

**Council****C/51/22****Fifty-First Ordinary Session  
Geneva, October 26, 2017****Original:** English  
**Date:** October 26, 2017**REPORT***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 fifty-first ordinary session in Geneva on October 26, 2017, chaired by Mr. Raimundo Lavignolle (Argentina), 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 President reported that Bosnia and Herzegovina had deposited its instrument of accession to the 1991 Act of the UPOV Convention on October 10, 2017, and had become bound by the 1991 Act on November 10, 2017. Bosnia and Herzegovina would become the 75<sup>th</sup> member of the Union on November 10, 2017.
5. The Council noted the intervention made by Bosnia and Herzegovina, a copy of which is reproduced in Annex II to this report.
6. The Council took the decisions recorded below under each relevant agenda item.

Adoption of the agenda

7. The Council adopted the revised draft agenda, as presented in document C/51/1 Rev.

Extension of the appointment of the Vice Secretary-General

8. The Council considered document C/51/16.
9. The Council decided to extend the appointment of the Vice Secretary-General from December 1, 2018, until November 30, 2021.

Examination of the conformity of the Plant Varieties Protection Order of 2015 of Brunei Darussalam with the 1991 Act of the UPOV Convention

10. The Council considered document C/51/17.
11. The Council decided to:
  - (a) note the analysis in document C/51/17;
  - (b) take a positive decision on the conformity of the Plant Varieties Protection Order of Brunei Darussalam with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Brunei Darussalam to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Brunei Darussalam of the above decision.

12. The Delegation of Brunei Darussalam expressed its appreciation to the Council for the positive decision in respect of the examination of the Plant Varieties Protection Order for conformity with the 1991 Act of the UPOV Convention and looked forward to working closely with UPOV for the accession to the Convention and to cooperating with UPOV members in the future. The Delegation thanked the Office of the Union for the assistance provided in training activities and technical missions.

Examination of the conformity of the Draft Law for the Protection of New Varieties of Plants of Guatemala with the 1991 Act of the UPOV Convention (document C/51/20)

13. The Council considered document C/51/20.

14. The Council decided to:

(a) note the analysis in document C/51/20;

(b) take a positive decision on the conformity of the “Draft Law for the Protection of New Varieties of Plants” (“Draft Law”) with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Guatemala once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Guatemala of the above decision.

15. The Delegation of Guatemala expressed its appreciation to the Council for the positive decision in respect of the examination of the Draft Law for the Protection of New Varieties of Plants of Guatemala with the 1991 Act of the UPOV Convention. It noted that the Council’s decision was an important step in the process and looked forward to the adoption of the Draft Law and the deposit of the instrument of accession to the UPOV Convention in the near future. The Delegation thanked the United States Patent and Trademark Office (“USPTO”) for the support it had provided for training and capacity building in July 2017 and the Office of the Union for the assistance provided in the accession procedure.

Examination of the conformity of the Draft Law on New Plant Variety Protection of Myanmar with the 1991 Act of the UPOV Convention

16. The Council considered document C/51/21.

17. The Council decided to:

(a) note the analysis in document C/51/21;

(b) take a positive decision on the conformity of the “Draft Law on New Plant Variety Protection” (“Draft Law”) with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Myanmar once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Myanmar of the above decision.

18. The Delegation of Myanmar expressed its appreciation to the Council for the positive decision in respect of the examination of the Draft Law on New Plant Variety Protection of Myanmar with the 1991 Act of the UPOV Convention. The Delegation looked forward to the adoption of the Draft Law and to the continued cooperation with UPOV members.

