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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

TECHNICAL COMMITTEE

**Fifty-Second Session
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REPORT ON DEVELOPMENTS IN UPOV INCLUDING RELEVANT MATTERS DISCUSSED
IN THE LAST SESSIONS OF THE ADMINISTRATIVE AND LEGAL COMMITTEE,
THE CONSULTATIVE COMMITTEE AND THE COUNCIL

prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

1. The purpose of this document is to report on developments in UPOV since the fifty-first session of the Technical Committee (TC) that are not presented under specific items on the agenda of the fifty-second session of the TC, including relevant matters discussed in the last sessions of the Administrative and Legal Committee (CAJ), the Consultative Committee and the Council.
2. A presentation summarizing the items in this document will be made at the fifty-second session of the TC, a copy of which (in English only) will be provided as an addendum to this document.

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MEMBERSHIP

Members of the Union

3. Montenegro deposited its instrument of accession to the UPOV Convention on August 24, 2015, and became the seventy-third member of UPOV on September 24, 2015.
4. The United Republic of Tanzania deposited its instrument of accession to the UPOV Convention on October 22, 2015, and became the seventy-fourth member of UPOV on November 22, 2015.
5. As of March 1, 2016, the members of UPOV were:

African Intellectual Property Organization, Albania, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, European Union, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lithuania, Mexico, Montenegro, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan and Viet Nam.

Situation in relation to the various Acts of the Convention

6. Canada, which was already a member of UPOV, deposited its instrument of ratification of the 1991 Act of the International Convention for the Protection of New Varieties of Plants on June 19, 2015.
7. As of March 1, 2016:
 - 55 members were bound by the 1991 Act
 - 18 members were bound by the 1978 Act
 - one member was bound by the 1961 Convention as amended by the 1972 Act

Examination of laws

8. At its thirty-second extraordinary session, held in Geneva on March 27, 2015, 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.
9. The Council, at its forty-ninth ordinary session, held in Geneva on October 29, 2015, examined the conformity of the “Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003” of the Islamic Republic of Iran with the 1991 Act of the UPOV Convention. The Council recommended that the Islamic Republic of Iran incorporate certain additional provisions and amendments in the “Act of Plant Varieties Registration, Control And Certification of Seeds And Plant Materials of 2003”, and recommended that once the additional provisions and amendments had been incorporated in the Law, the amended Law should be submitted to the Council for examination in conformity with Article 34(3) of the 1991 Act.

STATISTICS ON PLANT VARIETY PROTECTION

List of the taxa protected by the members of the Union

(see document C/49/6 “List of the Taxa Protected by the Members of the Union”)

10. A total of 59 members of the Union now offer protection to all plant genera and species (58 in 2014), with 14 members of the Union offering protection to a limited number of plant genera and species. Of those 14, two members (Brazil and Morocco) extended protection to additional plant genera and species in 2015.

Plant variety protection statistics

(see document C/49/7 “Plant variety protection statistics for the period 2010-2014”)

11. In 2014, the number of applications in UPOV members exceeded 15,000 for the first time. There was a 4.8 percent increase in the number of applications for plant variety protection (15,499 in 2014; 14,788 in 2013), comprising a 2.8 percent increase in the number of applications by residents (9,770 in 2014; 9,502 in 2013) and an 8.4 percent increase in the number of applications by non-residents (5,729 in 2014; 5,286 in 2013). The number of titles granted increased from 10,052 in 2013 to 11,569 in 2014 (15.1 percent increase).

12. The total of 106,081 titles in force in 2014 represented a 2.7 percent increase on figures for 2013 (103,261).

Cooperation in the examination of new plant varieties

13. In 2015, 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 2,002, compared to 2,005 in 2014.

PROGRAM AND BUDGET FOR THE 2016-2017 BIENNIUM

14. The Council, at its forty-ninth ordinary session, held in Geneva on October 29, 2015, approved the Program and Budget for the 2016-2017 Biennium, amounting to 6,823,000 Swiss francs, representing a 0.4% increase on the 2014-2015 Biennium (6,794,000 Swiss francs). 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 (see document C/49/4 Rev.).

