



C/41/16

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Forty-First Ordinary Session
Geneva, October 25, 2007

REPORT ON THE DECISIONS

adopted by the Council

Introduction

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its forty-first ordinary session in Geneva on October 25, 2007, 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 President extended a warm welcome to the Delegation of the Dominican Republic, which had become the sixty-fourth member of the Union on June 16, 2007.
4. The Delegation of the Dominican Republic expressed its appreciation for the welcome which it had received on becoming a member.
5. The President extended a warm welcome to the Delegation of Turkey, which had deposited its instrument of accession to the 1991 Act of the UPOV Convention on October 18, 2007 and would become the sixty-fifth member of the Union on November 18, 2007.
6. The Delegation of Turkey expressed its appreciation for the welcome which it had received and looked forward to cooperating with the members of the Union.

7. The Council noted that Spain had ratified the 1991 Act of the UPOV Convention on July 18, 2007.
8. The Council took the decisions recorded below under each relevant agenda item.
9. The draft detailed report on the session will be submitted to the Council for adoption by correspondence.

Adoption of the Agenda

10. The Council adopted the draft agenda, as proposed in document C/41/1 Rev., after the deletion of item 4 “Examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention.”

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

11. Discussions were based on document C/41/14.
12. The Council decided to
 - (a) take note of the information given in document C/41/14;
 - (b) recommend that Montenegro incorporate the additional provisions and amendments in the Law, as provided in document C/41/14 and replace “30 days” by “60 days” in Article 12, paragraph 3 of the Law; 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 to the Government of Montenegro in drafting the necessary additional provisions and amendments to the Law; and
 - (d) authorize the Secretary-General to inform the Government of Montenegro of that decision.
13. The Delegation of Montenegro informed the Council that it would draft the necessary additional provisions and amendments to the Law, as recommended by the Council, and intended to submit the amended Law for the examination by the Council.

Report by the President on the work of the Seventy-Third and Seventy-Fourth Sessions of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee

14. The Council noted the report by the President.

Adoption of documents TGP/4/1 “Constitution and Maintenance of Variety Collections”, TGP/9/1 “Examining Distinctness”, and “Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction (‘BMT Guidelines’)”

15. The Council noted that in response to the comments made by some delegations concerning the need for editorial improvements, the Consultative Committee had agreed that a circular be sent to the Consultative Committee, the Technical Committee (TC) and the Administrative and Legal Committee (CAJ) providing an opportunity to comment within four weeks on documents TGP/4/1 Draft 10, TGP/9/1 Draft 10 and BMT Guidelines (proj.9). Based on the comments received, new drafts of those documents would be prepared for consideration by the Editorial Committee at its meeting on January 8, 2008. Relevant drafts incorporating the comments by the Editorial Committee would subsequently be presented to the TC, the CAJ, the Consultative Committee and the Council in April 2008.

Annual Report of the Secretary-General for 2006; Report on Activities During the First Nine Months of 2007

16. The Council approved the report of the Secretary-General on the activities of the Union in 2006, as provided in document C/41/2.

17. The Council noted the report on activities during the first nine months of 2007, as provided in document C/41/3.

18. In reply to a proposal by the Delegation of the European Community, the Council agreed that the Office of the Union should consider the development of an advanced distance learning module concerning case law provided by members of the Union.

Progress Report of the work of the Administrative and Legal Committee

19. The Council noted the work of the CAJ, as provided in document C/41/9 and reported by the Chair of the CAJ, and approved the work program for the fifty-seventh session of the CAJ, as presented in the oral report of the Chair of the CAJ.

Progress Report of the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular

20. The Council noted the work of the TC, the Technical Working Parties (TWPs) and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular, as provided in documents C/41/10 and C/41/10 Add., and approved the programs of work set out in document C/41/10.

