



CC/85/10

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE**Eighty-Fifth Session
Geneva, March 22, 2013**

REPORT ON THE CONCLUSIONS

*adopted by the Consultative Committee*Opening of the session

1. The Consultative Committee held its eighty-fifth session in Geneva on March 22, 2013.
2. The session was opened and chaired by Ms. Kitisri Sukhapinda (United States of America), President of the Council, who welcomed the participants.
3. The list of participants is reproduced in the Annex to this document.
4. The Chair informed the Consultative Committee that Serbia had deposited its instrument of accession to the 1991 Act of the UPOV Convention on December 5, 2012, and had become the seventy-first member of the International Union for the Protection of New Varieties of Plants (UPOV) on January 5, 2013.
5. The Secretary-General reported that Mrs. Margaret Byskov and Mrs. Julia Borys would retire in 2013, after sixteen years and two years of service, respectively. He expressed his appreciation for their dedicated service and important contribution to the Office of the Union. The Secretary-General further reported that Mr. Benjamin Rivoire and Mr. Leontino Taveira had been appointed as Technical/Regional Officer (Africa, Arab countries) and Technical/Regional Officer (Latin America, Caribbean countries), respectively.

Adoption of the agenda

6. The Consultative Committee adopted the revised draft agenda, as presented in document CC/85/1 Rev.

Preliminary examination of the conformity of the Plant Breeders' Bill for Zanzibar with the 1991 Act of the UPOV Convention

7. The Consultative Committee considered documents C(Extr.)/30/4 Rev. and C(Extr.)/30/4 Add.
8. The Consultative Committee recommended to the Council that it may wish to:
 - (a) note the analysis in documents C(Extr.)/30/4 Rev. and C(Extr.)/30/4 Add.;
 - (b) subject to the incorporation in the Plant Breeders' Rights Bill for Zanzibar of the modifications recommended in paragraphs 26, 28, 30 and 35 of document C(Extr.)/30/4 Rev., and with no additional changes, take a positive decision on the conformity of the Plant Breeders' Rights Bill for Zanzibar with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants;

(c) note that the Draft Law of Plant Breeders' Rights for Mainland Tanzania was adopted on November 5, 2012, and that the adoption of the Draft Law for Zanzibar is necessary for breeders' rights to cover the whole territory of the United Republic of Tanzania;

(d) note that the Plant Breeders' Rights Act for Mainland Tanzania, which was adopted on November 5, 2012, and published in the Gazette of the United Republic of Tanzania on March 1, 2013, had incorporated the changes presented in revision mode in the recommendations of the Council in its decision of November 1, 2012 (see document C/46/18 "Report on the decisions", paragraph 15);

(e) agree that the additional changes in the Plant Breeders' Rights Act for Mainland Tanzania, as presented in the Annex to document C(Extr.)/30/4 Add., did not affect the substantive provisions of the 1991 Act of the UPOV Convention, and confirm the decision on conformity of November 1, 2012;

(f) inform the Government of the United Republic of Tanzania that, subject to the modifications recommended by the Council, at its thirtieth extraordinary session, held in Geneva on March 22, 2013 (see paragraph (b) above), being incorporated in the Plant Breeders' Rights Bill for Zanzibar and the adoption of the Bill with no additional changes,

the instrument of accession of the United Republic of Tanzania may be deposited; and

(g) authorize the Secretary-General to inform the Government of the United Republic of Tanzania of that decision.

Documents proposed for adoption by the Council

9. The Consultative Committee considered document C(Extr.)/30/2.

UPOV/INF/4/3: Financial Regulations and Rules of UPOV (Revision) (document C(Extr.)/30/2, Annex)

10. 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/4/3), on the basis of the amendments to document UPOV/INF/4/2, as presented in the Annex to document C(Extr.)/30/2.

UPOV/INF/15/2: Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation (Revision) (document UPOV/INF/15/2 Draft 2)

11. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF/15/2 "Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation", on the basis of document UPOV/INF/15/2 Draft 2.

