

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

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 thirty-fourth extraordinary session in Geneva on the afternoon of April 6, 2017.
2. The session was opened and chaired by Mr. Raimundo Lavignolle (Argentina), President of the Council, who welcomed the participants.
3. The list of participants is reproduced in Annex I to this report.
4. 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.
5. 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

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

Adoption of documents

7. 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)

8. 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

9. 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)

10. 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)

11. 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

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

13. 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:

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.

14. 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.

15. 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.

16. 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

17. 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.

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

Consultative Committee

CC/94	October 25 <u>(Working Group on a Possible International System of Cooperation (WG-ISC/3): October 24 (afternoon))</u>
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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))~~

19. 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))~~

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

Press Release

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

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

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

[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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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 thirty-fourth 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.

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[End of Annex II and of document]