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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 BY THE PRESIDENT ON THE WORK OF THE EIGHTY-NINTH SESSION OF THE
 CONSULTATIVE COMMITTEE; ADOPTION OF RECOMMENDATIONS,
 IF ANY, PREPARED BY THAT COMMITTEE

Document prepared by the Office of the Union

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1. The Consultative Committee held its eighty-ninth session in Geneva on March 27, 2015.
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(Extr.)/32/1 Rev.):
 - (a) Extension of the appointment of the Vice Secretary-General (document C(Extr.)/32/2)
 - (b) 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 (document C(Extr.)/32/3)
 - (c) Adoption of documents (document C(Extr.)/32/4)
 - (d) Calendar of meetings in 2015 (document C(Extr.)/32/6)
 - (e) Press Release (document C(Extr.)/32/7)
3. The Consultative Committee recommended to the Council 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.”
4. The work of the Consultative Committee at its eighty-ninth session is summarized in the following paragraphs.

Extension of the appointment of the Vice Secretary-General

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

Preliminary 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

6. The Consultative Committee recommended to the Council 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.

Documents proposed for adoption by the Council

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

7. The Consultative Committee recommended to the Council to adopt 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)

8. The Consultative Committee recommended to the Council to adopt 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

9. The Consultative Committee recommended to the Council to adopt 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.

Internal Audit and Reports of the WIPO Independent Advisory Oversight Committee

10. The Consultative Committee noted that, on the basis of the risk assessment of UPOV, there had been no internal audit of UPOV in 2014 and that the annual work plan of the WIPO Internal Oversight Division (IOD) for 2015 did not include an internal audit of UPOV.

11. The Consultative Committee noted that the Secretary-General had not been made aware of the need for any investigations in UPOV in 2014.

12. The Consultative Committee noted the information contained in the IAOC quarterly reports for 2014 (documents WO/IAOC/32/2, WO/IAOC/33/2, WO/IAOC/34/2 and WO/IAOC/35/2), and in the IAOC Annual Report 2013-2014 (document WO/GA/46/1).

13. The Consultative Committee agreed to invite the WIPO Internal Oversight Division (IOD) to give a presentation on its work at the ninetieth session and to consider plans for an internal audit of UPOV in 2016-2017.

Financing of long-term employee benefits

14. The Consultative Committee noted the developments concerning the financing of long-term employee benefits and that any new developments with regard to the working group of the UN CEB Finance and Budget Network would be reported to the Consultative Committee at its ninetieth session, to be held in October 2015.

Special project fund

15. The Consultative Committee expressed its approval of the review of the UPOV training and assistance strategy.

16. The Consultative Committee approved the planned use of the Special Project Fund for training purposes in the context of the UPOV training and assistance strategy.

Preparation of the draft program and budget of the Union for the 2016-2017 biennium

17. The Consultative Committee noted the estimated income and expenditure for 2014, and the comments in relation to anticipated income and expenditure for the 2014-2015 Biennium, in relation to its consideration of the preparation of the Draft Program and Budget of the Union for the 2016-2017 Biennium.

18. The Consultative Committee agreed the structure and contents for the preparation of the Draft Program and Budget of the Union for the 2016-2017 Biennium, subject to a review of the income from interest.

International system of cooperation

19. The Consultative Committee concluded that more time was needed to discuss the issues raised by a possible international system of cooperation and agreed that the matter should be considered further at its ninetieth session. In order to facilitate its considerations, the Consultative Committee agreed that the Office of the Union should produce a document with more information about the need for an international system, providing a business analysis and cost estimate.

Access to UPOV documents and publication of information

20. The Consultative Committee noted the information on historic documents that had been uploaded on the UPOV website.

21. The Consultative Committee noted that information concerning consultants that had been used by UPOV in 2014 would be presented to the Consultative Committee at its ninetieth session, in October 2015.

22. The Consultative Committee agreed to consider proposals in relation to a policy on documents, including communications provided by observers, at its ninetieth session.

Communication strategy

23. The Consultative Committee noted that:

(i) stakeholder-focused features would be introduced on the UPOV website during 2015;

(ii) conclusions of the Technical Committee on the draft FAQ concerning information on the situation in UPOV with regard to the use of molecular techniques for a wider audience, including the public in general, would be reported to the Consultative Committee for consideration at its ninety-first session, to be held in March 2016;

(iii) the Office of the Union would seek to develop a brief, illustrative explanation of the benefits of the UPOV system aimed at an audience with no previous knowledge of plant breeding or plant variety protection and/or illustrative examples of the benefits of plant variety protection, in 2015 or 2016;

(iv) a report on the use of e-workshops would be made to the Consultative Committee at its ninetieth session and to the Council at its forty-ninth ordinary session;

(v) the introduction of a UPOV channel on YouTube would be arranged after the introduction of a new UPOV logo;

(vi) the results of the communication strategy would be reported as a part of the annual report of the Secretary-General and performance report for the biennium.

24. The Consultative Committee recommended to the Council 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.”

Interrelation with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

25. The Consultative Committee noted the developments concerning possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV.

Developments of relevance to UPOV in other international fora

26. The Consultative Committee noted the developments of relevance to UPOV in other international fora.

Preparation of the Calendar of Meetings

27. The Consultative Committee 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.

28. On the above basis, the Consultative Committee recommended to the Council to revise 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.

29. The Consultative Committee agreed to consider matters on the schedule of the UPOV sessions under the item "Preparation of the calendar of meetings" at its ninetieth session.

Draft press release

30. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in document C(Extr.)/32/7.

31. *The Council is invited to:*

(a) consider the recommendation of the Consultative Committee contained in paragraph 3 above; and

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

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