21. The Delegation of the Republic of Korea reported on the exercise concerning characteristics for plant shape in onion and *Cucurbita maxima* Duch., which had been discussed at the forty-first session of the Technical Working Party for Vegetables (TWV), held in Nairobi, Kenya, from June 11 to 15, 2007. It noted that that exercise, involving an exchange of photographs and descriptions between members of the Union, had been very

helpful and suggested that a similar exercise might be undertaken for other crops and TWPs. The Council agreed that that matter should be considered by the TC and the TWPs.

Designation of the Auditor

22. The Council decided to renew the designation of Switzerland as auditor of the accounts of UPOV up to and including the year 2011. It expressed its gratitude to the Swiss authorities for their assistance.

Interim Financial Statement for 2006; Arrears in Contributions as of September 30, 2007

23. The Council took note of the interim financial statement for 2006, the status of payment of contributions and the Working Capital Fund participations as provided in document C/41/11 and noted the information that, as a result of recent payments, Jordan and Portugal had no arrears; no decision was called for under this agenda item.

Examination and Approval of the Draft Program and Budget of the Union for the 2008-2009 Biennium

24. Discussions were based on document C/41/4.

25. The Council noted the intervention by the Delegation of Germany and clarified that the Reserve Fund should only be used for unexpected emergency situations and not to finance programs in an activity-based budget.

26. The Council approved

(a) the proposals contained in document C/41/4, draft Program and Budget for the 2008-2009 Biennium, including the amount of contributions from members;

(b) the proposed maximum ceiling of expenditure in the regular budget;

(c) the total number of posts for the Office of the Union;

(d) the allocation of 6 percent of the staff cost towards the provision for separation from service and medical benefits by the end of the 2006-2007 biennium;

(e) the allocation of 3 percent of the staff cost towards the provision of separation from service and medical benefits by the end of the 2008-2009 biennium; and

(f) a target level of the Reserve Fund of 20 percent of the budgeted expenditure.

27. The Delegation of United States of America informed the Council that it planned to organize, in cooperation with the Office of the Union, a training course for trainers in relation to training on plant breeders' rights under the UPOV Convention. It invited members of the Union to identify suitable potential trainers who could participate. The first training course was scheduled to take place in Alexandria, United States of America, in February 2008.

28. The Council agreed that the Office of the Union should send a circular to members of the Union and observers in order to identify suitable potential trainers who might be willing to participate in such a training course.

Calendar of Meetings in 2008

29. The Council approved the calendar of meetings in 2008, as presented in document C/41/8, whilst agreeing to provide the Office of the Union, in consultation with the President of the Council, a degree of flexibility to determine the duration of the individual UPOV sessions.

30. The Council also noted the proposed dates of meetings in Geneva in 2009.

Election of the new Chair and the new Vice-Chair of the Administrative and Legal Committee and the Technical Committee

31. The Council noted the information provided in document C/41/10 Add.

32. The Council elected, in each case for a term of three years ending with the forty-fourth ordinary session of the Council, in 2010:

(a) Mrs. Carmen Amelia M. Gianni (Argentina), Chairperson of the Administrative and Legal Committee;

(b) Mr. Lü Bo (China), Vice-Chairman of the Administrative and Legal Committee; and

(c) Mr. Chris Barnaby (New Zealand), Chairman of the Technical Committee.

33. The Council proposed that the TC make a recommendation for the Vice-Chairperson of the TC at its forty-fourth session to be held in April 2008.

34. The Council expressed its appreciation to the outgoing Chairpersons, Mr. Krieno Fikkert (Netherlands), Chairman of the Administrative and Legal Committee, and Mrs. Julia Borys (Poland), Chairperson of the Technical Committee, for the work carried out during their term.

Situation in the legislative, administrative and technical fields:

35. The Council noted documents C/41/5, C/41/6, C/41/7 and C/41/12 and noted that a revised document on “Plant Variety Protection Statistics” for the period 2001-2005 (document C/40/7 Rev.) had been produced; no decisions were called for under this agenda item.

UPOV Medal

36. In recognition of his outstanding contribution to UPOV, the Vice Secretary-General awarded to Mr. Bernard Le Buanec, Secretary General of the International Seed Federation (ISF), a UPOV Gold Medal.

37. The Council adopted this report at the close of the session.

[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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