



C/47/19

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DATE: October 24, 2013

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

COUNCIL**Forty-Seventh Ordinary Session
Geneva, October 24, 2013**

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 forty-seventh ordinary session in Geneva on October 24, 2013, chaired by Ms. Kitisri Sukhapinda (United States of America), President of the Council.
2. The list of participants is reproduced in Annex I to this report.
3. The session was opened by the President who welcomed the participants.
4. The Council took the decisions recorded below under each relevant agenda item.
5. The Secretary-General reported that, following a competition, Mrs. Alexandra Fava had been appointed to the post of Secretary I on October 1, 2013.
6. The draft detailed report on the session will be submitted to the Council for adoption by correspondence.

Adoption of the agenda

7. The Council adopted the revised draft agenda, as presented in document C/47/1 Rev.

Examination of the conformity of the law for the protection of new varieties of plants of Bosnia and Herzegovina with the 1991 Act of the UPOV Convention

8. The Council considered document C/47/17.
9. The Council noted the intervention made by the representative of International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA).
10. The Council decided to:
 - (a) note the analysis in this document;
 - (b) note the information provided by the Delegation of Bosnia and Herzegovina that the English translation of the Law required verification and that the following corrections would be made to the translation in accordance with the original text of the Law:

- (i) to delete the text in Article 2(1)(f), which was already contained in Article 21(7);
 - (ii) to delete the words “a small” in Article 22(2);
 - (iii) to correct the translation in Article 11(6) to reflect that a procedure for granting a breeder's right can start also by filing an application outside of Bosnia and Herzegovina;
 - (iv) to correct the translation in Article 11(7) in accordance with the terms used for the national treatment provision in Article 5;
- (c) take a positive decision on the conformity of the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Bosnia and Herzegovina to deposit its instrument of accession to the 1991 Act; and
- (d) authorize the Secretary-General to inform the Government of Bosnia and Herzegovina of the above decision.

11. The Council noted the intervention made by the Delegation of Bosnia and Herzegovina thanking the Council for its positive decision on the conformity of the Law for the Protection of New Varieties of Plants.

Developments concerning the Plant Breeders' Bill of Ghana

12. The Council considered document C/47/18.

13. The Council decided to:

(a) note the information provided by the Delegation of Ghana that the text of Section 10 of the Bill provided in document C/47/18, Annex II, had been modified as follows: “Where the application is by an applicant who is a successor-in-title, the applicant shall support the ~~applicant~~ application with the proof of the successor's title”;

(b) note that the Plant Breeders' Bill of Ghana, which was presented to the Parliament incorporated the changes in the decision of the Council of November 1, 2012 (see document C/46/19 “Report”, paragraph 12, and paragraph 2 of document C/47/18);

(c) agree that the additional changes presented in the Annex II to document C/47/18, including the change in the above paragraph (a), do not affect the substantive provisions of the 1991 Act of the UPOV Convention, and

(d) confirm the decision on conformity of November 1, 2012.

14. The Council noted the intervention made by the Delegation of Ghana thanking the Council for confirming its positive decision of November 1, 2012, on the conformity of the Plant Breeders' Bill.

Report by the President on the work of the eighty-sixth session of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee

15. The Council considered document C/47/15 Rev.

16. The Council noted the intervention made by the representative of the Food and Agriculture Organization of the United Nations (FAO) concerning the developments in relation to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and in particular that the fifth session of the Governing Body of the ITPGRFA (GB), held in Muscat, Oman, from September 24 to 28, 2013, had adopted the following resolution under the item “Implementation of Article 9, Farmers' Rights”:

“Resolution: Implementation of Article 9, Farmers' Rights

“3. Requests the Secretary to invite UPOV and WIPO to jointly identify possible areas of interrelations among their respective international instruments;”

(see document C/47/15 Rev., paragraph 54).

17. The Council noted the interest expressed by the representative of CIOPORA to participate in the work reported in document C/47/15 Rev., paragraph 66.

18. The Council noted the information provided by the representative of the African Regional Intellectual Property Organization (ARIPO) concerning the development of the ARIPO Draft Legal Framework for the Protection of New Varieties of Plants.

19. The Council noted the work of the Consultative Committee at its eighty-sixth session, as reported in document C/47/15.

20. The Council agreed to copy the circular concerning cooperation in examination, e.g. see C/xx/5, to the Technical Committee (TC) designated persons in order to ensure that the maximum amount of information could be collected (see document C/47/15 Rev., paragraph 27).

Adoption of documents

21. The Council considered documents C/47/13, TGP/14/2 Draft 1, TGP/15/1 Draft 5, TGP/0/6 Draft 1, UPOV/EXN/BRD Draft 7, UPOV/EXN/HRV Draft 10, UPOV/INF/16/3 Draft 1 and UPOV/INF-EXN/5 Draft 1.

