

Council**C/54/13 Rev.****Fifty-Fourth Ordinary Session
Geneva, October 30, 2020****Original: English
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REPORT BY THE PRESIDENT ON THE WORK OF THE NINETY-SEVENTH SESSION OF THE CONSULTATIVE COMMITTEE; ADOPTION OF RECOMMENDATIONS, IF ANY, PREPARED BY THAT COMMITTEE*prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. The Consultative Committee held its ninety-seventh session in Geneva on October 29, 2020, and on the morning of October 30, 2020.
2. The recommendations made by the Consultative Committee on the following items, as set out in this report, will be considered by the Council under the relevant agenda items (see document C/54/1 Rev.):
 - (a) Calendar of meetings in 2021 (document C/54/8)
 - (b) Press release (document C/54/20)
3. The work of the Consultative Committee at its ninety-seventh session is summarized in the following paragraphs.

Outcome of the consideration of documents by correspondence

4. The Consultative Committee noted the information on the outcome of the procedure for consideration of documents by correspondence.

Report of the External Auditor

5. The Consultative Committee considered document C/54/6 and noted the information contained in the Report of the External Auditor.
6. In response to a question from the Delegation of the European Union on how the Office of the Union planned to respond to the two recommendations in the Report of the External Auditor, it was agreed that the Office of the Union should present proposals on the reporting of the financing of UPOV PRISMA for consideration by the Consultative Committee at its ninety-eighth session.
7. In response to a question from the Delegation of the European Union on how the Office of the Union planned to address the External Auditor's comment on their previous recommendation (2018 (C/53/6) R#1) concerning the provision of more details of the relevance of IOD's work to UPOV within the review of effectiveness, the Office of the Union explained that this would be addressed in the new UPOV Statement on Internal Control (October-December 2020).

Summary of the work of the Consultative Group on Long-term Financial Issues of UPOV

8. The Consultative Committee requested the Office of the Union to report to the Consultative Committee, at its ninety-eighth session, on developments concerning the issues on which the Consultative Group had prepared recommendations that were accepted by the Consultative Committee and any other relevant developments on matters considered by the Consultative Group.

Training and assistance strategy

9. The Consultative Committee agreed to modify decision paragraph 19(b) of document "Training and Assistance":

"(b) endorse the updating of training materials, to reflect recent developments (e.g. UPOV PRISMA and latest information on benefits of UPOV membership) and, in relation to the UPOV distance learning courses, the updating to be implemented for the 2021 sessions, reflecting both the 1978 Act and 1991 Act of the UPOV Convention."

10. The Consultative Committee recalled the importance of making UPOV session documents available according to the agreed timetable and agreed that the document with the revised decision paragraph be circulated to the Consultative Committee for approval by correspondence within 30 days.

Policy on translation

11. The Delegation of China made reference to document "Policy on Translation", Annex II, paragraph 9 "[t]ranslation requirements in other languages will be in accordance with the programs adopted by the Council and will include a cost analysis" and proposed that consideration should be given not only to the cost analysis but also to the advantages of materials being available in other languages for the development of the UPOV system.

12. The Vice Secretary-General confirmed that the policy was intended to consider both the benefits and the costs.

Proposals on international cooperation

13. The Consultative Committee welcomed the proposals, analysis and information agreed by the Working Group International System of Cooperation (WG-ISC), in conjunction with the comments received from members of the Union in response to Circular E-20/121, and the additional information provided by the Office of the Union, reproduced in the Annex to document "Outcome of the procedure for consideration of documents by correspondence".

14. The Consultative Committee noted the initiatives to address the proposals.

15. The Consultative Committee noted that the WG-ISC has completed its mandate according to its terms of reference.

Providing support to new members of the Union

16. The Consultative Committee agreed to broaden the agenda item "Providing support for new members of the Union" to "New developments in members of the Union", to identify and consider possibilities to address relevant developments in members of the Union.

17. The Consultative Committee agreed to recommend to the Council the organization of a seminar, which would be open to members and observers, in the week of the UPOV sessions in 2021, to exchange information and experiences on strategies involving plant breeding and plant variety protection that addressed broad policy issues.

18. The Consultative Committee agreed that the seminar would be based on presentations by members of the Union and that a draft program, developed in consultation with the President of the Council and based on interest for participation and presentations by the members of the Union, would be prepared by the Office of the Union and circulated to members of the Union, for comments by correspondence.

Developments of relevance to UPOV in other international fora

19. The Consultative Committee noted the developments reported in document "Developments of relevance to UPOV in other international fora".

20. The Consultative Committee agreed to the participation of the Office of the Union in the reference group for the research project "Pathways to food security, poverty alleviation and livelihoods through the implementation of farmers' rights to crop genetic diversity (DIVERSIFARM)".
21. The Consultative Committee welcomed the participation of the Office of the Union in other international fora and noted that its interventions and contributions would need to reflect the UPOV Convention.
22. In relation to the following part of the Resolution 4/2019, "Implementation of the Global Information System", from the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), held in Rome, Italy, from November 11 to 16, 2019 (GB-8):

[...]