Report by the Vice-President on the work of the ninety-fourth session of the Consultative Committee: adoption of recommendations, if any, prepared by that Committee

19. The Council considered document C/51/18.

20. Based on the recommendations of the Consultative Committee reported in document C/51/18, the Council:

- (a) in accordance with the Financial Regulation and Rules of UPOV, appointed the Comptroller and Auditor General of the United Kingdom as the External Auditor of UPOV for a period of six years to begin on January 1, 2018;
- (b) adopted an FAQ on how the UPOV system of plant variety protection contributes to the United Nations Sustainable Development Goals (SDGs), as reproduced in Annex III;
- (c) approved the name PRISMA and the logo for the electronic application form (EAF), as set out below:



- (d) approved the UPOV charge for the EAF at CHF150 per application for the 2018-2019 biennium, but agreed that the EAF could be made free of charge for an introductory period if the budgeted costs of the EAF were funded by means other than the regular budget. In that regard, the Council noted that the Office of the Union had received a letter from the Secretary General of the International Seed Federation (ISF) offering to contribute CHF20,000 in order to increase the use of the EAF during the launch period and to extend the system to a larger number of crops and UPOV members. It further noted that Canada and Australia would be interested to explore the possibility of funding the EAF in the form of an annual subscription;
- (e) agreed the following concerning interrelations with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA):
  - (i) to review the FAQ on the interrelations between the UPOV Convention and the ITPGRFA; and
  - (ii) exchange of experience and information on the implementation of the UPOV Convention and the ITPGRFA, with the involvement of stakeholders.

As a next step, the Consultative Committee would consider the need for a revision of the current guidance in the “Explanatory Notes on Exceptions to the Breeder’s Right under the 1991 Act of the UPOV Convention” (document UPOV/EXN/EXC/1).

The Council further agreed to report the decision above at the Seventh Session of the Governing Body of the ITPGRFA to be held in Kigali, Rwanda, from October 30 to November 3, 2017, accordingly;

- (f) approved the program for use of the Russian language in UPOV and proposed resourcing, as presented in Annex IV;
- (g) approved the proposals to amend document UPOV/INF/13/1 “Guidance on how to become a member of UPOV”, in order to introduce a procedure for examination of laws by correspondence, as presented in Annex V, and, on that basis, adopted a revision of document UPOV/INF/13/1 (document UPOV/INF/13/2).

21. The Council noted the work of the Consultative Committee at its ninety-fourth session, as reported in document C/51/18.

#### Adoption of documents

22. The Council considered documents C/51/14, UPOV/INF/16/7 Draft 1, UPOV/INF/22/4 Draft 1 and UPOV/INF-EXN/11 Draft 1.

#### *UPOV/INF/16: Exchangeable Software (Revision)*

23. The Council adopted a revision of document UPOV/INF/16 “Exchangeable Software” (document UPOV/INF/16/7), on the basis of document UPOV/INF/16/7 Draft 1.

#### *UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision)*

24. The Council adopted a revision of document UPOV/INF/22 “Software and Equipment Used by Members of the Union” (document UPOV/INF/22/4), on the basis of document UPOV/INF/22/4 Draft 1.

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

25. The Council adopted a revision of document UPOV/INF-EXN “List of INF-EXN Documents and Latest Issue Dates” (document UPOV/INF-EXN/11) on the basis of document UPOV/INF-EXN/11 Draft 1.

#### Examination and approval of the Draft Program and Budget for the 2018-2019 Biennium

26. The Council considered document C/51/4.

27. The Council approved:

(a) the proposals contained in the Draft Program and Budget for the 2018-2019 Biennium, as presented in the Annex to document C/51/4, 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 2016

28. The Council approved the Financial Statements for 2016, as presented in document C/51/12.

#### Report of the External Auditor

29. The Council noted the information contained in the Report of the External Auditor, as presented in document C/51/13, in conjunction with an oral report made by Mr. Didier Monnot, *Responsable de mandats, Contrôle fédéral des finances* (Switzerland).

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

#### Arrears in contributions as of September 30, 2017

31. The Council considered document C/51/11.

32. The Council noted the status of payment of contributions as of September 30, 2017, and noted that due to recent payments, Belarus, China and the United States of America had no arrears.

Annual report of the Secretary-General for 2016; Report on activities during the first nine months of 2017

33. The Council considered documents C/51/2 and C/51/3.
34. The Council noted the report of the Secretary-General on the activities of the Union in 2016 and the results and performance indicators for 2016, as provided in document C/51/2.
35. The Council noted the report on activities during the first nine months of 2017, as provided in document C/51/3.