15. The presentation summarizing the items in this document, to be made by the Office of the Union at the fifty-second session of the TC, will include a summary of the key elements of the Program and Budget for the 2016-2017 Biennium.

SPECIAL PROJECT FUND (SPF)

16. The balance of the SPF at the end of 2015 will be used in 2016 for activities in the context of the UPOV training and assistance strategy, according to the following purposes and in the order of priority, as considered appropriate in relation to the availability of funding from other sources:

- Standard training activities organized or co-organized by UPOV
 - Contributing data to the PLUTO database
 - Train the trainer courses
 - Training for tutors in UPOV distance learning programs;
- Training and assistance resources;
- Training activities developed in conjunction with UPOV;
- In situ activities organized by UPOV.

INTERNAL OVERSIGHT DIVISION (IOD) EVALUATION OF UPOV

17. The Consultative Committee agreed to request WIPO Internal Oversight Division (IOD) to conduct an evaluation in 2016-2017 of the program of activities of UPOV.

UPOV BODIES AND SESSIONS

President and Vice-President of the UPOV Council

18. At its forty-ninth ordinary session, the Council elected, in each case for a term of three years ending with the fifty-second ordinary session of the Council, in 2018:

- (a) Mr. Luis Salaices Sánchez (Spain), President of the Council;
- (b) Mr. Raimundo Lavignolle (Argentina), Vice-President of the Council.

19. The Secretary-General of UPOV, Mr. Francis Gurry, awarded Ms. Kitisri Sukhapinda (United States of America) a UPOV Gold Medal in recognition of the contribution made during her term as President of the Council of UPOV from November 2, 2012 to October 29, 2015.

Calendar of meetings

20. The Administrative and Legal Committee (CAJ), at its seventy-second session, held in Geneva on October 26 and 27, 2015:

(a) proposed not to hold a CAJ session in March 2016 and to hold a two-day CAJ session in October 2016;

(b) agreed to expand the mandate and the composition of the Working Group for the Development of a UPOV Denomination Similarity Search Tool to prepare recommendations for the CAJ concerning the revision of document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention" (to become the Working Group on Variety Denominations (WG-DEN)) and proposed that the WG-DEN meet during the week of the UPOV sessions in March 2016;

(c) agreed to propose to the Council to organize a one-day seminar on propagating and harvested material, to be held in conjunction with the UPOV sessions in October 2016. The seminar should include speakers to report on cases in which the notions of harvested material and/or propagating material had been considered, and speakers from relevant academic institutions and judicial authorities to provide perspectives on the subject. CAJ members and observers would be invited to propose speakers. The Office of the Union, Chair of the CAJ and President of the Council would prepare a draft program for consideration by the Consultative Committee and approval by the Council in March 2016.

21. The Council agreed to the organization of a Seminar on propagating and harvested material in the context of the UPOV Convention, which will be held on October 24, 2016.

22. The Consultative Committee, at its ninetieth session, held in Geneva on October 28 and 29, 2015, requested the Office of the Union to prepare a document with options and possible impacts of holding the sessions of the bodies that meet in Geneva consecutively, only once a year.

UPOV documents and publication of information

23. The Consultative Committee, at its ninetieth session, held in Geneva on October 28 and 29, 2015, agreed that there should be no change to the translations of the following categories of documents:

- (a) adopted documents;
- (b) documents comprising drafts of Explanatory Notes, Information Documents and TGP documents, and any other draft documents for consideration by the Council, Consultative Committee, Administrative and Legal Committee or Technical Committee;
- (c) reports, including reports of the decisions or conclusions, of the Council, Consultative Committee, Administrative and Legal Committee or Technical Committee;
- (d) reports on UPOV for consideration by the Council;
- (e) reports by representatives of members and observers on the legislative, administrative and technical fields;
- (f) communication strategy; and
- (g) international system of cooperation.