TGP/14/2: Glossary of Terms Used in UPOV Documents (Revision)

22. The Council adopted the revision of document TGP/14 “Glossary of Terms Used in UPOV Documents” (document TGP/14/2) and the supplementary document to TGP/14 “Glossary of terms used in UPOV documents” (TGP/14/2 Supplement), on the basis of documents TGP/14/2 Draft 1 and TGP/14/2 Supplement Draft 1.

TGP/15/1: ~~New Types of Characteristics~~ [Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)]

23. The Council adopted document TGP/15/1 “Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)” on the basis of document TGP/15/1 Draft 5.

TGP/0/6: List of TGP Documents and Latest Issue Dates (Revision)

24. The Council adopted document TGP/0/6 “List of TGP Documents and Latest Issue Dates”, on the basis of document TGP/0/6 Draft 1.

UPOV/EXN/BRD/1: Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention

25. The Council adopted document UPOV/EXN/BRD/1 “Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention”, on the basis of document UPOV/EXN/BRD Draft 7.

UPOV/EXN/HRV/1: Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention

26. The Council noted that the Administrative and Legal Committee (CAJ), at its sixty-eighth session, held on October 21, 2013, had approved document UPOV/EXN/HRV Draft 10, as the basis for adoption of document UPOV/EXN/HRV/1 “Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention” by the Council, at its forty-seventh ordinary session (see document CAJ/68/10 “Report on the Conclusions”, paragraph 7).

27. The Council noted that the CAJ, at its sixty-eighth session held in Geneva on October 21, 2013, had agreed that the comments of the Delegation of the Russian Federation on the Explanatory Notes on Acts in Respect of Harvested Material would be considered in the future work by the Advisory Group of the Administrative and Legal Committee (CAJ-AG).

28. The Council adopted document UPOV/EXN/HRV/1 “Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention”, on the basis of document UPOV/EXN/HRV Draft 10.

UPOV/INF/6/3: Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)

29. The Council adopted the revision of document UPOV/INF/6 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/3), on the basis of the proposed amendments to document UPOV/INF/6/2, as presented in the Annex to document C/47/13.

UPOV/INF/16/3: Exchangeable Software (Revision)

30. The Council noted that the CAJ, at its sixty-eighth session, held on October 21, 2013, had approved document UPOV/INF/16/3 Draft 1, as the basis for adoption of document UPOV/INF/16/3 “Exchangeable Software” by the Council, at its forty-seventh ordinary session (see document CAJ/68/10 “Report on the Conclusions”, paragraphs 31 and 33).

31. The Council adopted the revision of document UPOV/INF/16 “Exchangeable Software”, on the basis of document UPOV/INF/16/3 Draft 1.

UPOV/INF-EXN/5: List of UPOV/INF-EXN Documents and Latest Issue Dates

32. The Council adopted the revision of document UPOV/INF-EXN “List of INF-EXN Documents and Latest Issue Dates” (document UPOV/INF-EXN/5) on the basis of document UPOV/INF EXN/5 Draft 1.

Examination and approval of the Draft Program and Budget of the Union for the 2014-2015 Biennium

33. The Council considered document C/47/4.

34. The Council approved:

(a) the proposals contained in the Draft Program and Budget for the 2014-2015 Biennium, as presented in the Annex to document C/47/4, including the amount of contributions from members of the Union;

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

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

Financial statements for 2012

35. The Council considered document C/47/12, in conjunction with a presentation made by Mr. Didier Monnot, *Responsable de mandats, Contrôle fédéral des finances* (Switzerland), of Annex II of document C/47/12, containing the audit report of the External Auditor.

36. The Council approved the Financial Statements for 2012 and noted that the financial management report for the 2012-2013 financial period would be submitted to the Council by August 31, 2014, for approval by the Council at its forty-eighth ordinary session, in October 2014.

37. The Council expressed its gratitude to the Government of Switzerland for acting as External Auditor.

Arrears in contributions as of September 30, 2013

38. The Council considered document C/47/11.

39. The Council noted the status of payment of contributions as of September 30, 2013, and noted that due to recent payments, Nicaragua had no arrears and that the Plurinational State of Bolivia had a balance due of 10,728 Swiss francs.

40. The Council noted that Argentina, Brazil and Poland had reported that their payments would be made before the end of the year.

Annual report of the Secretary-General for 2012 (document C/47/2); Report on activities during the first nine months of 2013

41. The Council considered document C/47/2.

42. The Council noted the report of the Secretary-General on the activities of the Union in 2012 and the results and performance indicators for 2012, as provided in document C/47/2.

