



C(Extr.)/32/10
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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

COUNCIL

Thirty-Second Extraordinary Session Geneva, March 27, 2015

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 thirty-second extraordinary session in Geneva on March 27, 2015, 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.

Adoption of the agenda

- *4. The Council adopted the revised draft agenda, as proposed in document C(Extr.)/32/1 Rev.
- *5. At the request of the Seed and Plant Certification and Registration Institute (SPCRI) of the Islamic Republic of Iran, the Council agreed to defer consideration of item 5 of the revised draft agenda of its thirty-second extraordinary session to its forty-ninth ordinary session to be held in October 2015.

Extension of the appointment of the Vice Secretary-General

- *6. The Council considered document C(Extr.)/32/2.
- *7. The Council decided to extend the appointment of the Vice Secretary-General from December 1, 2015, until November 30, 2018.

Examination of the conformity of the "Draft provisions of Book Four 'Plant Varieties' of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights" of Egypt with the 1991 Act of the UPOV Convention

- *8. The Council considered document C(Extr.)/32/3.

* An asterisk next to the paragraph number indicates that the text has been reproduced from the Report on the Decisions (document C(Extr.)/32/9).

9. The representative of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (CIOFORA) requested clarification concerning enforcement, and whether the Egyptian tort and customs laws were applicable to plant breeders' rights, as raised by CIOFORA in its letter of March 20, 2015.

10. The Delegation of Egypt explained that the economic law of Egypt allowed several actions for a claim to the Economic Court for damages or reliefs in the case of infringements of plant breeders' rights. It clarified that customs authorities, through customs law, could take actions in the case of plant breeders' rights infringements, including the exporting or importing of protected varieties without the breeder's authorization.

*11. The Council decided to:

(a) note the analysis in document C(Extr.)/32/3;

(b) note the information provided by the Delegation of Egypt that the English translation of the Draft Law required verification and that the following corrections would be made to the translation in accordance with the original text of the Draft Law:

(i) to add the words "of this Article" at the end of Article 192(7); and

(ii) to add the paragraph number "(4)" before the sentence "The Minister of Agriculture shall issue a decision establishing the rules and procedures for examination and settlement of the appeal." in Article 202;

(c) take a positive decision on the conformity of the "Draft provisions of Book Four 'Plant Variety Protection' of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights" ("Draft Law") of Egypt with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Egypt 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

(d) authorize the Secretary-General to inform the Government of Egypt of that decision.

12. The Delegation of Egypt reported that becoming a member of UPOV would benefit breeders and would promote agriculture in Egypt. The Delegation thanked the Office of the Union for its assistance in drafting the law in conformity with the provisions of the 1991 Act of the UPOV Convention. It further thanked the members of the Union who had provided technical assistance to the Egyptian PVP Office and capacity building of the staff through three different cooperation projects implemented in Egypt. It explained that the PVP Office had issued 153 certificates during the period 2008-2015, and that 50 varieties were under trial at that time.

Adoption of documents

*13. The Council considered documents C(Extr.)/32/4, UPOV/INF/15/3 Draft 2 and UPOV/INF-EXN/7 Draft 1.

UPOV/INF/4/4: Financial Regulations and Rules of UPOV (Revision)

*14. The Council adopted the revision of document UPOV/INF/4 "Financial Regulations and Rules of UPOV" (document UPOV/INF/4/4), on the basis of the amendments to document UPOV/INF/4/3, as presented in the Annex to document C(Extr.)/32/4.

UPOV/INF/15/3: Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation (Revision)

*15. The Council adopted the revision of document UPOV/INF/15 "Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation" (document UPOV/INF/15/3), on the basis of document UPOV/INF/15/3 Draft 2 "Guidance for members of UPOV"; subject to the following changes:

"52. In relation to electronic and paper publications, including searchable databases, the completeness and correctness of the information is of particular importance. In particular, it is important to include information concerning applications for and grants of breeders' rights, and proposed and approved denominations."

"62. The UPOV Convention provides for a right of priority of 12 months, based upon an earlier application for the protection of the same variety with another UPOV member, whereby, when priority is claimed, a subsequent application is treated as if it were filed on the filing date of the first application. The right of priority has effects for the examination of the novelty and distinctness conditions and proposed denominations (see online distance learning course DL-205 "Plant Breeders' Rights under the UPOV Convention", Module 4: "Applying for a Plant Breeder's Right", and document UPOV/EXN/PRI "Explanatory notes on the right of priority under the UPOV Convention" available at: http://www.upov.int/explanatory_notes/en/)."

