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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
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COUNCIL

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DRAFT PLAN FOR THE MEDIUM TERM FROM 2000 TO 2003

presented by the Secretary-General

INTRODUCTION

1. At its eighteenth ordinary session, the Council of UPOV adopted the proposal of the Secretary-General to introduce medium-term plans for the program and budget of UPOV (see paragraph 86 of document C/XVIII/14). It was decided that such medium-term plans should be drawn up, beginning with the period 1988-91, for four years each; they should be drawn up for the first time in 1985 and thereafter every fourth year (in 1989, for the period 1992-95, in 1993, for the period 1996-99; etc.). The present document contains the medium-term plan for the years 2000-2003.
2. The two-year period of 1998 and 1999 is hereinafter called "the next biennium," and the four-year period (2000, 2001, 2002 and 2003) following the next biennium is hereinafter called "the medium term."
3. The plan for the medium term 2000-2003 is presented under three chapter headings: *Background*, *Objectives* and *Activities*, the activities being designed to secure the achievement of UPOV's objectives in the light of the background.

CHAPTER I - BACKGROUND

4. The following background factors are considered to be likely to influence the environment in which UPOV pursues its objectives in the medium term:

(i) the widespread implementation of the 1991 Act of the UPOV Convention and the practical influence of the changes in the UPOV system of protection introduced in the 1991 Act;

(ii) the coming into force for developing countries on January 1, 2000, of the obligation embodied in Article 27.3(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (“the TRIPS Agreement”) to protect plant varieties either by patents or by an effective *sui generis* system or by any combination thereof;

(iii) the review of the totality of Article 27.3(b) of the TRIPS Agreement which is to take place in 1999;

(iv) the wide availability of genetically engineered varieties falling within the claims of one or more patents;

(v) an increasing concern for the environment and the need to conserve plant genetic resources which will be tempered by an end to complacency concerning world food security and an appreciation of the necessity to secure the adequate funding of agricultural research;

(vi) notwithstanding continuing efforts by countries, which regard themselves as “gene rich,” to establish an international system which will enable them to share in the benefits derived from the exploitation of genetic resources which originate within their national frontiers, there will be a widening acceptance of the necessity for ready access to plant genetic resources for food and agriculture (as opposed to other such genetic resources) resulting in either the successful renegotiation of the FAO Undertaking on Plant Genetic Resources for Food and Agriculture or its replacement by some other widely accepted multilateral systems for access;

(vii) a continuing technological advance in the field of plant breeding and the biological sciences and an increasing appreciation that this advance offers one of the few paths leading to sustainable development;

(viii) the availability of fast, accurate, increasingly inexpensive methods, arising from the above-mentioned technological advance for the examination of plant varieties for the purposes of protection;

(ix) a continuing advance in the field of information technology enabling fast communication and providing opportunities for enhanced international exchange of information and cooperation;

(x) a continuation, on the one hand, of the wish of industrial and research circles that biotechnological inventions receive appropriate legal protection, either by an extension of the patent legislation or by improving the plant variety protection system or by both, and, on

the other hand, of a resistance to such a wish by other interested groups in the name of the protection of the environment, the conservation of biological diversity, the “sanctity of life” and product safety;

(xi) an increasing recognition of the importance of plant breeders’ rights as a means of complementing the patent system in providing legal protection for innovation in the field of plants and of the consequential importance of the expansion of UPOV if it is to play its full role in the worldwide protection system; the number of member States is likely to rise from, say, around 40 at the beginning of the next biennium to perhaps 70 or more by the end of the medium term;

(xii) the possibility that there may be some States with laws conforming with the 1978 Act of the UPOV Convention which are unable to become member States of UPOV in view of the closing of the 1978 Act upon the coming into force of the 1991 Act;

(xiii) the emergence of regional governmental fora and organizations concerned with plant variety protection matters.

CHAPTER II - OBJECTIVES

5. The main objectives of UPOV for the medium term are the following:

(i) to secure accessions to the 1991 Act of the UPOV Convention;

(ii) to ensure that UPOV consolidates its role as the specialized organization responsible for setting the standards and operational rules of the world system of plant variety protection; to secure a mutually satisfactory working relationship between UPOV and the World Trade Organization (WTO).

(iii) to maintain and, if possible, to improve the efficiency and cost-effectiveness of the plant breeders’ rights system and the quality of the legal protection offered and to ensure that UPOV stays abreast of new developments in technology relevant to the legal protection;

(iv) to secure the financial or other resources necessary to ensure that UPOV is able to respond adequately to requests for advice, training and other developmental needs of the UPOV system of plant variety protection;

(v) to establish worldwide--or as close as possible to worldwide--an understanding of the nature of plant breeders’ rights, of the role of plant breeders’ rights in systems of intellectual property protection and of the appropriate interface between plant breeders’ rights and other forms of legal protection within such systems;

(vi) to participate in the debate on plant genetic resources so as to secure a proper understanding of the importance of protected varieties and other forms of plant genetic resources being readily available for the development of improved varieties;

(vii) to secure respect for the protection offered by the system of plant breeders' rights.