Progress report of the work of the Administrative and Legal Committee

36. The Council considered document C/51/9 and received an oral presentation made by the Chair of the CAJ on the work of the seventy-fourth session of the CAJ, based on document CAJ/74/10 "Report".
37. The Council approved the work program for the seventy-fifth session of the CAJ, as provided in document CAJ/74/10, paragraph 47.

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

38. The Council noted the work of the Technical Committee (TC) and of the Technical Working Parties (TWPs) and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), as provided in document C/51/10.
39. The Council approved the work of the TC and the work programs of the TWPs and BMT reported to the TC, as provided in document C/51/10.

Calendar of meetings in 2018

40. The Council considered document C/51/8.
41. The Council approved the calendar of meetings in 2018 and the tentative dates for meetings in 2019 and 2020, as set out in document C/51/8.

Election of new Chairpersons

42. The Council elected, in each case for a term of three years ending with the fifty-fourth ordinary session of the Council, in 2020:
- (a) Ms. Cheryl Turnbull (United Kingdom), Chairperson, Technical Working Party for Agricultural Crops (TWA)
  - (b) Mr. Christophe Chevalier (France), Chairman, Technical Working Party on Automation and Computer Programs (TWC);
  - (c) Mr. Jean Maison (European Union), Chairman, Technical Working Party for Fruit Crops (TWF);
  - (d) Mr. Henk de Greef (Netherlands), Chairman, Technical Working Party for Ornamental Plants and Forest Trees (TWO);
  - (e) Ms. Romana Bravi (Italy), Chairperson, Technical Working Party for Vegetables (TWV); and
  - (f) Mr. Nik Hulse (Australia), Chairman, Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular (BMT).

Situation in the legislative, administrative and technical fields

*Reports by representatives of members and observers*

43. The Council noted the information provided in document C/51/15.

*List of the taxa protected by the members of the Union*

44. The Council noted the information provided in document C/51/6.

*Plant variety protection statistics for the period 2012-2016*

45. The Council considered document C/51/7.

46. The Council noted that in 2016, there was a 9.6 percent increase in the number of applications for plant variety protection (16,455 in 2016 compared to 15,017 in 2015), resulting from a 8.8 percent increase in the number of applications by residents (10,947 in 2016 compared to 10,061 in 2015) and a 11.1 percent increase in the number of applications by non-residents (5,508 in 2016 compared to 4,956 in 2015). The number of titles granted increased from 12,409 in 2015 to 12,550 in 2016 (1.1 percent increase).

47. The total of 117,427 titles in force at the end of December 31, 2016 represented a 4.6 percent increase on figures for 2015 (112,215).

*Cooperation in examination*

48. The Council considered document C/51/5.

49. The Council noted that, in 2016, 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 1,971 compared to 1,966 in 2015.

Press release

50. The Council approved the press release, as contained in document C/51/19 Rev.

51. *The Council adopted this report at the close of its session on October 26, 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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[L'annexe II suit/  
Annex II follows/  
Anlage II folgt/  
Sigue el Anexo II]

Declaration by the Delegation of Bosnia and Herzegovina

Mr. President,  
Ladies and Gentlemen,

On behalf of the Council of Ministers of Bosnia and Herzegovina, the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina appreciates the warm welcome into the UPOV family. We are honored to be a member of UPOV.

On October 10, 2017, Bosnia and Herzegovina deposited its instrument of accession to the UPOV Convention (1991 Act). On November 10, 2017, Bosnia and Herzegovina will become bound by the UPOV Convention.

The Law for Protection of New Varieties of Plants of Bosnia and Herzegovina entered into force on February 23, 2010. On August 12, 2013, the Council of UPOV took a positive decision on the conformity of the Law with the 1991 Act of the UPOV Convention.

Plant breeders' rights in Bosnia and Herzegovina fall under the responsibility of the Administration of Bosnia and Herzegovina for Plant Health Protection. This Administration has the appropriate legal and institutional framework for the grant and protection of plant breeders' rights.

Bosnia and Herzegovina cooperates in DUS testing with UPOV members. As of today, protection is available in Bosnia and Herzegovina for all genera and species.

I would like to emphasize our gratitude for the assistance received by the UPOV Office in the accession procedure of Bosnia and Herzegovina to the UPOV Convention.