"4. Encourages the International Union for the Protection of New Varieties of Plants (UPOV) to explore possibilities for free access to and use of the information in the PLUTO database, including downloading information, for example by linking PLUTO to GLIS;"

the Consultative Committee noted that the Delegation of Norway would propose that the Secretariat of the ITPGRFA contact the Office of the Union to explore the above possibilities. It was further noted that developments concerning those explorations would be presented to the Consultative Committee for its consideration.

Report on an initiative concerning smallholder farmers

23. The Consultative Committee considered the joint presentation made by Oxfam, Plantum and Euroseeds (project team) concerning smallholder farmers.
24. In reply to the questions raised by the Delegation of Canada, the project team clarified that:
- (a) consideration of the findings of the Report would be a choice for each member of the Union. As presented in the report, policy considerations of accessibility or affordability of seed of protected varieties in relation to smallholder farmers might not be relevant for certain members of the Union;
 - (b) findings of the report were focused on seed-propagated crops and were not intended to apply to crops for non-food purposes, such as ornamentals and fiber crops. Consultations with fruit breeders were ongoing; and
 - (c) the flowchart in the report was intended to apply only to specific acts of smallholder farmers and would cease to be relevant when those farmers become commercial farmers, although there would be grey areas as farmers transitioned to becoming commercial farmers. Breeders would only be interested to enforce their rights if farmers were commercial farmers.
25. The Consultative Committee agreed the following in relation to providing guidance regarding the implementation of the exception of acts done privately and for non-commercial purposes in relation to smallholder farmers, taking into account the concerns raised at the session:
- (a) a circular to be sent to members of the Union and observers requesting contributions on their experience and on their views on the implementation of the exception of acts done privately and for non-commercial purposes in relation to smallholder farmers;
 - (b) the Office of the Union to draft guidance text taking into consideration the findings of the "Report and Recommendations of the project 'Options to interpret the notion of private and non-commercial use as included in Article 15. 1. I of the UPOV 1991 Convention'" and its flowchart, in conjunction with the contributions in reply to the circular (see (a) above);
 - (c) to circulate the first draft of the guidance to the Consultative Committee for comments by correspondence in conjunction with a compendium of the contributions received in reply to the circular; and
 - (d) based on the comments received on the first draft of the guidance, to prepare an updated version for consideration of the Consultative Committee at its session in 2021, together with consideration of the status (e.g. explanatory note, guidance document, FAQ) that any agreed guidance should have.

Matters for information:

26. The Consultative Committee noted the documents under item 24 "Matters for information":
- "(a) Internal oversight and the WIPO Independent Advisory Oversight Committee (IAOC)
 - "(b) Observers in UPOV bodies
 - "(c) Situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention or which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention"
27. In reply to a question by the Delegation of Japan on the provision of assistance for future UPOV members in the development of legislation and in the accession procedures in current COVID-19 situation, the Office of the Union explained that it was organizing virtual meetings to maintain progress.
- "(d) UPOV PRISMA"
28. In response to a request from the Delegation of Norway, the Office of the Union confirmed that UPOV PRISMA would be updated to provide the information required for applications for plant breeders' rights in Norway.

Program for the ninety- eighth session

29. The Consultative Committee noted the developments at the virtual UPOV sessions in 2020 in relation to the calendar of meetings in 2021 approved by the Council (see document C/54/8). The Consultative Committee agreed that the following changes be presented for the approval of the Council and a revised version of document C/54/8 be prepared:

Administrative and Legal Committee

WG-EDV/1 December 8, 2020 (virtual meeting)
Working Group on Essentially Derived Varieties (WG-EDV)

(Seminar on harvested material: date to be decided)

CAJ/78 October 27
EAF/17 March 25 ~~(morning)~~ (virtual meeting from 12.00 pm to 2.00 pm (Geneva time))
EAF/18 October 26 (evening)
Meeting on the Development of an Electronic Application Form (EAF)

Seminar on strategies that address policies involving plant breeding and plant variety protection
(date to be decided)

30. The Delegation of China expressed the commitment of China to UPOV and its activities. The Delegation was of the view that the use of more languages would bring greater benefits to members of the Union. The Delegation proposed the inclusion of a new item "Possible use of the Chinese language in UPOV" for the program of the ninety-eighth session of the Consultative Committee, in 2021.
31. The Delegation of the European Union referred to the study on costs implications and technical feasibility exercise that led to the program for the use of the Russian language in UPOV. The Delegation was of the view that the introduction of any new language required a case-by-case analysis of all foreseen activities taking into account technical feasibility and available resources to ensure that the costs are covered, and the European Union and its members States highlighted that a prudent approach is needed due to the size of UPOV and the current economic uncertainty.
32. The Vice Secretary-General suggested to prepare a document with an analysis and proposals on activities and resourcing considerations, for consideration by the Consultative Committee at its ninety-eighth session.
33. The Consultative Committee agreed to include the following item for the program of its ninety-eighth session: "Possible use of the Chinese language in UPOV".

Draft press release

34. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in the Annex to document C/54/20 Prov..

35. *The Council is invited to:*

(a) consider the recommendation of the Consultative Committee to approve the organization of a seminar, which would be open to members and observers, in the week of the UPOV sessions in 2021 to exchange information and experiences on strategies involving plant breeding and plant variety protection that address broad policy issues, as set out in paragraphs 17 to 18 of this document; and

(b) note the work of the Consultative Committee at its ninety-seventh session, as reported in this document.

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