CHAPTER III - ACTIVITIES

6. The following activities are considered by the Office to be appropriate to address the above objectives:

(i) The Council and its Consultative Committee will continue to fulfill their statutory tasks of directing and supervising the program of work and the management of UPOV, adopting the biennial programs and budgets and giving guidance to the subordinate Committees and to the Office for their future work. Questions requiring detailed discussion prior to their submission to the Council for decision will continue to be divided into those of an administrative and legal nature and those of a technical nature and will continue to be considered by the Administrative and Legal Committee and the Technical Committee, respectively, and by subordinate organs responsible to one or the other of those Committees such as the five Technical Working Parties and their Subgroups. The increasing importance and growing complexity of legal and technical questions may call for the establishment of further subcommittees, subgroups or working groups of the Administrative and Legal Committee and of the Technical Committee and for some joint meetings of these Committees. It is not expected that there will be any significant change in the number of sessions or of preparatory documentation for those sessions; electronic distribution of documents will supplement the present distribution of paper documents.

(ii) The Office of the Union will continue to provide information, assistance and advice to States which express interest in plant variety protection and the UPOV Convention. However, the scale of this activity will increase steeply during the next biennium and the medium term. At August 1, 1997, there were 131 members of the World Trade Organization which are, as a result, party to the TRIPS Agreement. Of these, 38 were member States of UPOV, or were States with laws for the protection of new plant varieties which had been the subject of an advice decision of the Council of UPOV. A further 23 were States which had, to the knowledge of the Office of UPOV, either enacted plant variety protection laws, or were in the process of preparing such laws. Of the balance of 70 members, 28 were classified as least developed countries while 40 were other developing countries which will be obligated to provide protection for plant varieties by January 1, 2005, or 2000, respectively. At August 1, 1997, so far as the Office of UPOV was aware, none of these developing countries had begun actively to consider the question of plant variety protection or the preparation of legal texts. It seems likely that many of these countries will urgently seek legal assistance from the Office of UPOV during the next biennium and during the medium term. A further 30 States have observer status with WTO. Of these, 6 are member States of UPOV or are States with laws which were the subject of the Council advice procedure, 10 are States which had enacted plant variety protection laws or are in the process of preparing such laws while 14 are developing countries or countries in transition to market economy which have not yet begun activity to consider the question of plant variety protection. Many of these countries also are likely to seek the assistance of the Office of UPOV.

(iii) In order to respond effectively to the requests of new and potential member States for technical, legal and administrative assistance, it will be necessary for UPOV, in

addition to its current role as a provider of information, advice and assistance, to organize courses on plant variety protection, specific on-job training opportunities and the availability of consultancy services. It seems unlikely that such activities could be financed out of UPOV's regular income. The securing of extrabudgetary resources will be necessary. It may also be necessary for the Office of UPOV to supervise or participate in the execution of funded aid projects relating to plant variety protection.

(iv) Symposiums, seminars and/or workshops will be convened from time to time as need arises.

(v) Meetings with international organizations will be held when the necessity arises.

(vi) A large part of the activity of the Office consists of the provision of information concerning plant variety protection and the promotion of its benefits. Such information is provided in UPOV publications and by the holding of symposiums and seminars and similar activities. No change is anticipated in the paper publications of UPOV. There will be the two Collections which need continual updating (*Collection of Important Texts and Documents* in English, French, German and Spanish; *Collection of Plant Variety Protection Laws and Treaties* in English), the UPOV Gazette and Newsletter (*Plant Variety Protection* in English), the Records of the Symposiums available to the public in four languages (English, French, German, Spanish) and of some Seminars (available in the relevant language(s) of the Seminars), the brochures containing the texts of the UPOV Convention in a dozen or more languages which will need to be periodically reprinted or reproduced in additional languages, brochures updated on a biennial basis containing general information on UPOV in four languages, and leaflets containing general information on UPOV in seven languages which are reproduced in the Office of UPOV as need arises and which are continuously updated.

(vii) A major question during the next biennium and the medium term will be the extent to which UPOV publications and documents should be made available or be distributed on the Internet. UPOV has so far established a *home page* on the Internet which incorporates the UPOV General Information Brochure and the continuously updated general information leaflet. The availability on the Internet of additional materials, for example documentation for meetings, will be considered provided that any additional availability meets a real need in the UPOV plant variety protection system and contributes in a cost-effective way to its efficiency.

(viii) The increase in the number of member States of UPOV during the medium term and the need for speedy and efficient exchanges of data between them will require the development and operation of systems for the centralized collection and distribution of data. The periodic production and distribution of UPOV-ROM, a database of bibliographic data on plant varieties, both protected and unprotected, is the first example of such a system using a standard (the format) for exchange of information developed under the auspices of UPOV. This product will be further developed to meet the needs of member States and it is likely to be supplemented during the medium term by other standards and modalities for the electronic exchange of information.

7. *The Council is invited to note, with such comments as it may wish to make, the medium-term plan for 2000 to 2003.*

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