I would also like to convey our gratitude to the experts from Croatia, Poland, Netherlands, Germany, European Union and from other authorities of members of the Union for their help and cooperation.

UPOV membership is a new experience for Bosnia and Herzegovina. After the long process of developing the Law now we have started the implementation of the Convention and look forward to the cooperation with and assistance from UPOV members.

Thank you.

[Annex III follows]



FAQ on the United Nations Sustainable Development Goals (SDGs)**Question:****How does the UPOV system contribute to the United Nations Sustainable Development Goals (SDGs)?**

The vision of the 2030 Agenda for Sustainable Development (see <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>) includes a world where “food is sufficient, safe, affordable and nutritious”, there is “sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger” and one in “which development and the application of technology are climate-sensitive, respect biodiversity and are resilient”. The mission 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 benefits that the UPOV system provides to society will be an important component in realizing the vision of the 2030 Agenda for Sustainable Development.

UPOV's mission 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. In particular, new varieties of plants are an important means of responding to the challenges of a growing and increasingly urbanized population, climate change, parallel demands for food and energy production and evolving human needs.

The tremendous progress in agricultural productivity in various parts of the world is largely based on improved varieties, together with improved farming practices, and future food security depend on them. There is also a need to further increase food production in the years leading up to 2030. World population is anticipated to grow until 2050, and urbanization will continue. Therefore, the need for increased productivity in sustainable agricultural production will continue for the foreseeable future. New varieties of plants with features such as improved yield, resistance to plant pests and diseases, salt and drought tolerance, or better adaptation to climatic stress are a key element in increasing productivity and product quality in agriculture, horticulture and forestry, whilst minimizing the pressure on the natural environment. Due to the continuous evolution of new pests and diseases as well as changes in climatic conditions and users' needs, there is a continuous demand by farmers/growers of new plant varieties and development by breeders of such new plant varieties.<sup>1</sup>

Diversity of breeders and breeding is needed to develop new varieties that are able to respond to such a wide range of challenges. The UPOV system of plant variety protection provides an effective mechanism for breeders in both the public and private sectors, and facilitates public-private partnerships. It is a system that is equally relevant for individual breeders, SMEs and larger breeding institutes/enterprises. Plant variety protection supports long-term investment in breeding and provides a framework for investment in the delivery of seed and other propagating material of varieties suited to farmers' needs.

The UPOV system encourages the development of new varieties of plants, therefore adding to diversity. The “breeder's exemption” in the UPOV Convention enables plant diversity to be available for further breeding activities because acts done for the purpose of breeding other varieties are not subject to any restriction by the breeder. This reflects the fact that access to protected varieties contributes to sustain greatest progress in plant breeding and, thereby, to maximize the use of genetic resources for the benefit of society.<sup>2</sup>

The UPOV Report on the Impact of Plant Variety Protection (Impact Study) (see [http://www.upov.int/edocs/pubdocs/en/upov\\_pub\\_353.pdf](http://www.upov.int/edocs/pubdocs/en/upov_pub_353.pdf)) notes that membership of UPOV provide important technical assistance and facilitate opportunities for cooperation, which enables PVP to be extended to the widest range of plant genera and species in an efficient way thereby enabling the benefits to be maximized.<sup>3</sup>

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<sup>1</sup> <http://www.upov.int/about/en/faq.html> (Why do farmers and growers need new plant varieties?)

<sup>2</sup> <http://www.upov.int/about/en/faq.html> (Why does UPOV require varieties to be uniform and stable; doesn't that lead to a loss of diversity?)

<sup>3</sup> [http://www.upov.int/edocs/pubdocs/en/upov\\_pub\\_353.pdf](http://www.upov.int/edocs/pubdocs/en/upov_pub_353.pdf)

The UPOV system has particular relevance in relation to the following United Nations Sustainable Development Goals (SDGs):

- Goal 1. End poverty in all its forms everywhere (Targets 1.1, 1.4, 1.5, 1.a, 1.b)
- Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture (Targets 2.1, 2.2, 2.3, 2.4, 2.5, 2.a)
- Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation (Target 9.5)
- Goal 12. Ensure sustainable consumption and production patterns (Targets 12.2, 12.3, 12.4, 12.a)
- Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss (Target 15.3)
- Goal 17. Strengthen the means of implementation and revitalize the global partnership for sustainable development: Systemic issues: Multi-stakeholder partnerships (Target 17.17)".

