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| International Union for the Protection of New Varieties of Plants |  |

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| Council  Thirty-Fourth Extraordinary Session Geneva, April 6, 2017 | C(Extr.)/34/6  Original: English  Date: April 6, 2017 |

REPORT ON THE DECISIONS

adopted by the Council

Opening of the session

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its thirty-fourth extraordinary session in Geneva on the afternoon of April 6, 2017.

The session was opened and chaired by Mr. Raimundo Lavignolle (Argentina), President of the Council, who welcomed the participants.

The list of participants is reproduced in Annex I to this report.

The Secretary-General introduced Mr. Tomochika Motomura, a national of Japan, who was appointed as Technical/Regional Officer (Asia) on April 3, 2017, following a competition to replace Mr. Jun Koide, who left the UPOV Office on March 31, 2017, after three years of service.

The Council welcomed the publication of “The socio-economic benefits of UPOV membership in Viet Nam; An ex post assessment on plant breeding and agricultural productivity after 10 years” (Corresponding author: Steffen Noleppa) by HFFA Research GmbH, as follows:

Executive Summary

<http://hffa-research.com/wp-content/uploads/2017/04/Executive-Summary-2017-03-HFFA-Research-Paper-socio-economic-benefits-UPOV-Vietnam-ex-post-assessment-plant-breeding-agricultural-productivity.pdf>

Complete study

<http://hffa-research.com/wp-content/uploads/2017/04/2017-03-HFFA-Research-Paper-socio-economic-benefits-UPOV-Vietnam-ex-post-assessment-plant-breeding-agricultural-productivity.pdf>

Adoption of the agenda

The Council adopted the revised draft agenda, as proposed in document C(Extr.)/34/1 Rev.

## Adoption of documents

The Council considered documents C(Extr.)/34/2, UPOV/EXN/EDV/2 Draft 8, UPOV/EXN/PPM/1 Draft 7 and UPOV/INF-EXN/10 Draft 1.

*UPOV/EXN/EDV:  Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)*

The Council adopted a revision of document UPOV/EXN/EDV/1 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention” (document UPOV/EXN/EDV/2), on the basis of document UPOV/EXN/EDV/2 Draft 8.

*UPOV/EXN/PPM:  Explanatory Notes on Propagating Material under the UPOV Convention*

The Council adopted document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention” on the basis of document UPOV/EXN/PPM/1 Draft 7, with the following amended text:

# “Factors that HAVE BEEN considered in relation to propagating material

“The UPOV Convention does not provide a definition of “propagating material”. Propagating material encompasses reproductive and vegetative propagating material. The following are non-exhaustive examples of factors that have been considered by members of the Union in relation to whether material is propagating material. Those factors should be considered in the context of each member of the Union and the particular circumstances.

(i) plant or part of plants used for the variety reproduction;

(ii) whether the material has been or may be used to propagate the variety;

(iii) whether the material is capable of producing entire plants of the variety;

(iv) whether there has been a custom/practice of using the material for propagating purposes or, as a result of new developments, there is a new custom/practice of using the material for that purpose;

(v) the intention on the part of those concerned (producer, seller, supplier, buyer, recipient, user);

(vi) if, based on the nature and condition of the material and/or the form of its use, it can be determined that the material is “propagating material”; or

(vii) the variety material where conditions and mode of its production meet the purpose of reproduction of new plants of the variety but not of final consumption.

The above text is not intended as a definition of ‘propagating material’.

UPOV organized a “Seminar on Propagating and Harvested Material in the context of the UPOV Convention” in Geneva on October 24, 2016. The proceedings of the Seminar can be found at <http://www.upov.int/meetings/en/topic.jsp?group_id=73>.

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

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/6/5), on the basis of the proposed amendments to Part II of document UPOV/INF/6/4, as presented in the Annex to document C(Extr.)/34/2.

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

The Council adopted a revision of document UPOV/INF‑EXN/9 “List of INF-EXN Documents and Latest Issue Dates” (document UPOV/INF-EXN/10), on the basis of document UPOV/INF EXN/10 Draft 1.

## Report by the President on the work of the ninety-third session of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee

The Council considered document C(Extr.)/34/3.

