 in 2014), with 14 members of the Union offering protection to a limited number of plant genera and species. Of those 14, two members (Brazil and Morocco) extended protection to additional plant genera and species in 2015.

The Council noted that, in 2014, the number of applications in UPOV members had exceeded 15,000 for the first time. There was a 4.8 percent increase in the number of applications for plant variety protection (15,499 in 2014; 14,788 in 2013), comprising a 2.8 percent increase in the number of applications by residents (9,770 in 2014; 9,502 in 2013) and an 8.4 percent increase in the number of applications by non-residents (5,729 in 2014; 5,286 in 2013). The number of titles granted increased from 10,052 in 2013 to 11,569 in 2014 (15.1 percent increase).

The total of 106,081 titles in force in 2014 represented a 2.7 percent increase on figures for 2013 (103,261).

Cooperation in the Examination of New Plant Varieties

In 2015, the number of plant genera and species for which there were agreements between members of the Union for cooperation in the examination of distinctness, uniformity and stability totaled 2,002, compared to 2,005 in 2014.

Adoption of documents

The Council adopted revised versions of the following documents:

(a) TGP documents:

TGP/5	Experience and Cooperation in DUS Testing
TGP/9	Examining Distinctness
TGP/14	Glossary of Terms Used in UPOV Documents

(b) Explanatory notes:

UPOV/EXN/CAN	Explanatory Notes on Cancellation of the Breeder's Right under the UPOV Convention
UPOV/EXN/NUL	Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention
UPOV/EXN/PRP	Explanatory Notes on Provisional Protection under the UPOV Convention

(c) Information documents:

UPOV/INF/6	Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention
UPOV/INF/12	Explanatory Notes on Variety Denominations under the UPOV Convention
UPOV/INF/16	Exchangeable Software
UPOV/INF/22	Software and Equipment Used by Members of the Union

All adopted documents will be published in the UPOV Collection (see http://www.upov.int/upov_collection/en/).

Election of President and Vice-President of the UPOV Council

The Council elected, in each case for a term of three years ending with the fifty-second ordinary session of the Council, in 2018:

- (a) Mr. Luis Salaices Sánchez (Spain), President of the Council;
- (b) Mr. Raimundo Lavignolle (Argentina), Vice-President of the Council.

The Secretary-General of UPOV, Mr. Francis Gurry awarded Ms. Kitisri Sukhapinda (United States of America) a UPOV Gold Medal in recognition of the contribution made during her term as President of the Council of UPOV from November 2, 2012 to October 29, 2015.

Mr. Gurry highlighted the following developments during Ms. Sukhapinda's presidency:

- o The number of UPOV members had grown from 70 to 74, with the membership of Serbia; the African Intellectual Property Organization (OAPI); Montenegro; and the United Republic of Tanzania
- o The number of States covered by the UPOV Convention had increased from 73 to 93
- o Ratification of the 1991 Act by Canada
- o The number of PBR titles in force had exceeded 100,000 for the first time and, in 2014, the number of applications had exceeded 15,000 for the first time
- o UPOV had developed a communication strategy, including the introduction of a series of important FAQs
- o Building on the success of the distance learning course DL-205 "Introduction to the UPOV System of Plant Variety Protection Under the UPOV Convention", UPOV had launched an advanced distance learning course "Examination of applications for plant breeders' rights" (DL-305)
- o The Council had adopted important new guidance documents on:
 - Definition of Breeder
 - Harvested material
 - Use of biochemical and molecular techniques in the examination of DUS

Distance Learning Courses

Two sessions of each of the following UPOV Distance Learning Courses will be run in 2016:

- DL-205 "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention"
- DL-305 "Examination of applications for plant breeders' rights"
- DL-305A "Administration of Plant Breeders' Rights" (Part A of DL-305)
- DL-305B "DUS Examination" (Part B of DL-305)

The timetable for all courses will be the following:

Session I - 2016

Registration: January 1 to February 7
Study period: February 15 to March 20
Final exam: March 14 to 20

Session II – 2016

Registration: August 15 to September 18
Study period: September 25 to October 30
Final exam: October 24 to 30

The categories of participants are as follows:

Category 1:

Government officials of members of the Union endorsed by the relevant representative to the UPOV Council
No fee

Category 2:

Officials of observer States / intergovernmental organizations endorsed by the relevant representative to the UPOV Council

*(One non-fee paying student per State / intergovernmental organization;
Additional students: 1,000 Swiss francs per student)*

Category 3:

Others

Fee: 1,000 Swiss francs

More detailed information concerning course contents and on-line registration is available on the UPOV website: <http://www.upov.int/resource/en/training.html>

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