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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
Geneva

COUNCIL

Thirtieth Extraordinary Session
Geneva, March 22, 2013

REPORT BY THE PRESIDENT ON THE WORK OF THE EIGHTY-FIFTH SESSION
OF THE CONSULTATIVE COMMITTEE; ADOPTION OF RECOMMENDATIONS,
IF ANY, PREPARED BY THAT COMMITTEE

prepared by the Office of the Union

1. The Consultative Committee held its eighty-fifth session in Geneva on March 22, 2013.
2. The recommendations made by the Consultative Committee on the following items, as set out in this report, will be considered by the Council under the relevant agenda items (see document C(Extr.)/30/1 Rev.):
 - (a) Examination of the conformity of the Plant Breeders' Rights Bill for Zanzibar with the 1991 Act of the UPOV Convention (documents C(Extr.)/30/4 Rev. and C(Extr.)/30/4 Add.)
 - (b) Adoption of documents (document C(Extr.)/30/2)
 - (c) Calendar of meetings (document C(Extr.)/30/3)
 - (d) Press Release (document C(Extr.)/30/6)
3. The work of the Consultative Committee at its eighty-fifth session is summarized in the following paragraphs.

Preliminary examination of the conformity of the Plant Breeders' Rights Bill for Zanzibar with the 1991 Act of the UPOV Convention

4. The Consultative Committee recommended to the Council that it may wish to:

(a) note the analysis in documents C(Extr.)/30/4 Rev. and C(Extr.)/30/4 Add.;

(b) subject to the incorporation in the Plant Breeders' Rights Bill for Zanzibar of the modifications recommended in paragraphs 26, 28, 30 and 35 of document C(Extr.)/30/4 Rev., and with no additional changes, take a positive decision on the conformity of the Plant Breeders' Rights Bill for Zanzibar with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants;

(c) note that the Draft Law of Plant Breeders' Rights for Mainland Tanzania was adopted on November 5, 2012, and that the adoption of the Draft Law for Zanzibar is necessary for breeders' rights to cover the whole territory of the United Republic of Tanzania;

(d) note that the Plant Breeders' Rights Act for Mainland Tanzania, which was adopted on November 5, 2012, and published in the Gazette of the United Republic of Tanzania on March 1, 2013, had incorporated the changes presented in revision mode in the recommendations of the Council in its decision of November 1, 2012 (see document C/46/18 "Report on the decisions", paragraph 15);

(e) agree that the additional changes in the Plant Breeders' Rights Act for Mainland Tanzania, as presented in the Annex to document C(Extr.)/30/4 Add., did not affect the substantive provisions of the 1991 Act of the UPOV Convention, and confirm the decision on conformity of November 1, 2012;

(f) inform the Government of the United Republic of Tanzania that, subject to the modifications recommended by the Council, at its thirtieth extraordinary session, held in Geneva on March 22, 2013 (see paragraph (b) above), being incorporated in the Plant Breeders' Rights Bill for Zanzibar and the adoption of the Bill with no additional changes,

the instrument of accession of the United Republic of Tanzania may be deposited; and

(g) authorize the Secretary-General to inform the Government of the United Republic of Tanzania of that decision.

Documents proposed for adoption by the Council

UPOV/INF/4/3: Financial Regulations and Rules of UPOV (Revision) (document C(Extr.)/30/2, Annex)

5. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF/4 "Financial Regulations and Rules of UPOV" (document UPOV/INF/4/3), on the basis of the amendments to document UPOV/INF/4/2, as presented in the Annex to document C(Extr.)/30/2.

UPOV/INF/15/2: Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation (Revision) (document UPOV/INF/15/2 Draft 2)

6. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF/15/2 "Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation", on the basis of document UPOV/INF/15/2 Draft 2.

UPOV/INF-EXN/4: List of INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/4 Draft 1)

7. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF-EXN "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/4) on the basis of document UPOV/INF-EXN/4 Draft 1.

Financial situation in relation to the program and budget of the Union for the 2012-2013 biennium

8. The Consultative Committee noted the estimated income and expenditure for 2012 and the comments in relation to anticipated income and expenditure for the 2012-2013 Biennium, in relation to the preparation of the Draft Program and Budget of the Union for the 2014-2015 Biennium.

9. The Consultative Committee requested the Office of the Union to prepare a document for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013, proposing a method for reimbursing members of the Union and presenting proposals for projects concerning a special account or trust fund in the event that the reserve fund at the end of the 2012-2013 Biennium exceeds 15 percent of the total income for the 2012-2013 Biennium.

Preparation of the Draft Program and Budget of the Union for the 2014-2015 biennium

10. The Consultative Committee agreed the structure and contents that should be the basis for the preparation of the Draft Program and Budget of the Union for the 2014-2015 Biennium, subject to a review of references to the 1991 Act of the UPOV Convention in Subprogram UV.3, Section 2.3.1, where reference could be made to the UPOV Convention.

11. The Consultative Committee agreed that the Office of the Union should investigate the feasibility of using a database of consultants in order to produce a list of consultants and their activities.

Reports of the WIPO Independent Advisory Oversight Committee (IAOC)

12. The Consultative Committee noted the information contained in the Independent Advisory Oversight Committee (IAOC) quarterly reports for 2012 (documents WO/IAOC/24/2, WO/IAOC/25/2 and WO/IAOC/26/2) and in the IAOC Annual Report 2011-2012 (document WO/PBC/19/10). It also noted the information concerning the presentation on UPOV at the twenty-seventh session of the IAOC, which had clarified that UPOV did not fall within the scope of the IAOC's mandate.