Based on the recommendation of the Consultative Committee, the Council decided to organize a single set of sessions from 2018, as follows:

(a) an arrangement for the scheduling of the UPOV bodies, on the following basis:

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| Monday | Technical Committee |
| Tuesday | Technical Committee |
| Wednesday | Administrative and Legal Committee |
| Thursday | Consultative Committee |
| Friday | Council (afternoon Symposium /Seminar (if appropriate)) |

(b) TC-EDC to meet twice a year; once in the period March/April and once in conjunction with the TC sessions later in the year;

(c) meetings of ad hoc working groups to take place during Monday to Friday of the annual sessions unless electronic participation was possible, such as was the case for the EAF meetings, in which case meetings could take place in the period March/April;

(d) with regard to timing of the UPOV sessions, it was recommended to retain the current timing of the October/November sessions.

Based on the recommendation of the Consultative Committee, the Council decided to adopt the proposals of the TC, at its fifty‑third session, on the following measures:

(a) Test Guidelines that could not be prepared in time for adoption by the Technical Committee at its session could be adopted by correspondence on the basis of the recommendations by the Enlarged Editorial Committee (TC-EDC). The TC agreed that the TC-EDC should meet twice a year, once in the period March/April and once in conjunction with the TC sessions later in the year.

(b) to use the following contingency measures for 2018, subject to the Council deciding that the TC should hold its fifty-fourth session in late 2018:

(i) for Test Guidelines proposed for adoption in 2018, to use a procedure for adoption by correspondence as follows:

* Draft Test Guidelines would be prepared as agreed by the TWPs and circulated with the recommendations of the TC-EDC;
* In the absence of any objections the Test Guidelines would be adopted;
* In the case of objections, the objections would be referred to the relevant TWP for consideration at their 2018 session, and the Test Guidelines considered for adoption by the TC at its fifty-fourth session, in 2018;
* TC-EDC to meet on March 26 and 27, 2018, and in conjunction with the TC at its fifty‑fourth session, in 2018, if necessary.

(ii) for TGP documents, to invite the TC-EDC to consolidate comments made by the TWPs at their sessions in 2017 and, in the absence of consensus between the TWPs, formulate  proposals for further consideration by the TWPs at their sessions in 2018;

(iii) all other matters to be considered at the fifty-fourth session of the TC in 2018 in the normal way.

Based on the recommendation of the Consultative Committee, the Council decided to allow the Office of the Union to have flexibility in the charge to be made for use of the EAF in 2017, but not to make the EAF free of charge.

The Council noted the work of the Consultative Committee at its ninety-third session, as reported in document C(Extr.)/34/3.

## Calendar of Meetings in 2017

The Council considered document C(Extr.)/34/4 and the recommendation made by the Consultative Committee at its ninety-third session, as reported in document C(Extr.)/34/3.

The Council agreed the following changes to the Calendar of meetings in 2017:

Consultative Committee

CC/94 October 25

(Working Group on a Possible International System of Cooperation (WG-ISC/3): October 24 (afternoon)

Administrative and Legal Committee

CAJ/74 October 23 and 24 (morning)

(Working Group on Variety Denominations (WG-DEN/4): October 27 (morning))

(Meeting on the Development of an Electronic Application Form (EAF/10): October 27 (afternoon))

The Council agreed the following changes to the Calendar of meetings in 2018:

Council

~~C(Extr.)/35 March 30 (afternoon) (extraordinary session)~~

C/52 November ~~1~~ 2

Consultative Committee

CC/95 ~~March 30 (morning)~~ November 1

(Working Group on a Possible International System of Cooperation (WG-ISC/4): October 31 (evening))

~~CC/96 October 31~~

Administrative and Legal Committee

CAJ/75 ~~March 29~~ October 31

(Meeting on the Development of an Electronic Application Form (EAF/11): March 28 (morning))

(Working Group on Variety Denominations (WG-DEN/5): October 30 (evening))

(Meeting on the Development of an Electronic Application Form (EAF/12): November 2 (afternoon))

~~CAJ/76 October 29 and 30~~

Technical Committee

TC/54 ~~March 26 to 28~~ October 29 and 30

(Editorial Committee: ~~(January 10 and 11), March 26 (evening), March 27 (evening)~~  
March 26 and 27, October 28 and 29 (evening))

The Council approved a revision of document C/50/8 Rev.2 “Revised Calendar of Meetings in 2017”.

## Press Release

The Council considered the draft press release contained in document C(Extr.)/34/5.