[Annex IV follows]

PROGRAM FOR THE USE OF THE RUSSIAN LANGUAGE IN UPOV

1. The program below is based on circumstances related to the use of Russian language, which includes in particular that Russian is a working language of the World Intellectual Property Organization (WIPO). Furthermore, it is based on the existing language capacity of WIPO facilities. Therefore, this program should not be considered to be applicable to other additional languages without a separate analysis.

Provisions in Russian language

*Interpretation in Russian at UPOV sessions in Geneva*

2. Provision of interpretation services in the Russian language at UPOV sessions in Geneva.

*Translation of UPOV materials into Russian*

3. Translation of the following UPOV materials into Russian:

(a) Key documents in the UPOV Collection:

- (i) UPOV Convention
- (ii) UPOV/INF document series
- (iii) Explanatory notes on the UPOV Convention
- (iv) General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants
- (v) TGP documents

(b) UPOV Distance Learning Courses

(c) Standard UPOV presentation materials from the Train the Trainer course

4. The key documents in the UPOV Collection materials would be made available on the UPOV website.

5. The UPOV Distance Learning Courses in Russian would be maintained on the UPOV DL platform but administration and tutoring would be provided by a training center (see below).

*Russian-speaking professional in the Office of the Union*

6. The Office of the Union would accommodate a Russian speaking professional in the Office of the Union and enable that professional to support training and assistance activities in Russian-speaking countries.

*Facilitating PBR applications*

7. The Electronic Application Form (EAF) would provide a Russian-language interface and Russian-speaking members of the Union would be included in the EAF.

*Training center*

8. The Office of the Union would provide available training materials in Russian and guidance on the content of a suitable training course on the UPOV system of plant variety protection as a basis to develop a training center for Russian-speaking participants, hosted by the a relevant institute in the Russian Federation. The support would also include the provision of lectures by the Russian-speaking professional from the Office of the Union. The training center would be responsible for administration and tutoring for the UPOV Distance Learning Courses in Russian.

## Resourcing

9. The following resource plan needs to be considered as a package from which individual items cannot be isolated.

10. The program would be resourced as follows:

1. *Additional units of contribution*

An additional 0.5 contribution unit (CHF26,820) would be required to sustain the direct costs associated with the provision of interpretation services in the Russian language at UPOV sessions in Geneva, subject to the UPOV sessions being organized as a single set of sessions and would, for example, allow for occasional extra-ordinary sessions.

2. *Provision of Russian-speaking professional*

A suitably qualified Russian-speaking professional would be provided at no cost to the Office of the Union via the UN Junior Professional Officer Program or via the WIPO/UPOV Fellowship scheme. The duration of the assignment for each individual professional would be a minimum of 2 years and a succession of individual professionals would be provided continuously during the program.

3. *Translation of relevant UPOV materials in Russian*

Option 1: Translations could be organized by UPOV via WIPO translation service subject the direct costs being covered by interested members of the Union.

Option 2: Translations could be provided to the Office of the Union for coordination and consistency-checks.

4. *Training center*

The training center hosted by a relevant institute in the Russian Federation would be developed and funded by interested members of the Union.

5. *Participation in the EAF*

Translations of relevant information into Russian would be provided by the participating members of the Union.

Income from the EAF would be a critical part of the sustainable resourcing of the program. Therefore, full participation in the EAF by Russian-speaking members of the Union would be necessary during the program and the sustainability of the program would depend on the level of use for relevant members of the Union.

[Annex V follows]

PROPOSALS TO AMEND DOCUMENT UPOV/INF/13/1  
"GUIDANCE ON HOW TO BECOME A MEMBER OF UPOV"

SECTION B. ADVICE OF THE COUNCIL

Relevant Article

Article 34

Ratification, Acceptance or Approval; Accession

[...]

**(3) [Advice of the Council] Any State which is not a member of the Union and any intergovernmental organization shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Convention. If the decision embodying the advice is positive, the instrument of accession may be deposited.**

6. In order to become a member of the Union the advice of the Council in respect of the conformity of the law with the provisions of the UPOV Convention (Article 34(3) of the UPOV Convention) is required.