24. In the case of other documents, the Consultative Committee agreed to propose that the relevant committee be invited to review whether translation of all parts of such documents was essential.
25. The Consultative Committee agreed to the proposal to produce an executive summary of the annual reports and reports on the first nine months and to make a cross-reference in the annual report to the report on the first nine months, in order to reduce the length of the documents.
26. The Consultative Committee endorsed the current practice that statements made by members or observers at sessions of UPOV bodies would not be reproduced in the reports on decisions, reports on conclusions, or reports on UPOV bodies, unless otherwise agreed by the UPOV body concerned, except where a member of the Union requested its statement to be included in the report, and statements made by States and organizations in relation to the examination of laws and on becoming UPOV members.
27. The Consultative Committee agreed that, in general, in cases where the Office of the Union received written comments in relation to a matter to be considered by a UPOV body, those comments would, if so requested, be circulated to the UPOV body concerned; however, for example in the case of documents that were to be considered by correspondence, the Consultative Committee agreed that the UPOV body concerned may, on an *ad hoc* basis, agree to publish written comments on the webpage of the UPOV body concerned.

UPOV COLLECTION

(see http://www.upov.int/upov_collection/en/)

Adoption of documents

28. The Council adopted the following revisions of information documents at its thirty-second extraordinary session:
- UPOV/INF/4/4 Financial Regulations and Rules of UPOV (Revision)
 - UPOV/INF/15/3 Guidance for Members of UPOV (Revision)
29. The Council adopted the following revisions of documents at its forty-ninth ordinary session:
- TGP/5 Experience and Cooperation in DUS Testing:
 - Section 3/2: Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders' Rights
 - Section 8/2: Cooperation in Examination
 - Section 9/2: List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established
 - TGP/9/2 Examining Distinctness
 - TGP/14/3 Glossary of Terms Used in UPOV Documents (Revision)
 - UPOV/EXN/CAN/2 Explanatory Notes on Cancellation of the Breeder's Right under the UPOV Convention
 - UPOV/EXN/NUL/2 Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention (Revision)
 - UPOV/EXN/PRP/2 Explanatory Notes on Provisional Protection under the UPOV Convention
 - UPOV/INF/6/4 Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention
 - UPOV/INF/12/5 Explanatory Notes on Variety Denominations under the UPOV Convention
 - UPOV/INF/16/5 Exchangeable Software
 - UPOV/INF/22/2 Software and Equipment Used by Members of the Union
30. All adopted documents have been included in the UPOV Collection

Program for the development of Explanatory Notes on the UPOV Convention

31. The program for the development of information is summarized below:

Explanatory Notes

Reference	Explanatory Notes on:	Status
UPOV/EXN/EDV	Essentially Derived Varieties under the 1991 Act of the UPOV Convention	UPOV/EXN/EDV/2 Draft 7 to be considered by the CAJ in October 2016
UPOV/EXN/CAL	Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization in Respect of Propagating Material under the UPOV Convention	Possible revision to be considered by the CAJ in October 2016

Information Documents

Latest reference	INF documents	Status
UPOV/INF/12	Explanatory notes on variety denominations under the UPOV Convention	Possible revision to be considered by the WG-DEN in March 2016
UPOV/INF/16	Exchangeable Software	UPOV/INF/16/6 to be considered by the Council in October 2016
UPOV/INF/22	Software and Equipment Used by Members of the Union	UPOV/INF/22/3 to be considered by the Council in October 2016

PUBLICATIONS, ACTIVITIES & TRAINING

Communication strategy

32. The following matters were planned to be addressed as a part of the communication strategy:

(i) stakeholder-focused features to be introduced on the UPOV website in conjunction with the fiftieth ordinary session of the Council;

(ii) the 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, will 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 will 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 2016;

(iv) a report on the use of e-workshops was 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 will be arranged after the introduction of a new UPOV logo;

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

33. The Consultative Committee agreed that the new UPOV logo should be presented to the UPOV Council at its fiftieth ordinary session. The Consultative Committee agreed that the new UPOV logo should be introduced on the UPOV website in conjunction with the fiftieth ordinary session of the Council, and with the introduction of the stakeholder-focused features on the UPOV website, at which time a press release would be issued to publicize the launch.