43. The Council noted the interventions made by the representatives of the Association for Plant Breeding for the Benefit of Society (APBREBES) and ARIPO, and the Delegation of Ghana.

44. The Council considered document C/47/3.

45. The Council noted the report on activities during the first nine months of 2013, as provided in document C/47/3.

Progress report of the work of the Administrative and Legal Committee

46. The Council considered document C/47/9.

47. The Council noted the work of the CAJ, as reported in document C/47/9 and in the oral report made by the Chair of the CAJ.

48. The Council approved the work program for the sixty-ninth 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

49. The Council considered document C/47/10.

50. The Council noted the work of the TC and of the Technical Working Parties (TWPs) and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), as reported to the TC in document C/47/10.

51. The Council approved the work of the TC and the work programs of the TWPs and BMT, as set out in document C/47/10.

Calendar of meetings in 2014

52. The Council approved the calendar of meetings in 2014, as set out in document C/47/8, with the following change:

“Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT)

BMT/14 November ~~11 to 14~~ 10 to 13, Seoul, Republic of Korea
(Preparatory workshop on November ~~10-9~~)”

Election of the new Chair and the new Vice-Chair

53. The Council elected, in each case for a term of three years ending with the fiftieth ordinary session of the Council, in 2016:

(a) Mr. Martin Ekvad (European Union), Chair of the Administrative and Legal Committee;

(b) Mr. James M. Onsando (Kenya), Vice-Chair of the Administrative and Legal Committee;

- (c) Mr. Alejandro Barrientos-Priego (Mexico), Chair of the Technical Committee; and
- (d) Mr. Kees van Ettekooven (Netherlands), Vice-Chair of the Technical Committee.

54. The Council expressed its appreciation to the outgoing Chairs, Mr. Lv Bo (China), Chair of the Administrative and Legal Committee, and Mr. Joël Guiard (France), Chair of the Technical Committee, for the work carried out during their terms.

Situation in the legislative, administrative and technical fields:

55. The Council considered documents C/47/14, C/47/5, C/47/6 and C/47/7.

56. The Council noted the intervention made by the representative of CIOPORA.

List of the taxa protected by the members of the Union

57. The Council noted that a total of 56 members of the Union were offering protection to all plant genera and species (53 in 2012), with 15 members of the Union offering protection to a limited number of plant genera and species.

Plant variety protection statistics for the period 2008-2012

58. Following the suggestion made by the Delegation of Chile, the Council noted that the Office of the Union would explore the possibility of providing information on statistics by crop type (e.g. agriculture, fruit, ornamental, vegetable and forest trees) in future versions of document C/xx/7.

59. The Council noted that there had been a 1.1 percent increase in the number of applications for plant variety protection (13,867 in 2012; 13,714 in 2011), representing a 0.7 percent decrease in the number of applications by residents (8,751 in 2012; 8,813 in 2011) and a 4.4 percent increase in the number of applications by non-residents (5,116 in 2012; 4,901 in 2011).

60. The Council noted that the number of titles granted had decreased by 2.4 percent from 10,065 in 2011, to 9,822 in 2012.

61. The Council noted that a new record number of titles in force – 99,409 – was recorded in 2012, representing a 4.6 percent increase on figures for 2011 (95,041).

Cooperation in the examination of new plant varieties

62. In 2012, the number of plant genera and species for which there were agreements between members of the Union for cooperation in the examination of distinctness, uniformity and stability totaled 1,997, compared to 1,991 in 2011.

Press release

63. The Council considered document C/47/16.

64. The Council considered and approved the draft press release that was distributed at the end of its forty-seventh ordinary session (see document C/47/16). The press release approved by the Council is reproduced in Annex II to this report.

65. *This report was adopted by the Council at the close of its session on October 24, 2013.*

[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 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)

I. MEMBRES / MEMBERS / VERBANDSMITGLIEDER / MIEMBROS

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[L'annexe II suit /
Annex II follows /
Anlage II folgt /
Sigue el Anexo II]



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VÉGÉTALES

GENÈVE, SUISSE

UNIÓN INTERNACIONAL
PARA LA PROTECCIÓN
DE LAS OBTENCIONES
VEGETALES

GINEBRA, SUIZA

INTERNATIONAL UNION
FOR THE PROTECTION
OF NEW VARIETIES
OF PLANTS

GENEVA, SWITZERLAND

PRESS RELEASE

UPOV Press Release 95

Geneva, October 24, 2013

UPOV Council Holds its Forty-Seventh Ordinary Session

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its forty-seventh ordinary session on October 24, 2013.