7. The advice of the Council involves the following procedure:

- (a) request by the State/intergovernmental organization for the advice of the Council;
- (b) preparation of a document with the analysis of the law by the Office of the Union ("analysis document");
- (c) posting of the analysis document and the law on the UPOV website;
- (d) preliminary examination of the law by the Consultative Committee; and
- (e) decision embodying the advice of the Council.

Further information on the procedure is provided below.

(a) Request by the State/intergovernmental organization for the advice of the Council

8. The request from any State or any intergovernmental organization for the advice of the Council in respect of the conformity of its law with the provisions of the UPOV Convention is required to be made in a letter addressed to the Secretary-General of UPOV (example letter available upon request). A copy of the law, or its translation, in one of the UPOV languages (English, French, German, Spanish) is required to be enclosed in the letter.

9. A State or intergovernmental organization may submit to the Council an adopted law or, alternatively, may submit a draft law as presented to its parliament or relevant legislative body. The draft law can provide the basis for a positive decision of the Council on accession to the UPOV Convention, provided that no modifications are introduced in the draft law during the parliamentary procedure other than any modification proposed by the Council in its decision (see below subsection (e) "decision embodying the advice of the Council").

10. Requests for examination of laws by the Council are required to reach the Office of the Union at least four weeks prior to the week of the relevant ordinary session of the Council session. In general, r Requests received after that date would be considered at the subsequent session of the Council, unless the procedure of examination of laws by correspondence is applicable (see paragraph 11). The Council holds its ordinary session in October/November, and, where necessary, holds an extraordinary session in March/April. The dates of the sessions can be found at <http://www.upov.int/meetings/en/calendar.html>.

11. The procedure of examination of laws by correspondence will be applicable if:

(i) the request is received less than four weeks prior to the week of the earliest ordinary session of the Council and more than six months before the date of the subsequent ordinary session of the Council; and

(ii) the analysis of the Office of the Union anticipates a positive decision and does not identify any significant issues concerning the conformity of the legislation with the UPOV Convention.

(b) Preparation of a document with the analysis of the law by the Office of the Union

11.12. In order to assist the Council in its examination of the law, the Office of the Union prepares a document that analyzes the law in relation to the text of the UPOV Convention ("analysis document").

(c) Posting of the analysis document and the law on the UPOV website

~~12-13.~~ The analysis document and the law are posted on the UPOV website in advance of the examination of the Law by the Council session at which the law will be examined to assist members and observers in their consideration of the law. This procedure also provides an opportunity for comments from members and observers prior to the examination of the law by the Council. Any comments received are communicated to the State or the intergovernmental organization requesting the examination of the law and to the members of the Union. Where so requested by the member or observer making the comment, comments are posted on the UPOV website on a section accessible to observers.

14. In the case of examination of a law by correspondence (see paragraph 11), the procedure will be as follows:

(i) the analysis document and the law will be posted on the UPOV website within six weeks of receipt of the request and members and observers to the Council will be informed accordingly; and

(ii) members or observers will have the opportunity to provide comments within 30 days from the date the analysis document is posted on the UPOV website .

(d) Preliminary examination of the law by the Consultative Committee

~~13-15.~~ Prior to consideration by the Council, the law will undergo a preliminary examination by the Consultative Committee, which is the body charged with the preparation of the sessions of the Council. The Consultative Committee is composed exclusively of members of the Union and, in general, meets immediately prior to the sessions of the Council. Although observers do not participate in the sessions of the Consultative Committee, a delegation from the State or intergovernmental organization concerned will be invited to participate in the session of the Consultative Committee in which the examination of its law will take place. The delegation will be present during the introduction of the law and will be invited to answer any questions raised by the Consultative Committee.