Preparation of reports to the Council

13. The Consultative Committee requested the Office of the Union to present a document illustrating the proposed presentation of information for the performance report for the biennium, for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013.

Access to UPOV documents and publication of information

UPOV documents

14. The Consultative Committee noted the implementation of the requirement for users to register to use the PLUTO and GENIE databases.

15. The Consultative Committee approved the revised disclaimer text on the meeting section of the UPOV website, and the addition of a disclaimer to each UPOV session document, as follows:

Revised disclaimer text on the meeting section of the UPOV website:

“Unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

See [UPOV Collection](#) for guidance and information materials concerning plant variety protection.”

Disclaimer on each UPOV session document:

“This document does not represent UPOV policies or guidance.”

16. The Consultative Committee noted that the resources of the Office of the Union had not yet allowed the scanning and posting on the UPOV website of important documents that were only available in paper format, and that the Office of the Union was continuing to verify the correct inclusion of documents on the redesigned UPOV website.

Database of laws of members of the Union ("UPOV LEX")

17. The Consultative Committee noted that, after verification of certain data, the new section of UPOV Lex on plant genera and species would become available on the UPOV website.

Publication of the list of observers in UPOV bodies

18. The Consultative Committee noted that, to date, the resources of the Office of the Union had not allowed the posting on the UPOV website of the date of granting of observer status in the list of observers in UPOV bodies.

Communication strategy

19. The Consultative Committee requested the Office of the Union to prepare a draft communication strategy, consistent with available resources, for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013.

UPOV Distance Learning Course

20. The Consultative Committee noted the plans for the launch of the advanced distance learning course DL-305 "Examination of Applications for Plant Breeders' Rights".

Developments of relevance to UPOV in other international fora

21. The Consultative Committee noted the plans for the organization of a donor conference in June 2013 concerning the World Seed Project.

22. The Consultative Committee noted the developments concerning the East Asia Plant Variety Protection Forum (EAPVP Forum) and noted that the next meeting of EAPVP Forum would take place from July 2 to 5, 2013 in Sarawak State, Malaysia.

23. The Consultative Committee noted the report concerning the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) Platform for the Co-Development and Transfer of Technologies.

24. The Consultative Committee noted the report on certain matters considered under agenda item 3 "Implementation of The Second Global Plan of Action for Plant Genetic Resources for Food and Agriculture" of the sixth session of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (WG-PGR) of the Commission on Genetic Resources for Food and Agriculture (CGRFA).

25. The Consultative Committee noted the comments provided by the Office of the Union to the CGRFA on document CGRFA/WG-PGR-6/12/Inf.3 "Draft Guide for National Seed Policy Formulation".

26. The Consultative Committee noted the developments concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization (WIPO).

27. The Consultative Committee noted the developments concerning the WIPO tool kit for intellectual property policy makers.

28. The Consultative Committee noted that the information provided by the Office of the Union concerning documents of other organizations would be provided in the document on "Developments of relevance to UPOV in other international fora".

29. The Consultative Committee noted the developments in relation to the World Trade Organization (WTO).

30. The Consultative Committee noted the information concerning the EXPO 2015, which would take place in Milan, from May 1 to October 31, 2015, under the theme "Feeding the Planet, Energy for Life", and approved the Office of the Union's continued participation in discussions with WIPO and other Geneva-based international organizations, with a view to UPOV's possible participation in EXPO 2015. The Consultative Committee noted that the approval of the Consultative Committee would be sought before a final commitment to UPOV's participation in EXPO 2015 was made.

31. The Consultative Committee approved the participation of the Office of the Union in the work of a multi-stakeholder team on the definition of mechanisms for enhancing public private partnerships in pre-breeding, following the request from the "Plant Genetic Resources and Seeds Team and a number of other functional units, especially the International Treaty on Plant Genetic Resources for Food and Agriculture".

Preparation of calendar of meetings

32. The Consultative Committee agreed to propose to the Council that a seminar on essentially derived varieties (EDVs) be organized on October 22, 2013. The seminar would consider the following:

(a) technical and legal views on "predominantly derived", "essential characteristics" and "differences which result from the act of derivation" (see Article 14(5)(b) of the 1991 Act of the UPOV Convention), the relationship between Article 14(5)(b)(i) and (iii) of the 1991 Act of the UPOV Convention and the possible impact on breeding and agriculture;

(b) existing experience in relation to EDVs; and

(c) the possible role of future UPOV guidance on EDVs in cases before the courts.

33. With regard to the possible impact on breeding and agriculture, the Consultative Committee agreed that the seminar should include the perspective of farmer-breeders. It further agreed that the program for the seminar and the speakers should be agreed between the Office of the Union and the Chair and Vice-Chair of the CAJ, and the President of the Council. The Consultative Committee recommended that the seminar should be open to the public, with the presentations and discussions at the seminar being made available on the UPOV website after a suitable broadcast delay.

34. The Consultative Committee agreed to propose to the Council to approve the corresponding revision of document C/46/8 Rev. "Revised Calendar of Meetings in 2013".

Draft press release

35. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in document C(Extr.)/30/6 Prov.

36. The Council is invited to note the work of the Consultative Committee at its eighty-fifth session, as reported in this document.

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