



C(Extr.)/28/4

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Twenty-Eighth Extraordinary Session
Geneva, April 8, 2011

REPORT

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-eighth extraordinary session in Geneva on April 8, 2011, chaired by Mr. Choi Keun-Jin (Republic of Korea), President of the Council.
- *2. The list of participants is reproduced in Annex I to this document.
- *3. The session was opened by the President who welcomed the participants.
- 4. The President informed the Council that the former Yugoslav Republic of Macedonia had deposited its instrument of accession to the UPOV Convention on April 4, 2011, and would become the sixty-ninth member of the Union on May 4, 2011. The intervention made by the Delegation of the former Yugoslav Republic of Macedonia is reproduced in Annex II to this document.

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An asterisk next to the paragraph number indicates that the text has been reproduced from the Report on the Decisions (document C(Extr.)/28/3).

Adoption of the agenda

*5. The Council adopted the revised draft agenda, as proposed in document C(Extr.)/28/1 Rev., after the deletion of item 4, and the addition of document C(Extr.)/28/2 Add., under item 3.

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

*6. The Council considered documents C(Extr.)/28/2 and C(Extr.)/28/2 Add.

*7. The Council noted that the comments of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants (CIOPORA) on the Draft Law on Protection of Plant Breeders' Rights of the Republic of Serbia of March 29, 2011, had been posted on the Consultative Committee and Council sections of the UPOV website.

*8. The Council decided to:

(a) note the analysis in document C(Extr.)/28/2 and the information provided by the Delegation of Serbia that it intended to amend Article 28 "Provisional Protection" of the Draft Law and paragraph 1 of Article 41 of the Draft Law on "Obsolescence of Lawsuit Due to Violation of Breeders' Rights", as provided in paragraph 1 of document C(Extr.)/28/2 Add.;

(b) take a positive decision on the conformity of the Draft Law on the Protection of Plant Breeders' 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 allowed the Republic of Serbia, once the Law of 2009 was amended as presented in the Draft Law in Annex II and in paragraph 1 of document C(Extr.)/28/2 Add., with no additional changes, and the amended Law was in force, to deposit its instrument of accession to the 1991 Act; and

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

Report by the President on the work of the eighty-first 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 eighty-first session of the Consultative Committee, held on the morning of April 8, 2011, which, in particular, considered the following matters:

(a) preparation of the Draft Program and Budget of the Union for the 2012-2013 biennium;

(b) designation of the External Auditor of UPOV;

(c) planning of the Fiftieth Anniversary of the UPOV Convention;

- (d) developments of relevance to UPOV in other international fora;
- (e) access to UPOV documents and publication of information;
- (f) reports from new members of the Union; and
- (g) draft press release.

* 10. The President reported that the Consultative Committee had noted the request of the Association for Plant Breeding for the Benefit of Society (APBREBES) of April 5, 2011, to attend meetings of the Working Group on Rules Concerning Observers. The Consultative Committee had recalled that APBREBES would have the opportunity to present its views at the forty-fifth ordinary session of the Council on October 20, 2011.

* 11. The President reported that the Consultative Committee had endorsed the following approach for updating documents previously adopted by the Council:

- (i) to present a Council document proposing specific amendments to the document being updated without presenting a complete revised draft document to the Council. The Council would be invited to adopt the revised version of the document on the basis of the specific amendments and the Office of the Union would prepare and publish the revised document on that basis; and

- (ii) to present to the Council for adoption, in conjunction with the Council document containing the specific amendments to the document being updated, an information document, similar to document “List of TGP Documents and Latest Issue Dates” (document TGP/0/3) containing the latest references and dates of information documents (for instance, INF and EXN series of documents).

* 12. The President reported that, in relation to the UPOV Plant Variety Database, the Consultative Committee had recommended to the Council to approve the launch of a web-based version of the Plant Variety Database and that the Consultative Committee had recommended to the Council that the web-based version of the Plant Variety Database should be made freely accessible to all users.

* 13. The Council approved the launch of a web-based version of the Plant Variety Database and agreed that the web-based version of the Plant Variety Database should be made freely accessible to all users.

Press Release

14. The Council considered and approved the draft press release that was distributed at the end of its twenty-eighth extraordinary session. The Press Release approved by the Council is reproduced in Annex III to this document.

Retirement

15. The President noted that Mr. Bart Kiewiet (European Union) would retire before the subsequent session of the Council. The President expressed his thanks to Mr. Kiewiet, on behalf of the Council, for his contribution to the work of the Union and wished him a long and happy retirement.