16. In the case of examination of a law by correspondence (see paragraph 11), the procedure will be as follows:

(i) after the period for comments (see paragraph 14 (ii)) the Consultative Committee will be invited to make a positive recommendation by correspondence within 30 days:

(ii) if no objections are received from the representative to the Council of any of the members of the Union, the Consultative Committee will be deemed to have made a positive recommendation:

(iii) if an objection is received from the representative to the Council of one or more members of the Union, the examination of the law will be referred to the earliest ordinary session of the Council and the Consultative Committee will be informed accordingly:

(iv) if the Consultative Committee makes a positive recommendation by correspondence, the Council will be invited to take a positive decision by correspondence in accordance with the procedure in paragraph 18 (see below subsection "(e) Decision embodying the advice of the Council").

(e) Decision embodying the advice of the Council

~~14-17.~~ ~~At the~~ The Council ~~session,~~ will consider the recommendations of the Consultative Committee ~~will be considered and the Council and~~ will take its decision in respect of the conformity of the law with the provisions of the UPOV Convention. The delegation from the State or intergovernmental organization concerned will be invited to participate in the session of the Council.

18. In the case of examination of a law by correspondence (see paragraph 11), the procedure will be as follows:

(i) the designated persons to the Council (members and observers) will be informed that the Consultative Committee has made a positive recommendation and the Council will be invited to take a positive decision:

(ii) if no objections are received from the representative to the Council of any of the members of the Union within 15 days, the Council will be deemed to have taken a positive decision and the Council would be notified accordingly:

(iii) if an objection is received from the representative to the Council of one or more members of the Union, the examination of the law will be referred to the earliest ordinary session of the Council and the Council will be notified accordingly.

~~15-19.~~ Some possible scenarios concerning the decisions of the Council are summarized below:

(i) ~~if the~~ the decision of the Council embodying the advice concerning an adopted law is positive, the instrument of accession may be deposited (Article 34(3) of the UPOV Convention) (see Section C. "Implementation of the Convention"), provided that the law is not amended in the meantime;

(ii) ~~if the~~ decision of the Council embodying the advice concerning a draft law is positive; ~~and~~ if the draft law is adopted with no changes, and in force, the State or intergovernmental organization may deposit its instrument of accession to the UPOV Convention (see section C "Implementation of the Convention");

~~(iii)~~ The decision of the Council embodying the advice concerning a draft law is positive; however, changes are introduced during the procedure of adopting the law: if in the opinion of the Office of the Union those changes do not affect the substantive provisions of the 1991 Act of the UPOV Convention, the Office of the Union will prepare a document presenting those changes and its opinion and the Council will be invited to reaffirm its decision of conformity. If the Council reaffirms its decision of conformity, the State or intergovernmental organization may deposit its instrument of accession to the UPOV Convention (see section C "Implementation of the Convention"). The procedure for examination of a law by correspondence will apply mutatis mutandis to the procedure to reaffirm a decision of conformity of the Council if the conditions in paragraph 11 apply;

~~(iii)(iv)~~ ~~if the~~ decision of the Council embodying the advice concerning a draft law is positive, subject to modifications; reference to those modifications will be made in the decision of the Council embodying the positive advice. Once the required modifications are made to the draft law and that law is adopted with no other changes, and in force, the State or intergovernmental organization may deposit its instrument of accession to the UPOV Convention (see section C "Implementation of the Convention");

~~(v)~~ The decision of the Council embodying the advice concerning a draft law is positive, subject to modifications; however, additional changes are introduced during the procedure of adopting the law: if in the opinion of the Office of the Union those additional changes do not affect the substantive provisions of the 1991 Act of the UPOV Convention, the Office of the Union will prepare a document presenting those additional changes and its opinion and the Council will be invited to reaffirm its decision of conformity. If the Council reaffirms its decision of conformity, the State or intergovernmental organization may deposit its instrument of accession to the UPOV Convention (see section C "Implementation of the Convention"). The procedure for examination of a law by correspondence will apply mutatis mutandis to the procedure to reaffirm a decision of conformity of the Council if the conditions in paragraph 11 apply;

~~(iv)(vi)~~ ~~if the~~ decision of the Council is that modifications to a law are required; the Council decision would recommend that once the modifications have been incorporated in the law, the amended law would need to be submitted for examination by the Council ~~at a subsequent session~~.

~~46-20~~. The Secretary-General of UPOV will communicate the decision of the Council to the authority requesting the examination of the law.

[End of Annex V and of document]