UPOV/INF-EXN/4: List of INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/4 Draft 1)

12. 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/4) on the basis of document UPOV/INF-EXN/4 Draft 1.

Financial situation in relation to the program and budget of the Union for the 2012-2013 biennium

13. The Consultative Committee considered document CC/85/3.

14. The Consultative Committee noted that the first set of non-audited financial statements in accordance with the International Public Sector Accounting Standards (IPSAS) for the year ended December 31, 2012, would become available to members of the Union by mid-April 2013. It further noted that the accounts would be audited by the External Auditor by June 2013.

15. The Consultative Committee noted the estimated income and expenditure for 2012, as set out in Tables 1, 2 and 3 of document CC/85/3, and the comments in relation to anticipated income and expenditure for the 2012-2013 Biennium, as set out in paragraphs 3 to 10 of document CC/85/3, in relation to its

consideration of document CC/85/4 "Preparation of the Draft Program and Budget of the Union for the 2014-2015 Biennium".

16. The Consultative Committee requested the Office of the Union to prepare a document for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013, proposing a method for reimbursing members of the Union and presenting proposals for projects concerning a special account or trust fund in the event that the reserve fund at the end of the 2012-2013 Biennium exceeds 15 percent of the total income for the 2012-2013 Biennium.

Preparation of the Draft Program and Budget of the Union for the 2014-2015 biennium

17. The Consultative Committee considered document CC/85/4.

18. The Consultative Committee agreed that the structure and contents presented in the Annex to document CC/85/4, should be the basis for the preparation of the Draft Program and Budget of the Union for the 2014-2015 Biennium, subject to a review of references to the 1991 Act of the UPOV Convention in Subprogram UV.3, Section 2.3.1, where reference could be made to the UPOV Convention. The Consultative Committee requested the Office of the Union to consider how to include the exchange of information with intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) in Subprogram UV.4.

19. The Consultative Committee agreed that the Office of the Union should investigate the feasibility of using a database of consultants in order to produce a list of consultants and their activities.

Reports of the WIPO Independent Advisory Oversight Committee (IAOC)

20. The Consultative Committee considered document CC/85/2.

21. The Consultative Committee noted the information contained in the Independent Advisory Oversight Committee (IAOC) quarterly reports for 2012 (documents WO/IAOC/24/2, WO/IAOC/25/2 and WO/IAOC/26/2) and in the IAOC Annual Report 2011-2012 (document WO/PBC/19/10). It also noted the information concerning the presentation on UPOV at the twenty-seventh session of the IAOC, which had clarified that UPOV did not fall within the scope of the IAOC's mandate.

Preparation of reports to the Council

22. The Consultative Committee considered document CC/85/5.

23. The Consultative Committee approved the presentation, in the annual report of the Secretary-General, of the results and performance indicators for the year concerned, as set out in paragraphs 2 to 6 of document CC/85/5.

24. The Consultative Committee approved the presentation of the performance report for the biennium in a separate document, which would include information on expenditure, the total number of posts for the Office of the Union and results and performance indicators by sub-program, on the basis of the program and budget adopted by the Council, as set out in paragraphs 2 to 9 of document CC/85/5.

25. On the basis above, the Consultative Committee requested the Office of the Union to present a document illustrating the proposed presentation of information for the performance report for the biennium, for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013.

26. The Consultative Committee approved the inclusion of the template for presentation of information on activities for the promotion of plant variety protection, in the model format for reports to the Council on the situation in the legislative, administrative and technical fields, as set out in paragraphs 13 and 14 of document CC/85/5.

Access to UPOV documents and publication of information

27. The Consultative Committee considered document CC/85/6.

UPOV documents

28. The Consultative Committee noted the implementation of the requirement for users to register to use the PLUTO and GENIE databases.

29. The Consultative Committee approved the revised disclaimer text on the meeting section of the UPOV website, and the addition of a disclaimer to each UPOV session document, as follows:

Revised disclaimer text on the meeting section of the UPOV website:

“Unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

See [UPOV Collection](#) for guidance and information materials concerning plant variety protection.”