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

*This report was adopted by the Council at the close of its session, on April 6, 2017.*

[Annexes follow]

C(Extr.)/34/6

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)

I. MEMBRES / MEMBERS / VERBANDSMITGLIEDER / MIEMBROS

ALLEMAGNE / GERMANY / DEUTSCHLAND / ALEMANIA

Udo VON KRÖCHER, Präsident, Bundessortenamt, Hanover   
(e-mail: Postfach.Praesident@bundessortenamt.de)

Barbara SOHNEMANN (Frau), Justiziarin, Leiterin, Rechtsangelegenheiten, Sortenverwaltung, Gebühren, Bundessortenamt, Hanover   
(e-mail: barbara.sohnemann@bundessortenamt.de)

ARGENTINE / ARGENTINA / ARGENTINIEN / ARGENTINA

Raimundo LAVIGNOLLE, Presidente del Directorio, Instituto Nacional de Semillas (INASE),   
Secretaría de Agricultura, Ganadería y Pesca, Ministerio de Economía, Buenos Aires   
(e-mail: rlavignolle@inase.gov.ar)

María Laura VILLAMAYOR (Sra.), Abogada, Unidad Presidencia, Instituto Nacional de Semillas (INASE), Secretaría de Agricultura, Ganadería y Pesca, Ministerio de Economía, Buenos Aires   
(e-mail: mlvillamayor@inase.gov.ar)

María Inés RODRIGUEZ (Sra.), Consejera, Misión Permanente de la República Argentina, Ginebra   
(e-mail: mariaines.rodriguez@missionarg.ch)

AUSTRALIE / AUSTRALIA / AUSTRALIEN / AUSTRALIA

Nik HULSE, Chief of Plant Breeders' Rights, Plant Breeder's Rights Office, IP Australia, Woden   
(e-mail: nik.hulse@ipaustralia.gov.au)

Tanvir HOSSAIN, Senior Examiner, Plant Breeder's Rights Office, IP Australia, Woden   
(e-mail: tanvir.hossain@ipaustralia.gov.au)

BELGIQUE / BELGIUM / BELGIEN / BÉLGICA

Björn COENE, Attaché, Office de la Propriété Intellectuelle, Direction générale de la Réglementation économique, Bruxelles   
(e-mail: bjorn.coene@economie.fgov.be)

BRÉSIL / BRAZIL / BRASILIEN / BRASIL

Ricardo ZANATTA MACHADO, Fiscal Federal Agropecuário, Coordinador do SNPC, Serviço Nacional de Proteção de Cultivares (SNPC), Ministério da Agricultura, Pecuária e Abastecimento, Brasilia , D.F.   
(e-mail: ricardo.machado@agricultura.gov.br)

CANADA / CANADA / KANADA / CANADÁ

Anthony PARKER, Commissioner, Plant Breeders' Rights Office, Canadian Food Inspection Agency (CFIA), Ottawa   
(e-mail: anthony.parker@inspection.gc.ca)

Marc DE WIT, Examiner, Plant Breeders' Rights Office, Canadian Food Inspection Agency (CFIA), Ottawa   
(e-mail: Marc.deWit@inspection.gc.ca)

CHILI / CHILE / CHILE / CHILE

Natalia SOTOMAYOR CABRERA (Sra.), Abogado, Departamento de Asesoría Jurídica, Oficina de Estudios y Politicas Agrarias (ODEPA), Santiago de Chile   
(e-mail: nsotomayor@odepa.gob.cl)

Alvaro ULLOA, Encargado Área Frutales, Servicio Agrícola y Ganadero, Ministerio de Agricultura, Santiago de Chile   
(e-mail: alvaro.ulloa@sag.gob.cl)

CHINE / CHINA / CHINA / CHINA

Wenjun CHEN, Project Officer, State Intellectual Property Office, Beijing   
(e-mail: chenwenjun@sipo.gov.cn)

Chao DENG, Principal Staff Member, Ministry of Agriculture, Ministry of Agriculture, Beijing   
(e-mail: dengchaowin@sina.com)

Faji HUANG, Officer, Office for the Protection of New Plant Varieties, State Forestry Administration, Beijing   
(e-mail: huangfaji@sina.com)

COLOMBIE / COLOMBIA / KOLUMBIEN / COLOMBIA

Ana Luisa DÍAZ JIMÉNEZ (Sra.), Directora, Dirección Técnica de Semillas, Instituto Colombiano Agropecuario (ICA), Bogotá D.C.   
(e-mail: analuisadiazj@gmail.com)

DANEMARK / DENMARK / DÄNEMARK / DINAMARCA

Kristine Bech KLINDT (Ms.), Special Consultant, Ministry of Environment and Food of Denmark, The Danish AgriFish Agency, Copenhagen   
(e-mail: krba@naturerhverv.dk)