UPOV/INF-EXN/7: List of UPOV/INF-EXN Documents and Latest Issue Dates

*16. The Council adopted the revision of document UPOV/INF-EXN "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/7) on the basis of document UPOV/INF-EXN/7 Draft 1.

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

*17. The Council considered document C(Extr.)/32/5.

18. The representative of the Association for Plant Breeding for the Benefit of Society (APBEBES) referred to paragraph 25 of document C(Extr.)/32/5, in relation to developments concerning possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV, and reported that APBEBES was not aware of the discussions that had led to that statement.

19. The Vice Secretary-General explained that progress on possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV was pending further elaboration by the ITPGRFA. The Consultative Committee would consider the matter once that had been provided to UPOV.

20. The representative of APBEBES considered that it would be important for UPOV to discuss that subject before the next Governing Body of the ITPGRFA. The representative explained that it would be lamentable for UPOV not to be able to be part of the process because a certain letter of the ITPGRFA had been received too late. The representative of APBEBES suggested that a decision be taken, for example, by correspondence.

*21. The Council noted the work of the Consultative Committee at its eighty-ninth session, as reported in document C(Extr.)/32/5.

*22. Based on the recommendation of the Consultative Committee, the Council decided to revise the answer to the FAQ "Can I obtain protection for more than one country from a single application?", as follows:

"In order to obtain protection the breeder needs to file an application with the authority of each UPOV member where protection is sought. The European Union operates a ~~(supranational) community~~ plant variety breeders' rights system which covers the territory of its 28 member States. The African Intellectual Property Organization operates a plant breeders' rights system which covers the territory of its 17 member States. Contact details of the authorities responsible for the granting of breeders' rights are provided at http://www.upov.int/members/en/pvp_offices.html."

Calendar of Meetings in 2015

*23. The Council considered document C(Extr.)/32/6.

*24. The Council noted the conclusions of the CAJ to hold its seventy-second session on October 26 and 27, 2015, and not to convene a session of the Administrative and Legal Committee Advisory Group (CAJ-AG) on October 30, 2015.

*25. On the above basis, the Council approved a revision of the Calendar of Meetings in 2015, in order to remove the references to the CAJ-AG, and to include the information that the forty-fourth session of the Technical Working Party for Agricultural Crops (TWA) would be held in Obihiro, Japan, from July 6 to 10, 2015.

Press release

*26. The Council considered document C(Extr.)/32/7.

*27. The Council considered and approved the draft press release that was distributed at the end of its thirty-second extraordinary session (see document C(Extr.)/32/7). The press release approved by the Council is reproduced in Annex II to this report.

Other matters

*28. The Council welcomed the videos from Ecuador and Uruguay.

29. *This report was adopted by correspondence.*

[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)

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Annex II follows/
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Sigue el Anexo II]

ANNEX II

UPOV Press Release 99

Geneva, March 27, 2015

UPOV Council Holds its Thirty-Second Extraordinary Session

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its thirty-second extraordinary session on March 27, 2015.

Developments included:

Positive decision on the Draft Law of Egypt

The Council took a positive decision on the conformity of the “Draft provisions of Book Four ‘Plant Variety Protection’ of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights” (“Draft Law”) of Egypt with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV Convention), which allows Egypt 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.

Extension of the appointment of the Vice Secretary-General

The Council decided to extend the appointment of the Vice Secretary-General from December 1, 2015, until November 30, 2018.

Adoption of documents

The Council adopted the following documents:

- UPOV/INF/4/4 Financial Regulations and Rules of UPOV (Revision)
- UPOV/INF/15/3 Guidance for Members of UPOV (Revision)

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

Test Guidelines

The Council welcomed the adoption by the Technical Committee of 12 new Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability (Test Guidelines) and 14 revised Test Guidelines. UPOV has now developed 313 Test Guidelines, all of which are freely available on the UPOV website (http://www.upov.int/test_guidelines/en/).

Experience of members of the Union in the Examination of New Plant Varieties

The Council noted that the number of genera and species for which members of the Union had indicated their practical experience in the examination of distinctness, uniformity and stability (DUS) had increased from 3,305 in 2014 to 3,382 in 2015 (+ 2.3%). The Council also noted that information on members of the Union with practical experience in DUS examination was freely accessible via the GENIE database (see <http://www.upov.int/genie/en/>).

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[End of Annex II and of document]