Disclaimer on each UPOV session document:

“This document does not represent UPOV policies or guidance.”

30. The Consultative Committee noted that the resources of the Office of the Union had not yet allowed the scanning and posting on the UPOV website of important documents that were only available in paper format, and that the Office of the Union was continuing to verify the correct inclusion of documents on the redesigned UPOV website.

Database of laws of members of the Union (“UPOV LEX”)

31. The Consultative Committee noted that, after verification of certain data, the new section of UPOV Lex on plant genera and species would become available on the UPOV website.

Publication of the list of observers in UPOV bodies

32. The Consultative Committee noted that, to date, the resources of the Office of the Union had not allowed the posting on the UPOV website of the date of granting of observer status in the list of observers in UPOV bodies.

Communication strategy

33. The Consultative Committee considered document CC/85/7.

34. The Consultative Committee approved the proposals for the further development of existing UPOV materials, as set out in document CC/85/7, paragraphs 9 to 11.

35. The Consultative Committee endorsed the proposals for the development of new UPOV materials, as set out in paragraphs 13 to 15 of document CC/85/7.

36. The Consultative Committee recalled the approval for the establishment of a UPOV channel on YouTube, as set out in paragraphs 20 to 26 of document CC/85/7.

37. The Consultative Committee agreed to consider, at its eighty-sixth session to be held on October 23, 2013, the following additional aspects:

- development of a set of frequently asked questions and answers;
- communication incident management;

- development of “good stories”;
- creation of systematic communication elements on the UPOV website;
- use of workshops and meetings;
- inclusion of materials for teachers, professors and policy makers;
- prioritization within the communication strategy.

38. On the above basis, the Consultative Committee requested the Office of the Union to prepare a draft communication strategy, consistent with available resources, for consideration by the Consultative Committee at its eighty-sixth session, to be held on October 23, 2013.

UPOV Distance Learning Course

39. The Consultative Committee considered document CC/85/8.

40. The Consultative Committee noted the plans for the launch of the advanced distance learning course DL-305 “Examination of Applications for Plant Breeders’ Rights”, as set out in paragraphs 2 to 4 of document CC/85/8.

Developments of relevance to UPOV in other international fora

41. The Consultative Committee considered documents CC/85/9 and CC/85/9 Add.

42. The Consultative Committee noted the plans for the organization of a donor conference in June 2013 concerning the World Seed Project.

43. The Consultative Committee noted the developments concerning the East Asia Plant Variety Protection Forum (EAPVP Forum) and noted that the next meeting of EAPVP Forum would take place from July 2 to 5, 2013 in Sarawak State, Malaysia.

44. The Consultative Committee noted the report concerning the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) Platform for the Co-Development and Transfer of Technologies.

45. The Consultative Committee noted the report on certain matters considered under agenda item 3 “Implementation of The Second Global Plan of Action for Plant Genetic Resources for Food and Agriculture” of the sixth session of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (WG-PGR) of the Commission on Genetic Resources for Food and Agriculture (CGRFA), as set out in paragraphs 11 to 16 of document CC/85/9.

46. The Consultative Committee noted the comments provided by the Office of the Union to the CGRFA on document CGRFA/WG-PGR-6/12/Inf.3 “Draft Guide for National Seed Policy Formulation”, which were reproduced in the Annex to document CC/85/9.

47. The Consultative Committee noted the developments concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization (WIPO).

48. The Consultative Committee noted the developments concerning the WIPO tool kit for intellectual property policy makers.

49. The Consultative Committee noted that the information provided by the Office of the Union concerning documents of other organizations would be provided in the document on “Developments of relevance to UPOV in other international fora”.

50. The Consultative Committee noted the developments in relation to the World Trade Organization (WTO).

51. The Consultative Committee noted the information concerning the EXPO 2015, which would take place in Milan, from May 1 to October 31, 2015, under the theme “Feeding the Planet, Energy for Life”, and

approved the Office of the Union's continued participation in discussions with WIPO and other Geneva-based international organizations, with a view to UPOV's possible participation in EXPO 2015. The Consultative Committee noted that the approval of the Consultative Committee would be sought before a final commitment to UPOV's participation in EXPO 2015 was made.