ESPAGNE / SPAIN / SPANIEN / ESPAÑA

Esther ESTEBAN RODRIGO (Dra.), Subdirectora General de Medios de Producción Agrícolas y Oficina Española de Variedades Vegetales (MPA y OEVV), Ministerio de Agricultura y Pesca, Alimentación y Medio Ambiente (MAPAMA), Madrid   
(e-mail: eesteban@magrama.es)

ESTONIE / ESTONIA / ESTLAND / ESTONIA

Laima PUUR (Ms.), Head, Variety Department, Estonian Agricultural Board, Viljandi   
(e-mail: laima.puur@pma.agri.ee)

Kristiina DIGRYTE (Ms.), Adviser, Plant Health Department, Tallinn   
(e-mail: kristiina.digryte@agri.ee)

Renata TSATURJAN (Ms.), Chief Specialist, Plant Production Bureau, Ministry of Rural Affairs, Tallinn   
(e-mail: renata.tsaturjan@agri.ee)

Evelin SIMER (Ms.), Councelor, Permanent Mission, Geneva  
(e-mail: evelin.simer@mfa.ee)

ÉTATS-UNIS D'AMÉRIQUE / UNITED STATES OF AMERICA / VEREINIGTE STAATEN VON AMERIKA /   
ESTADOS UNIDOS DE AMÉRICA

Kitisri SUKHAPINDA (Ms.), Patent Attorney, Office of Policy and International Affairs, United States Patent and Trademark Office (USPTO), Department of Commerce, Department of Commerce, Alexandria   
(e-mail: kitisri.sukhapinda@uspto.gov)

Elaine WU (Ms.), Attorney - Advisor, United States Patent and Trademark Office (USPTO), Department of Commerce, Alexandria   
(e-mail: elaine.wu@uspto.gov)

Ruihong GUO (Ms.), Deputy Administrator, AMS, Science & Technology Program, United States Department of Agriculture (USDA), Washington D.C.   
(e-mail: ruihong.guo@ams.usda.gov)

FÉDÉRATION DE RUSSIE / RUSSIAN FEDERATION / RUSSISCHE FÖDERATION /   
FEDERACIÓN DE RUSIA

Ismail MERZHOEV, Deputy Chairman, State Commission of the Russian Federation for Selection Achievements Test and Protection, Moscow   
(e-mail: dicm@gossort.com)

Yury A. ROGOVSKIY, Head, Methodology and International Cooperation Department, Candidate of Agricultural Sciences, State Commission of the Russian Federation for Selection Achievements Test and Protection, Moscow   
(e-mail: yrogovskij@yandex.ru)

Nataliya NOVOSELOVA (Ms.), Deputy Head, Methodology and International Relations Department, State Commission of the Russian Federation for Selection Achievements Test and Protection, Moscow   
(e-mail: dicm@gossort.com)

FINLANDE / FINLAND / FINNLAND / FINLANDIA

Tarja Päivikki HIETARANTA (Ms.), Senior Officer, Seed Certification, Finnish Food and Safety Authority (EVIRA), Loimaa   
(e-mail: tarja.hietaranta@evira.fi)

France / FRANCE / FRANKREICH / FRANCIA

Anne CHAN-HON-TONG (Mme), Chargée d'étude pôle semences, Bureau des semences et de la protection intégrée des cultures, Direction Générale de l'Alimentation Service de la Prévention des Risques Sanitaires de la Production Primaire, Sous-direction des Semences et de la Qualité et de la Protection des Végétaux, Ministère de l'Agriculture, de l'Agroalimentaire et de la Forêt, Paris   
(e-mail: anne.chan-hon-tong@agriculture.gouv.fr)

Yvane MERESSE (Mme), Responsable juridique / Legal Expert, Groupe d'Etude et de Contrôle des Variétés et des Semences (GEVES), Beaucouzé   
(e-mail: yvane.meresse@geves.fr)

HONGRIE / HUNGARY / UNGARN / HUNGRÍA

Szabolcs FARKAS, Vice-President for Technical Affairs, Hungarian Intellectual Property Office, Budapest   
(e-mail: szabolcs.farkas@hipo.gov.hu)

Katalin MIKLÓ (Ms.), Deputy Head, Patent Department, Hungarian Intellectual Property Office, Budapest   
(e-mail: katalin.miklo@hipo.gov.hu)

ISRAËL / ISRAEL / ISRAEL / ISRAEL

Dikla DABBY-NAOR (Ms.), Chairperson, Plant Breeders' Rights Council, Ministry of Agriculture and Rural Development, Beit-Dagan   
(e-mail: diklad@moag.gov.il)