16. The present report has been adopted by correspondence.

[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 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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Fuminori AIHARA, Counsellor

[L'annexe II suit/
Annex II follows/
Anlage II folgt/
Sigue el Anexo II]

ANNEX II

INTERVENTION MADE BY THE DELEGATION OF
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Mr. President,
Ladies and Gentlemen,

It is my great pleasure on behalf of the Government of the former Yugoslav Republic of Macedonia, on behalf of the Ministry of Agriculture, Forestry and Water Economy, to inform you that the former Yugoslav Republic of Macedonia appreciates the warm welcome into the UPOV family. We are very honored to be a member of UPOV.

On April 4, 2011, the former Yugoslav Republic of Macedonia deposited its instrument of accession to the UPOV Convention (1991 Act). On May 4, 2011, the former Yugoslav Republic of Macedonia will become the 69th member of the Union.

The Law on the Breeder's Rights of the former Yugoslav Republic of Macedonia entered into force on April 21, 2009. In October 2008, the Council of UPOV took a positive decision on the conformity of the Law on the Breeder's Rights with the 1991 Act of the UPOV Convention.

Plant breeders' rights in the former Yugoslav Republic of Macedonia fall under the responsibility of the Seed and Seedling Material Directorate at the Ministry of Agriculture, Forestry and Water Economy. This competent Directorate has the appropriate legal and institutional framework for the grant of protection of plant breeders' rights. The staff received excellent training in Germany and the Netherlands in the field of plant breeders' rights.

Furthermore, I would like to inform you that our country has started to cooperate in DUS testing with Croatia, Poland, Germany and the Netherlands. As of today, protection is available in the former Yugoslav Republic of Macedonia for 15 genera or species.

I would like to emphasize our gratitude for the significant help and assistance received by the Office of the Union in the accession procedure of our country to the UPOV Convention.

I would like also to convey thanks to experts from my country and from other authorities of members of the Union for their help and cooperation.

Thank you.

[Annex III follows]

ANNEX III

UPOV PRESS RELEASE

UPOV Council Holds Extraordinary Session

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its twenty-eighth extraordinary session on April 8, 2011.

Round-up of key developments:

New members of the Union

The Council was informed that the former Yugoslav Republic of Macedonia had deposited its instrument of accession to the UPOV Convention on April 4, 2011, and would become the sixty-ninth member of the Union on May 4, 2011. A full list of the members of the Union is provided as Annex I.

Examination of laws

The Council decided that the Draft Law on the Protection of Plant Breeders' Rights of the Republic of Serbia was in conformity with the provisions of the 1991 Act of the UPOV Convention. Once the relevant Law, on which the conformity was decided, is in force Serbia will be in a position to deposit its instrument of accession to the 1991 Act of the UPOV Convention.

Financial contribution

The Council welcomed the news that the Republic of Korea had doubled its number of annual contribution units from 0.75 (CHF 40,231) to 1.5 units (CHF 80,462), effective from 2011¹.

Plant Variety Database

The Council agreed that a web-based version of the Plant Variety Database, currently only available in CD-ROM format, could be launched on the UPOV website during the course of 2011. It agreed that the web-based version of the Plant Variety Database should be made freely accessible to all users.

Experience of members of the Union in the Examination of New Plant Varieties

The Council welcomed the report made at the forty-seventh session of the Technical Committee, held in Geneva from April 4 to 6, 2011, that the number of genera and species for which members of the Union had practical experience in the examination of distinctness, uniformity and stability (DUS) had exceeded 2,500 in 2011. That number had increased by 19% from 2,254 in 2010, to 2,679 in 2011. The Council noted that information on members

¹ The finances of UPOV are set out in the UPOV Convention – see Article 29 of the 1991 Act of the UPOV Convention (<http://www.upov.int/en/publications/conventions/index.html>).

of the Union with practical experience in DUS examination was freely accessible via the GENIE database.

A full report twenty-eighth extraordinary session of the Council is available at:
http://www.upov.int/en/documents/c_extr/index_c_extr_28.htm)

For further information about UPOV, please contact the UPOV Secretariat:

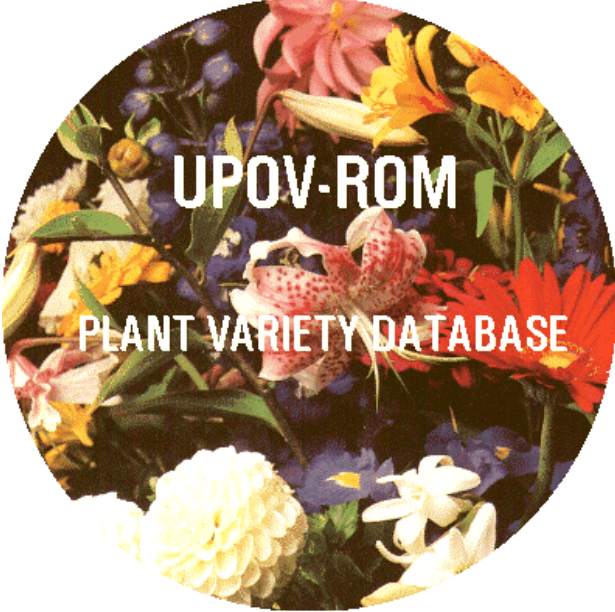
Tel: (+41-22) 338 9155

E-mail: upov.mail@upov.int

Fax: (+41-22) 733 0336

Website: www.upov.int

UPOV-ROM PLANT VARIETY DATABASE

	The main part of the UPOV-ROM disc is the <i>Plant Variety Database</i>. Data on plant varieties from contributing members of the Union and the Organization for Economic Co-operation and Development (OECD) is available in the UPOV-ROM search system. The great majority of these documents relate to plant breeders' rights or national listings in the members of the Union, but it covers also data from the List of Cultivars Eligible for Certification of the OECD Schemes for the Varietal Certification of Seed Moving in International Trade, published by the OECD.
The database contains some or all of the following information for each variety: the botanical name (Latin name), common name, UPOV code and identification; information on its denomination (breeder's reference, dates of proposal, approval and rejection, if any, of the denomination, and dates of the publications thereof, synonyms, associated trade names, etc.); dates and numbers of application and grant, future termination of grant or actual expiration date; information on the breeder, applicant, title holder and maintainer; information on priority or other information on the status of the variety. (see http://www.upov.int/export/sites/upov/en/publications/upov-rom/introduction.pdf)	

GENIE DATABASE

	The GENIE database has been developed to provide online information on GENera and specIEs (hence GENIE) in relation to protection offered by members of the Union, cooperation in examination, experience in DUS testing and the existence of UPOV Test Guidelines. In addition, the GENIE database is the repository of the UPOV codes and provides information concerning alternative botanical and common names.
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**MEMBERS OF THE INTERNATIONAL UNION FOR THE PROTECTION OF
NEW VARIETIES OF PLANTS**

International Convention for the Protection of New Varieties of Plants*
UPOV Convention (1961), as revised at Geneva (1972, 1978 and 1991)

Status on April 8, 2011

State/Organization	Date on which State/Organization became member of UPOV	Number of contribution units	Latest Act ⁱ of the Convention to which State/Organization is party and date on which State/Organization became party to that Act
Albania	October 15, 2005	0.2	1991 Act October 15, 2005
Argentina.....	December 25, 1994	0.5	1978 Act December 25, 1994
Australia.....	March 1, 1989	1.0	1991 Act January 20, 2000
Austria.....	July 14, 1994	0.75	1991 Act July 1, 2004
Azerbaijan.....	December 9, 2004	0.2	1991 Act December 9, 2004
Belarus	January 5, 2003	0.2	1991 Act January 5, 2003
Belgium ⁱⁱ	December 5, 1976	1.5	1961/1972 Act December 5, 1976
Bolivia (Plurinational State of).....	May 21, 1999	0.2	1978 Act May 21, 1999
Brazil.....	May 23, 1999	0.25	1978 Act May 23, 1999
Bulgaria.....	April 24, 1998	0.2	1991 Act April 24, 1998
Canada.....	March 4, 1991	1.0	1978 Act March 4, 1991
Chile.....	January 5, 1996	0.2	1978 Act January 5, 1996
China.....	April 23, 1999	0.5	1978 Act ⁱⁱⁱ April 23, 1999
Colombia.....	September 13, 1996	0.2	1978 Act September 13, 1996
Costa Rica.....	January 12, 2009	0.2	1991 Act January 12, 2009
Croatia.....	September 1, 2001	0.2	1991 Act September 1, 2001
Czech Republic.....	January 1, 1993	0.5	1991 Act November 24, 2002
Denmark ^{iv}	October 6, 1968	0.5	1991 Act April 24, 1998
Dominican Republic.....	June 16, 2007	0.2	1991 Act June 16, 2007
Ecuador.....	August 8, 1997	0.2	1978 Act August 8, 1997
Estonia.....	September 24, 2000	0.2	1991 Act September 24, 2000
European Union.....	July 29, 2005	5.0	1991 Act July 29, 2005
Finland.....	April 16, 1993	1.0	1991 Act July 20, 2001
France ^v	October 3, 1971	5.0	1978 Act March 17, 1983
Georgia.....	November 29, 2008	0.2	1991 Act November 29, 2008
Germany.....	August 10, 1968	5.0	1991 Act July 25, 1998
Hungary.....	April 16, 1983	0.5	1991 Act January 1, 2003
Iceland.....	May 3, 2006	0.2	1991 Act May 3, 2006
Ireland.....	November 8, 1981	1.0	1978 Act November 8, 1981
Israel.....	December 12, 1979	0.5	1991 Act April 24, 1998
Italy.....	July 1, 1977	2.0	1978 Act May 28, 1986
Japan.....	September 3, 1982	5.0	1991 Act December 24, 1998
Jordan.....	October 24, 2004	0.2	1991 Act October 24, 2004
Kenya.....	May 13, 1999	0.2	1978 Act May 13, 1999
Kyrgyzstan.....	June 26, 2000	0.2	1991 Act June 26, 2000
Latvia.....	August 30, 2002	0.2	1991 Act August 30, 2002
Lithuania.....	December 10, 2003	0.2	1991 Act December 10, 2003
Mexico.....	August 9, 1997	0.75	1978 Act August 9, 1997
Morocco.....	October 8, 2006	0.2	1991 Act October 8, 2006
Netherlands.....	August 10, 1968	3.0	1991 Act ^{vi} April 24, 1998
New Zealand.....	November 8, 1981	1.0	1978 Act November 8, 1981
Nicaragua.....	September 6, 2001	0.2	1978 Act September 6, 2001
Norway.....	September 13, 1993	1.0	1978 Act September 13, 1993
Oman.....	November 22, 2009	1.0	1991 Act November 22, 2009
Panama.....	May 23, 1999	0.2	1978 Act May 23, 1999
Paraguay.....	February 8, 1997	0.2	1978 Act February 8, 1997
Poland.....	November 11, 1989	0.5	1991 Act August 15, 2003
Portugal.....	October 14, 1995	0.2	1978 Act October 14, 1995
Republic of Korea.....	January 7, 2002	1.5	1991 Act January 7, 2002
Republic of Moldova.....	October 28, 1998	0.2	1991 Act October 28, 1998
Romania.....	March 16, 2001	0.2	1991 Act March 16, 2001