34. The Consultative Committee requested the Office of the Union to present a proposal for developing an updated version of the Impact Study for consideration at its ninety-second session.

35. The Council revised 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.”

Distance learning courses

36. Two sessions of each of the following UPOV Distance Learning Courses will be run in English, French, German and Spanish 2016:

- DL-205 “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”
- DL-305 “Examination of applications for plant breeders’ rights”
- DL-305A “Administration of Plant Breeders’ Rights” (Part A of DL-305)
- DL-305B “DUS Examination” (Part B of DL-305)

37. The timetable for all courses will be the following:

Session I - 2016

Registration: January 1 to February 7
Study period: February 15 to March 20
Final exam: March 14 to 20

Session II – 2016

Registration: August 15 to September 18
Study period: September 25 to October 30
Final exam: October 24 to 30

(see <http://www.upov.int/resource/en/training.html>)

INTERNATIONAL SYSTEM OF COOPERATION (ISC)

38. The Consultative Committee, at its ninetieth session, agreed that more information, including statistical information, and a legal analysis was needed with regard to a possible ISC and agreed to request the Office of the Union to prepare a document containing a draft mandate and terms of reference for a possible working group (ISC-WG) to explore the issues concerning a possible international system of cooperation (ISC), as presented in the document of the eighty-ninth session of the Consultative Committee and additional issues raised by members of the Union, to be considered by the Consultative Committee at its ninety-first session, to be held in Geneva in March 2016. That document would also present the additional issues provided in writing by members of the Union.

INTERRELATION WITH THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE (ITPGRFA)

39. The Consultative Committee, at its ninetieth session, noted the developments concerning possible areas of interrelations among the international instruments of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), the World Intellectual Property Organization (WIPO) and UPOV.

40. As a first step, the Consultative Committee agreed to invite the Secretary of the ITPGRFA to make a presentation at its ninety-first session on possible areas of interrelations between the ITPGRFA and the UPOV Convention. The Consultative Committee also agreed that members of the Union should be invited to comment on the areas of interrelations identified by ITPGRFA and suggest any other areas of interrelations. The Consultative Committee agreed that the information should be compiled by the Office of the Union for discussion at the ninety-first session in conjunction with the presentation by the Secretary of the ITPGRFA.

The Consultative Committee also discussed the idea of a symposium in which Contracting Parties would present information on their experiences in implementing the UPOV Convention and the ITPGRFA.

WORLD SEED PROJECT

41. The Consultative Committee, at its ninetieth session, agreed with the proposed new focus of the World Seed Project (WSP) to:

(a) establish that the unique feature of the WSP is to focus on the development of an effective regulatory framework for the seed sector;

(b) provide a single point of reference (“one-stop-shop”) for information on the different systems and schemes, in a coherent manner, which would act as a resource for agencies working in the development of the seed sector;

(c) create a website platform where key information would be available on each organization and on activities done separately and together (e.g. training courses, seminars, workshops etc.);

(d) develop a mission statement;

(e) develop a workshop package for presentations of the different systems and schemes;

(f) encourage the WSP members’ organizations to raise awareness, in their respective organizations, of the role of the other organizations for putting in place an effective regulatory framework in the seed sector; and

(g) consider changing the name of the “WSP”, to remove reference to “project”.

42. The TC is invited to note the developments in UPOV including relevant matters discussed in the last sessions of the Administrative and Legal Committee, the Consultative Committee and the Council, as set out in paragraphs 3 to 41 of this document.

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