JAPON / JAPAN / JAPAN / JAPÓN

Katsumi YAMAGUCHI, Director, Plant Variety Protection Office, Intellectual Property Division, Food Industry Affairs Bureau, Ministry of Agriculture, Forestry and Fisheries (MAFF), Tokyo   
(e-mail: katsumi\_yamaguchi130@maff.go.jp)

Atsushi SUGINAKA, Director, Intellectual Property Division, Food Industry Affairs Bureau, Ministry of Agriculture, Forestry and Fisheries (MAFF), Tokyo   
(e-mail: atsushi\_suginaka520@maff.go.jp)

Kenji NUMAGUCHI, Chief Examiner, Plant Variety Protection Office, Intellectual Property Division, Food Industry Affairs Bureau, Ministry of Agriculture, Forestry and Fisheries (MAFF), Tokyo   
(e-mail: kenji\_numaguchi760@maff.go.jp)

MAROC / MOROCCO / MAROKKO / MARRUECOS

Zoubida TAOUSSI (Mrs.), Chargée de la protection des obtentions végétales, Office National de Sécurité de Produits Alimentaires, Rabat   
(e-mail: ztaoussi67@gmail.com)

MEXIQUE / MEXICO / MEXIKO / MÉXICO

Maria del Pilar ESCOBAR BAUTISTA (Mrs.), Counsellor, Misión Permanente, Ginebra  
(e-mail: pescobar@sre.gob.mx)

NORVÈGE / NORWAY / NORWEGEN / NORUEGA

Tor Erik JØRGENSEN, Head of Section, National Approvals, Norwegian Food Safety Authority, Brumunddal   
(e-mail: tor.erik.jorgensen@mattilsynet.no)

Marianne SMITH (Ms.), Senior Advisor, Norwegian Ministry of Agriculture and Food, Oslo   
(e-mail: marianne.smith@lmd.dep.no)

Elin Cecilie RANUM (Ms.), Advisor, Oslo   
(e-mail: elin@utviklingsfondet.no)

NOUVELLE-ZÉLANDE / NEW ZEALAND / NEUSEELAND / NUEVA ZELANDIA

Christopher J. BARNABY, Assistant Commissioner / Principal Examiner for Plant Variety Rights, Plant Variety Rights Office, Intellectual Property Office of New Zealand, Intellectual Property Office of New Zealand, Plant Variety Rights, Ministry of Economic Development, Christchurch   
(e-mail: Chris.Barnaby@pvr.govt.nz)

OMAN / OMAN / OMAN / OMÁN

Ali AL LAWATI, Plant Genetic Resources Expert, Oman Animal and Plant Genetic Resources Center, The Research Council, Muscat   
(e-mail: ali.allawati@trc.gov.om)

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (Oapi) /   
AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (oapi) /   
AFRIKANISCHE ORGANISATION FÜR GEISTIGES EIGENTUM (oapi) /   
ORGANIZACIÓN AFRICANA DE LA PROPIEDAD INTELECTUAL (oapi)

Dosso MÉMASSI, Directeur, Département de la protection de la propriété industrielle,   
Organisation africaine de la propriété intellectuelle (OAPI), Yaoundé   
(e-mail: dossomemassi@gmail.com)

Vladimir Ludovic MEZUI ONO, Examinateur Brevet chimie, Organisation africaine de la propriété intellectuelle (OAPI), Yaoundé   
(e-mail: mezuiono@hotmail.com)

Panama / panama / panama / panamá

Rafael Ernesto MONTERREY GONZÁLEZ, Jefe del Departamento de Variedades Vegetales, Dirección General del Registro de la Propiedad Intelectual, Ministerio de Comercio e Industrias, Dirección General del Registro de la Propiedad Industrial, Ciudad de Panamá   
(e-mail: rmonterrey@mici.gob.pa)

PARAGUAY / PARAGUAY / PARAGUAY / PARAGUAY

Nidia Concepción TALAVERA GODOY (Sra.), Directora, Dirección de Semillas, Servicio Nacional de Calidad y Sanidad Vegetal y de Semillas (SENAVE), San Lorenzo   
(e-mail: nidia.talavera@senave.gov.py)

PAYS-BAS / NETHERLANDS / NIEDERLANDE / PAÍSES BAJOS

Marien VALSTAR, Senior Policy Officer, Seeds and Plant Propagation Material, Ministry of Economic Affairs, DG AGRO & NATURE, The Hague   
(e-mail: m.valstar@minez.nl)

Kees Jan GROENEWOUD, Secretary, Dutch Board for Plant Variety (Raad voor Plantenrassen), Naktuinbouw, Roelofarendsveen   
(e-mail: c.j.a.groenewoud@naktuinbouw.nl)