Round-up of key developments:

Positive decision on the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina

The Council decided that the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina was in conformity with the provisions of the 1991 Act of the UPOV Convention. Bosnia and Herzegovina is now in a position to deposit its instrument of accession to the 1991 Act of the UPOV Convention.

Plant Breeders' Bill of Ghana

The Council noted that the Plant Breeders' Bill of Ghana that had been presented to the Parliament incorporated the changes in the decision of the Council of November 1, 2012, and agreed that the additional changes, made during the first reading of the Bill by the Parliament of Ghana in June 2013, did not affect the substantive provisions of the 1991 Act of the UPOV Convention. Once the Bill is adopted and the Law is in force, Ghana will be in a position to deposit its instrument of accession to the 1991 Act of the UPOV Convention.

Communication strategy

The Council noted that the Consultative Committee had agreed a communication strategy with the aim of improving the level of understanding of the UPOV system. One of the priorities of the workplan would be the development of stakeholder-focused features on the UPOV website, with a focus on breeders, seed producers / plant propagators, farmers and policy-makers. As part of the strategy, a first set of answers to frequently asked questions was agreed and will be published on the UPOV website.

Matters raised by the International Seed Federation (ISF)

The Council received a report from the Consultative Committee on its consideration of the letter of the International Seed Federation (ISF) on the subject "Application, examination and granting aspects of PBR applications". The Consultative Committee concluded that many of the matters could be addressed through existing and possible future UPOV information materials. Such matters would be considered by the relevant bodies within UPOV, particularly the CAJ and Technical Committee (TC). With regard to the idea of an international filing system, a UPOV quality assurance program and a central examination system for variety

denominations, the Consultative Committee requested the Office of the Union and ISF to elaborate the problems faced and possible solutions in relation to ISF's ideas, for consideration at the subsequent session of the Consultative Committee.

Program and Budget of the Union for the 2014-2015 Biennium

The Council approved the Program and Budget for the 2014-2015 biennium, amounting to Sfr6,794,000 (representing a 0.1% decrease from the 2012-2013 Biennium). This budget contains no change in the value of the contribution unit by members of the Union and no change in the total number of posts for the Office of the Union.

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

The Council elected, in each case for a term of three years ending with the fiftieth ordinary session of the Council, in 2016:

- (a) Mr. Martin Ekvad (European Union), Chair of the Administrative and Legal Committee;
- (b) Mr. James M. Onsando (Kenya), Vice-Chair of the Administrative and Legal Committee;
- (c) Mr. Alejandro Barrientos-Priego (Mexico), Chair of the Technical Committee; and
- (d) Mr. Kees van Ettekooven (Netherlands), Vice-Chair of the Technical Committee.

Plant Variety Protection Statistics

A total of 56 members of the Union now offer protection to all plant genera and species (53 in 2012), with 15 members of the Union offering protection to a limited number of plant genera and species.

A new record number of titles in force – 99,409 – was recorded in 2012, representing a 4.6 percent increase on figures for 2011 (95,041).

The Council noted that there had been a 1.1 percent increase in the number of applications for plant variety protection (13,867 in 2012; 13,714 in 2011), representing a 0.7 percent decrease in the number of applications by residents (8,751 in 2012; 8,813 in 2011) and a 4.4 percent increase in the number of applications by non-residents (5,116 in 2012; 4,901 in 2011). The number of titles granted decreased from 10,065 in 2011 to 9,822 in 2012 (2.4 percent decrease).

Cooperation in the Examination of New Plant Varieties

In 2012, the number of plant genera and species for which there were agreements between members of the Union for cooperation in the examination of distinctness, uniformity and stability totaled 1,997, compared to 1,991 in 2011.

Adoption of documents

The Council adopted the following documents:

- Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision) (document UPOV/INF/6/3)
- Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention (document UPOV/EXN/BRD/1)
- Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention (document UPOV/EXN/HRV/1)
- Glossary of Terms Used in UPOV Documents (Revision) (document TGP/14/2)
- Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS) (document TGP/15/1)
- Exchangeable Software (Revision) (document UPOV/INF/16/3)
- List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/5)
- List of TGP documents and latest issue dates (Revision) (document TGP/0/6)

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

Seminar on Essentially Derived Varieties

**SEMINAR ON
ESSENTIALLY DERIVED VARIETIES**

Geneva, October 22, 2013

The Seminar considered the following:

- (a) technical and legal views on “predominantly derived”, “essential characteristics” and “differences which result from the act of derivation”, 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.

The Seminar was open to the public and was attended by 177 participants. Copies of the presentations and a video of the Seminar are available on the UPOV website at:

http://www.upov.int/meetings/en/details.jsp?meeting_id=29782

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[End of Annex II and of document]