52. The Consultative Committee approved the participation of the Office of the Union in the work of a multi-stakeholder team on the definition of mechanisms for enhancing public private partnerships in pre-breeding, following the request from the "Plant Genetic Resources and Seeds Team and a number of other functional units, especially the International Treaty on Plant Genetic Resources for Food and Agriculture", as set out in paragraphs 1 to 3 of document CC/85/9 Add..

Preparation of calendar of meetings

53. The Consultative Committee considered document C(Extr.)/30/3.

54. The Consultative Committee agreed to propose to the Council that a seminar on essentially derived varieties (EDVs) be organized on October 22, 2013. The seminar would consider the following:

(a) technical and legal views on "predominantly derived", "essential characteristics" and "differences which result from the act of derivation" (see Article 14(5)(b) of the 1991 Act of the UPOV Convention), the relationship between Article 14(5)(b)(i) and (iii) of the 1991 Act of the UPOV Convention and the possible impact on breeding and agriculture;

(b) existing experience in relation to EDVs; and

(c) the possible role of future UPOV guidance on EDVs in cases before the courts.

55. With regard to the possible impact on breeding and agriculture, the Consultative Committee agreed that the seminar should include the perspective of farmer-breeders. It further agreed that the program for the seminar and the speakers should be agreed between the Office of the Union and the Chair and Vice-Chair of the CAJ, and the President of the Council. The Consultative Committee recommended that the seminar should be open to the public, subject to reservation of space for members and observers, with the presentations and discussions at the seminar being made available on the UPOV website after a suitable broadcast delay.

56. The Consultative Committee agreed to propose to the Council to approve the corresponding revision of document C/46/8 Rev. "Revised Calendar of Meetings in 2013".

Draft press release

57. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in document C(Extr.)/30/6 Prov.

Program for the eighty-sixth session

58. The Consultative Committee agreed to include an item "Matters raised by the International Seed Federation" in the program for its eighty-sixth session, to be held in Geneva on October 23, 2013, in order to discuss the letter of the International Seed Federation (ISF) of January 21, 2013, on the subject "Application, examination and granting aspects of PBR applications" and to invite ISF to present its views at the relevant part of that item.

59. The Consultative Committee agreed to invite the Association for Plant Breeding for the Benefit of Society (APBREBES) to be present, at the relevant part of the item on observers in the program for its eighty-sixth session, in order to present its views on matters concerning observers in the Advisory Group of the Administrative and Legal Committee (CAJ-AG).

60. The following program was agreed for the eighty-sixth session of the Consultative Committee:
1. Opening of the session
 2. Adoption of the agenda
 3. Preliminary examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention
 4. Documents proposed for adoption by the Council
 5. Preliminary examination of the Draft Program and Budget of the Union for the 2014-2015 biennium
 6. Financial statements for 2012
 7. Reserve Fund
 8. Arrears in contributions as of September 30, 2013
 9. Preparation of reports to the Council
 10. Access to UPOV documents and publication of information
 11. Communication strategy
 12. UPOV Distance Learning Course
 13. Observers in UPOV bodies
 - Presentation by the Association for Plant Breeding for the Benefit of Society (APBEBES)
 14. 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
 15. Reports from new members of the Union
 16. Developments of relevance to UPOV in other international fora
 17. Matters raised by the International Seed Federation
 - Presentation by the International Seed Federation (ISF)
 18. Preparation of the Calendar of Meetings
 19. Draft press release
 20. Program for the eighty-seventh session
 21. Adoption of the report on the conclusions (if time permits)
 22. Closing of the session

61. This report was adopted by the Consultative Committee at the close of its session, on March 22, 2013.

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

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)

I. MEMBRES / MEMBERS / VERBANDSMITGLIEDER / MIEMBROS

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