POLOGNE / POLAND / POLEN / POLONIA

Edward S. GACEK, Director General, Research Centre for Cultivar Testing (COBORU), Slupia Wielka   
(e-mail: e.gacek@coboru.pl)

Alicja RUTKOWSKA-ŁOŚ (Mrs.), Head, National Listing and Plant Breeders' Rights Protection Office, The Research Centre for Cultivar Testing (COBORU), Slupia Wielka   
(e-mail: a.rutkowska@coboru.pl)

RÉPUBLIQUE DE CORÉE / REPUBLIC OF KOREA / REPUBLIK KOREA / REPÚBLICA DE COREA

Eunhee SOH (Ms.), Deputy Director, Senior Examiner, Korea Seed and Variety Service (KSVS), Seobu Office, Jeonllabuk-do   
(e-mail: eunhee.soh@korea.kr)

Jino YOO, Deputy Director, Senior Examiner, Korean Intellectual Property Office (KIPO), Daejeon Metropolitan City   
(e-mail: jino0524@kipo.go.kr)

RÉPUBLIQUE DE MOLDOVA / REPUBLIC OF MOLDOVA / REPUBLIK MOLDAU /   
REPÚBLICA DE MOLDOVA

Mihail MACHIDON, Chairman, State Commission for Crops Variety Testing and Registration (SCCVTR), Chisinau   
(e-mail: info@cstsp.md)

Ala GUSAN (Ms.), Head, Patents Division, Inventions and Plant Varieties Department, State Agency on Intellectual Property of the Republic of Moldova (AGEPI), Chisinau   
(e-mail: ala.gusan@agepi.gov.md)

RÉPUBLIQUE TCHÈQUE / CZECH REPUBLIC / TSCHECHISCHE REPUBLIK / REPÚBLICA CHECA

Radmila ŠAFAŘÍKOVÁ (Ms.), Coordinator for International Cooperation, National Plant Variety Office, Central Institute for Supervising and Testing in Agriculture (UKZUZ), Brno   
(e-mail: radmila.safarikova@ukzuz.cz)

ROUMANIE / ROMANIA / RUMÄNIEN / RUMANIA

Cristian Irinel MOCANU, Head of Legal Department, State Institute for Variety Testing and Registration, Bucarest   
(e-mail: irinel\_mocanu@istis.ro)

Aura Giorgiana MINDRUTA (Ms.), Expert, State Institute for Variety Testing and Registration (ISTIS), Bucarest   
(e-mail: aura\_mindruta@istis.ro)

ROYAUME-UNI / UNITED KINGDOM / VEREINIGTES KÖNIGREICH / REINO UNIDO

Andrew MITCHELL, Head of Varieties and Seeds, Department for Environment, Food and Rural Affairs (DEFRA), Cambridge   
(e-mail: andrew.mitchell@defra.gsi.gov.uk)

SLOVAQUIE / SLOVAKIA / SLOWAKEI / ESLOVAQUIA

Bronislava BÁTOROVÁ (Ms.), National Coordinator for the Cooperation of the Slovak Republic with UPOV/ Senior Officer, Department of Variety Testing, Central Controlling and Testing Institute in Agriculture (ÚKSÚP), Nitra   
(e-mail: bronislava.batorova@uksup.sk)

Ľuba GASPAROVÁ (Ms.), Senior Officer, Deputy of the National Coordinator for the Cooperation of the Slovak Republic with UPOV, Central Controlling and Testing Institute in Agriculture (UKSUP), Bratislava   
(e-mail: Luba.Gasparova@uksup.sk)

Outi TYNI (Ms.), Political Administrator, Official of the General Secretariat of the Council of the EU, Council of the European Union, General Secretariat DG B II, Agriculture, Bruxelles   
(e-mail: Outi.Tyni@consilium.europa.eu)

SUÈDE / SWEDEN / SCHWEDEN / SUECIA

Olof JOHANSSON, Head, Plant and Environment Department, Swedish Board of Agriculture, Jönköping   
(e-mail: olof.johansson@jordbruksverket.se)

SUISSE / SWITZERLAND / SCHWEIZ / SUIZA

Gabriele SCHACHERMAYR (Ms.), Head, Plant Health and Varieties, Office fédéral de l'agriculture (OFAG), Bern   
(e-mail: gabriele.schachermayr@blw.admin.ch)

