



C(Extr.)/25/9
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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Twenty-Fifth Extraordinary Session
Geneva, April 11, 2008

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 twenty-fifth extraordinary session in Geneva on April 11, 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.

Adoption of the agenda

4. The Council adopted the agenda as proposed in document C(Extr.)/25/1 Rev. after the deletion of item 7 and the inclusion of document C(Extr.)/25/8 under agenda item 8 and document C(Extr.)/25/2 Add. under agenda item 9.

Examination of the conformity of the Law on New Varieties of Agricultural Plants of The Former Yugoslav Republic of Macedonia with the 1991 Act of the UPOV Convention

5. The Council decided to:

- (a) take note of the analysis in document C(Extr.)/25/4;
- (b) recommend that The former Yugoslav Republic of Macedonia incorporate the additional provisions and amendments in the Law, as provided in document C(Extr.)/25/4, 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 former Yugoslav Republic of Macedonia in drafting the necessary additional provisions and amendments to the Law; and
- (d) authorize the Secretary-General to inform the Government of The former Yugoslav Republic of Macedonia of that decision.

Examination of the conformity of the Draft Law on the Protection of Plant Breeder's Rights of the Republic of Serbia with the 1991 Act of the UPOV Convention

6. The Council decided to:

- (a) take note of the analysis in document C(Extr.)/25/5 and the information provided by the Delegation of Serbia that it intends to:
 - (i) amend paragraph 1 of Article 22 of the Draft Law on the duration of the breeder's right, to read as follows “[t]he breeder's right to the protected variety shall expire 25 years after the grant thereof or 30 years after the grant thereof in case of trees and vines”;
 - (ii) delete paragraph 3 of Article 29 of the Draft Law;
 - (iii) delete Article 35 of the Draft Law; and
- (b) subject to the introduction of the recommended changes in the Draft Law, as identified in document C(Extr.)/25/5 and the replacement of “90 days” by “three months” in paragraph 2 of Article 17, take a positive decision on the conformity of the Draft Law on the Protection of Plant Breeder's Rights of the Republic of Serbia with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants; which allows that, once the changes have been incorporated in the Draft Law and the Law is adopted and in force, the Republic of Serbia may deposit its instrument of accession to the 1991 Act;
- (c) request the Office of the Union to offer its assistance to the Government of the Republic of Serbia in the incorporation of the changes in the Draft Law identified in document C(Extr.)/25/5; and

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

Examination of the conformity of the Draft Law on Protection of Plant Varieties of Montenegro with the 1991 Act of the UPOV Convention

7. The Council decided to:

(a) take note of the analysis in document C(Extr.)/25/6 and the additional information provided by the Delegation of Montenegro that it intends to move Article 42(3) to Article 44 of the Draft Law;

(b) take a positive decision on the conformity of the Draft Law on Protection of Plant Varieties of Montenegro with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows that, subject to the replacement of “90 days” by “three months” in Article 19, once the Law is adopted and in force, Montenegro may deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Montenegro of that decision.

Examination of the conformity of the Law No. 8631 on Protection of New Varieties of Plants and of the Motion to the Draft Law on Amendments and Additions of Various Norms Regulating Intellectual Property-Related Matters (File 16.955) of the Republic of Costa Rica with the 1991 Act of the UPOV Convention

8. The Council decided to:

(a) take note of the analysis in document C(Extr.)/25/7 and the clarification provided by the Delegation of Costa Rica that the second paragraph of Article 31 of the Law was not contrary to the provision on national treatment;

(b) take a positive decision on the conformity of the Law on Protection of New Varieties of Plants of the Republic of Costa Rica, subject to the adoption of the proposed amendments of Articles 2, 3 and 8 of the Law in the Motion to the Draft Law, with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants; which allows that, once the proposed amendments in the Motion to the Draft Law are adopted, with no changes, and in force, the Republic of Costa Rica may deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of the Republic of Costa Rica of that decision.

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

9. The Council noted the oral report by the President on the seventy-fifth session of the Consultative Committee, held on April 10 and 11, 2008, in particular, that the Consultative Committee:

- (a) had undertaken preliminary examinations concerning the conformity of the Law of The former Yugoslav Republic of Macedonia, the Draft Law of Republic of Serbia, the Draft Law of Montenegro, as well as the Law and the Motion to the Draft Law of the Republic of Costa Rica with the 1991 Act of the UPOV Convention;
- (b) recommended the adoption by the Council of documents TGP/4/1 “Constitution and Maintenance of Variety Collections” and TGP/9/1 “Examining Distinctness”;
- (c) discussed a further extension to the current appointment of the Vice Secretary-General;
- (d) agreed proposals to improve the efficiency, effectiveness and time flexibility of the UPOV sessions and had agreed that those measures be presented to the Council at its forty-second ordinary session;
- (e) noted that information had been provided on the meetings and activities concerning biodiversity, plant genetic resources and plant variety protection and of developments in the Council for TRIPS concerning the review of Article 27.3(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”); and
- (f) agreed that a Symposium on Contracts in Relation to Plant Breeders’ Rights would be held in Geneva on October 31, 2008, and received information on developments in the preparation of the World Seed Conference that would be held in 2009.

10. In accordance with the recommendation of the Consultative Committee, the Council decided to adopt the decision, as set out in paragraph 1 of document C(Extr.)/25/8, and agreed that the letter in the Annex to document C(Extr.)/25/8 be sent to the Executive Secretary of the Secretariat of the Convention on Biological Diversity (CBD).

11. With respect to any future opinion on whether India and Zimbabwe have acted expeditiously to complete their legislation and any UPOV formalities and to effect the deposit, the Council decided, based on the recommendation of the Consultative Committee, that the opinion on whether that condition had been fulfilled should be the responsibility of the Consultative Committee.

12. In accordance with the recommendation of the Consultative Committee, the Council requested the Office of the Union to prepare a document containing a draft text of the UPOV Financial Regulations and Rules for consideration at its forty-second ordinary session.

Adoption of documents TGP/4/1 “Constitution and Maintenance of Variety Collections” and TGP/9/1 “Examining Distinctness”

13. The Technical Director introduced documents C(Extr.)/25/2, C(Extr.)/25/2 Add., TGP/4/1 Draft 10 and TGP/9/1 Draft 10.

14. The Council adopted document TGP/4/1 “Constitution and Maintenance of Variety Collections” on the basis of document TGP/4/1 Draft 10 and the amendments proposed by the Technical Committee and Administrative and Legal Committee, as set out in document C(Extr.)/25/2 Add.

15. The Council adopted document TGP/9/1 “Examining Distinctness” on the basis of document TGP/9/1 Draft 10.

Extension of the appointment of the Vice Secretary-General

16. The President introduced document C(Extr.)/25/3.

17. The Council decided not to take a decision on a one-year extension of the current appointment of the Vice Secretary-General and to consider a three-year extension at the forty-second ordinary session of the Council to be held on October 30, 2008.

*18. This report was adopted by the Council
at the close of its extraordinary session on
April 11, 2008.*

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

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 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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