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State/Organization	Date on which State/Organization became member of UPOV	Number of contribution units	Latest Act ⁱ of the Convention to which State/Organization is party and date on which State/Organization became party to that Act	
Russian Federation	April 24, 1998	0.5	1991 Act	April 24, 1998
Singapore	July 30, 2004	0.2	1991 Act	July 30, 2004
Slovakia.....	January 1, 1993	0.5	1991 Act	June 12, 2009
Slovenia.....	July 29, 1999	0.2	1991 Act	July 29, 1999
South Africa	November 6, 1977	1.0	1978 Act	November 8, 1981
Spain	May 18, 1980	2.0	1991 Act	July 18, 2007
Sweden.....	December 17, 1971	1.5	1991 Act	April 24, 1998
Switzerland.....	July 10, 1977	1.5	1991 Act	September 1, 2008
The former Yugoslav Republic of Macedonia.....	May 4, 2011	0.2	1991 Act	May 4, 2011
Trinidad and Tobago	January 30, 1998	0.2	1978 Act	January 30, 1998
Tunisia.....	August 31, 2003	0.2	1991 Act	August 31, 2003
Turkey	November 18, 2007	0.5	1991 Act	November 18, 2007
Ukraine.....	November 3, 1995	0.2	1991 Act	January 19, 2007
United Kingdom.....	August 10, 1968	2.0	1991 Act	January 3, 1999
United States of America	November 8, 1981	5.0	1991 Act ^{vii}	February 22, 1999
Uruguay.....	November 13, 1994	0.2	1978 Act	November 13, 1994
Uzbekistan.....	November 14, 2004	0.2	1991 Act	November 14, 2004
Viet Nam	December 24, 2006	0.2	1991 Act	December 24, 2006

(Total: 69)

* The International Union for the Protection of New Varieties of Plants (UPOV), established by the International Convention for the Protection of New Varieties of Plants, is an independent intergovernmental organization having legal personality. Pursuant to an agreement concluded between the World Intellectual Property Organization (WIPO) and UPOV, the Director General of WIPO is the Secretary-General of UPOV and WIPO provides administrative services to UPOV.

i “1961/1972 Act” means the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as amended by the Additional Act of November 10, 1972; “1978 Act” means the Act of October 23, 1978, of the Convention; “1991 Act” means the Act of March 19, 1991, of the Convention.

ii With a notification under Article 34(2) of the 1978 Act.

iii With a declaration that the 1978 Act is not applicable to the Hong Kong Special Administrative Region.

iv With a declaration that the Convention of 1961, the Additional Act of 1972, the 1978 Act and the 1991 Act are not applicable to Greenland and the Faroe Islands.

v With a declaration that the 1978 Act applies to the territory of the French Republic, including the Overseas Departments and Territories.

vi Ratification for the Kingdom in Europe.

vii With a reservation pursuant to Article 35(2) of the 1991 Act.

[End of Annex III and of document]