Manuela BRAND (Ms.), Plant Variety Rights Office, Plant Health and Varieties, Office fédéral de l'agriculture (OFAG), Bern   
(e-mail: manuela.brand@blw.admin.ch)

TUNISIE / TUNISIA / TUNESIEN / TÚNEZ

Fatma Chiha BELGAROUI (Mme), Directeur de l'homologation et du contrôle de la qualité, Direction Générale de la Protection et Contrôle de la Qualité des produits Agricoles, Ministère de l’Agriculture, des Ressources Hydrauliques et de la Pêche, Tunis  
(e-mail: fatmachiha@yahoo.fr)

TURQUIE / TURKEY / TÜRKEI / TURQUÍA

Mehmet ÇAKMAK, PBR Expert, Seed Department, General Directorate of Plant Production, Ministry of Food, Agriculture and Livestock, Ankara, Turkey  
E-mail: mehmet.cakmak@tarim.gov.tr

Mehmet SIĞIRCI,Head, Seed Department, Ministry of Agriculture and Rural Affairs, Ankara, Turkey  
E-mail: mehmet.sigirci@tarim.gov.tr

UNION EUROPÉENNE / EUROPEAN UNION / EUROPÄISCHE UNION / UNIÓN EUROPEA

Bronislava BÁTOROVÁ (Ms.), National Coordinator for the Cooperation of the Slovak Republic with UPOV/ Senior Officer, Department of Variety Testing, Central Controlling and Testing Institute in Agriculture (ÚKSÚP), Nitra   
(e-mail: bronislava.batorova@uksup.sk)

Päivi MANNERKORPI (Ms.), Team Leader - Unit G1, Plant Reproductive Material, Directorate General for Health and Food Safety (DG SANCO), European Commission, Bruxelles   
(e-mail: paivi.mannerkorpi@ec.europa.eu)

Martin EKVAD, President, Community Plant Variety Office (CPVO), Angers   
(e-mail: ekvad@cpvo.europa.eu)

Outi TYNI (Ms.), Political Administrator, Official of the General Secretariat of the Council of the EU, Council of the European Union, General Secretariat DG B II, Agriculture, Bruxelles   
(e-mail: Outi.Tyni@consilium.europa.eu)

II. OBSERVATEURS / OBSERVERS / BEOBACHTER / OBSERVADORES

ARABIE SAOUDITE / SAUDI ARABIA / SAUDI-ARABIEN / ARABIA SAUDITA

Ahmed Khalaf D. AL SHAMARI, Director, Plant Gene Bank, National Agricultural and Animal Resources Research Center, Riyadh   
(e-mail: ahamed-a@hotmail.com)

THAÏLANDE / THAILAND / THAILAND / TAILANDIA

Anan AKSONSRI, Executive Director, Office of Plant Variety Protection, Ministry of Agriculture and Cooperatives, Bangkok   
(e-mail: anan.a@doa.in.th)

Usana BERANANDA (Ms.), Minister, Deputy Permanent Representative, Permanent Mission of Thailand to the WTO, Geneva   
(e-mail: usana@thaiwto.com)

Pornthep SRITANATORN, Minister Counsellor, Permanent Mission of Thailand to the WTO, Geneva   
(e-mail: pornthep@thaiwto.com)

Pan PANKHAO, Agricultural Research Officer, Ministry of Agriculture and Cooperatives, Bangkok   
(e-mail: ppk1969@hotmail.com)

III. ORGANISATIONS / ORGANIZATIONS / ORGANISATIONEN / ORGANIZACIONES

COMMUNAUTÉ INTERNATIONALE DES OBTENTEURS DE PLANTES ORNEMENTALES ET FRUITIÈRES À REPRODUCTION ASEXUÉE (CIOPORA) / INTERNATIONAL COMMUNITY OF BREEDERS OF ASEXUALLY REPRODUCED ORNAMENTAL AND FRUIT PLANTS (CIOPORA) / INTERNATIONALE GEMEINSCHAFT DER ZÜCHTER VEGETATIV VERMEHRBARER ZIERUND OBSTPFLANZEN (CIOPORA) / COMUNIDAD INTERNACIONAL DE OBTENTORES DE VARIEDADES ORNAMENTALES Y FRUTALES DE REPRODUCCIÓN ASEXUADA (CIOPORA)

Edgar KRIEGER, Secretary General, International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants (CIOPORA), Hamburg  
(e-mail: info@ciopora.org)

CROPLIFE INTERNATIONAL

Marcel BRUINS, Consultant, CropLife International, Bruxelles   
(e-mail: mbruins1964@gmail.com)

François-Xavier MULLER, EU Corn Breeding IP/QMS Manager, Monsanto SAS, Monbéqui   
(e-mail: francois-xavier.muller@monsanto.com)

INTERNATIONAL SEED FEDERATION (ISF)

Hélène GUILLOT (Mlle), International Agricultural Manager, International Seed Federation (ISF), Nyon   
(e-mail: h.guillot@worldseed.org)

Amy D. CURTIS (Ms.), Soybean & Cotton Patent Scientist, Monsanto US, St. Louis   
(e-mail: amy.curtis@monsanto.com)

Stevan MADJARAC, Germplasm IP Lead, American Seed Trade Association (ASTA), Alexandria   
(e-mail: s.madjarac@gmail.com)

ASIA AND PACIFIC SEED ASSOCIATION (APSA)

Heidi GALLANT (Ms.), Executive Director, Asia and Pacific Seed Association (APSA), Bangkok   
(e-mail: heidi@apsaseed.org)

IV. BUREAU / OFFICER / VORSITZ / OFICINA

Raimundo LAVIGNOLLE, President

Marien VALSTAR, Vice-President

V. BUREAU DE L’UPOV / OFFICE OF UPOV / BÜRO DER UPOV / OFICINA DE LA UPOV

Francis GURRY, Secretary-General

Peter BUTTON, Vice Secretary-General

Yolanda HUERTA (Ms.), Legal Counsel

Tomochika MOTOMURA, Technical/Regional Officer (Asia)

Ben RIVOIRE, Technical/Regional Officer (Africa, Arab countries)

Leontino TAVEIRA, Technical/Regional Officer (Latin America, Caribbean countries)

Ariane BESSE (Ms.), Administrative Assistant

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ANNEX II

PRESS RELEASE

UPOV Press Release 109

Geneva, April 6, 2017

**UPOV Council Holds its Thirty-Fourth Extraordinary Session**

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its thirty­fourth extraordinary session on April 6, 2017.

Developments included:

Socio-economic benefits of UPOV membership in Viet Nam

The Council welcomed the publication of “The socio-economic benefits of UPOV membership in Viet Nam; An ex post assessment on plant breeding and agricultural productivity after 10 years” (Corresponding author: Steffen Noleppa) by HFFA Research GmbH, as follows:

Executive Summary

<http://hffa-research.com/wp-content/uploads/2017/04/Executive-Summary-2017-03-HFFA-Research-Paper-socio-economic-benefits-UPOV-Vietnam-ex-post-assessment-plant-breeding-agricultural-productivity.pdf>

Complete study

<http://hffa-research.com/wp-content/uploads/2017/04/2017-03-HFFA-Research-Paper-socio-economic-benefits-UPOV-Vietnam-ex-post-assessment-plant-breeding-agricultural-productivity.pdf>

Adoption of documents

The Council adopted the following documents:

*Explanatory notes*

UPOV/EXN/EDV/2 Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)

UPOV/EXN/PPM/1 Explanatory Notes on Propagating Material under the UPOV Convention

*Information documents:*

UPOV/INF/6/5 Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)

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

Test Guidelines

The Council welcomed the adoption by the Technical Committee (TC) of 5 new Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability (Test Guidelines) and 9 revised Test Guidelines and 4 partially revised Test Guidelines. UPOV has now developed 321 Test Guidelines, all of which are freely available on the UPOV website (<http://www.upov.int/test_guidelines/en/>).

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

The Council noted that the number of taxa for which members of the Union had indicated their practical experience in the examination of distinctness, uniformity and stability (DUS) had increased from 3,462 in 2016 to 3,561  in 2017 (+2.9%). The list of taxa in 2017 included 3,416 different genera/species. The Council also noted that information on members of the Union with practical experience in DUS examination was freely accessible via the GENIE database (see <http://www.upov.int/genie/en/>).

Organization of UPOV sessions

The Council decided to organize only one annual session of the Council, Consultative Committee, Administrative and Legal Committee (CAJ) and Technical Committee (TC) from 2018, with the sessions being held during one week at the end of October / beginning of November.

## Background

UPOV is an intergovernmental organization based in Geneva, with 74 members, covering 93 States. The purpose of UPOV is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society.

The members of UPOV are:

African Intellectual Property Organization (OAPI), Albania, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, European Union, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lithuania, México, Morocco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Viet Nam.

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

Tel: (+41-22) 338 9111 E-mail: [upov.mail@upov.int](mailto:upov.mail@upov.int)

Fax: (+41-22) 733 0336 Website: [www.upov.int](http://www.upov.int)

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