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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE

Eighty-Seventh Session Geneva, April 11, 2014

DEVELOPMENTS OF RELEVANCE TO UPOV IN OTHER INTERNATIONAL FORA

Document prepared by the Office of the Union

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1. This document reports on developments of relevance to UPOV in other international fora since the eighty-sixth session of the Consultative Committee, held in Geneva on October 23 and 24, 2013, as follows:

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I. DEVELOPMENTS UNDER THE AUSPICES OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

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

2. The fifth session of the Governing Body of the ITPGRFA (GB) was held in Muscat, Oman, from September 24 to 28, 2013 (see <http://www.planttreaty.org/content/gb5>). The final report of the fifth session of the GB and the resolutions adopted at the session are available at <http://www.planttreaty.org/content/report-fifth-session-governing-body>. Document CC/86/10 Add. "Addendum to Developments of relevance to UPOV in other international fora" provides background information on matters concerning the fifth session of the GB of relevance to UPOV.

3. Document CC/86/10 "Developments of relevance to UPOV in other international fora" provided information on UPOV's participation in the Platform for the Co-Development and Transfer of Technologies and in the consultation to promote public-private partnerships for pre-breeding.

4. Resolution 1/2013 “Implementation of the Multilateral System of Access and Benefit-sharing” of the fifth session of the GB states as follows:

“THE GOVERNING BODY,

“*Convinced* of the urgency of bringing all elements of the Multilateral System of Access and Benefit-sharing into full and effective operation, and the need to address all the elements of the Multilateral System as an integrated whole;

“*Emphasizing* that, under Article 11.2 of the Treaty, the Multilateral System shall include all plant genetic resources for food and agriculture that are under the management and control of the Contracting Parties and in the public domain, and that real availability of these resources is crucial both for plant breeding and food security and for the generation of monetary benefits from commercialization of plant genetic resources for food and agriculture, through the use of materials governed by the Standard Material Transfer Agreement;

“*Recognizing* that there continues to be an urgent need to support the relevant authorities and entities, particularly in developing countries, in improving their capacity to provide, manage or access information in respect of the Multilateral System, in order to fully participate in the Multilateral System;

“I. DEVELOPMENTS IN THE INTERNATIONAL ENVIRONMENT OF IMPORTANCE FOR THE IMPLEMENTATION OF THE MULTILATERAL SYSTEM

“1. *Requests* the Secretary to continue to follow the processes of relevance to the Treaty and its Multilateral System in other international Organizations, and to continue enhancing cooperation and coordination with relevant international Organizations;

“2. *Thanks* the Council of the Union for the Protection of New Varieties of Plant for the practical support that has been provided to the International Treaty in the context of non-monetary benefit-sharing initiatives by the Office of the International Union for the Protection of New Varieties of Plants (UPOV), following the decision of its Council;

[...]”

5. Resolution 8/2013 “Implementation of Article 9, Farmers’ Rights” states as follows:

“THE GOVERNING BODY,

“*Recalling* the recognition in the International Treaty of the enormous contribution that the local and indigenous communities and farmers of all regions of the world have made, and will continue to make, for the conservation, and development use of plant genetic resources as the basis of food and agriculture production throughout the world;

“*Welcoming* the submissions of views and experiences from Contracting Parties and other stakeholders, as compiled in document IT/GB-5/13/Inf.8;

“*Recognizing* also the submissions of views and experiences that have been compiled prior to previous sessions of the Governing Body;

“*Also recalling* resolutions 2/2007, 6/2009 and 6/2011;

[...]

“3. *Requests* the Secretary to invite UPOV and WIPO to jointly identify possible areas of interrelations among their respective international instruments;

[...]”

6. In relation to Resolution 8/2013, the Office of the Union received a letter of January 27, 2014, from Mr. Shakeel Bhatti, Secretary, ITPGRFA, inviting UPOV and WIPO to jointly identify possible areas of interrelations among the respective international instruments of UPOV, WIPO and the ITPGRFA. In his letter, without wishing to prejudge the outcome, Mr. Bhatti suggested that the outcome of the consultation process could be, for example, a joint publication on interrelated issues regarding innovation and plant genetic resources.

7. *The Consultative Committee is invited to:*

(a) *recommend to the Council to express its appreciation to the Governing Body of the ITPGRFA (GB) for the thanks the GB offered for the practical support provided by UPOV to the ITPGRFA and to confirm its commitment to mutual supportiveness; and*

(b) *request the Office of the Union to identify with the Secretary of the ITPGRFA and the Secretariat of WIPO possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV with a view to a possible joint publication on interrelated issues regarding innovation and plant genetic resources and to present proposals for consideration by the Consultative Committee at its eighty-eighth session.*

II. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

8. The background to the IGC is provided in document CC/84/9 Rev. "Developments of Relevance to UPOV in Other International Fora", paragraphs 44 to 51.

9. At its Forty-Third (21st Ordinary) Session, held in Geneva, from September 23 to October 2, 2013, the WIPO General Assembly considered document WO/GA/43/14 "Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)" (see http://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_43/wo_ga_43_14.pdf) and agreed that the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) be renewed as provided in the Annex to document CC/86/10 Add. "Addendum to Developments of relevance to UPOV in other international fora". The work program of the IGC for 2014 is reproduced below:

Indicative Dates	Activity
February 2014	IGC 26 GR. <ul style="list-style-type: none"> • Ambassadors/Senior Capital-Based Officials meeting to share views on key policy issues relating to the negotiations on GRTKTCE, to further inform/guide the process. Duration – Half Day • Undertake text-based negotiations on GR with a focus on considering options for a draft legal text - Duration four and a half days. Duration 5 Days

Indicative Dates	Activity
April 2014	<p>IGC 27 TK followed by TCE.</p> <ul style="list-style-type: none"> • Consideration of Cross Cutting TKITCE Issues – 1 Day • TK - Focus on objectives, principles, 4 key Articles viz Subject Matter of Protection, Beneficiaries, Scope of Protection and Limitations and Exceptions – Duration 4 Days • Consideration of Cross Cutting TKITCE Issues – 1 Day • TCE- Focus on objectives, principles, 4 key Articles viz Subject Matter of Protection, Beneficiaries, Scope of Protection and Limitations and Exceptions – Duration 4 Days <p>Duration 10 Days</p>
July 2014	<p>IGC 28 Cross-cutting session/Stocktaking.</p> <ul style="list-style-type: none"> • Cross Cutting GR/TKITCE session. • Take stock of progress and make a recommendation to the General Assembly <p>Duration 3 Days</p>
September 2014	<p>WIPO General Assembly</p> <p>With a view to finalizing the text(s) within the biennium, the General Assembly in 2014 will take stock of and consider the text(s), progress made and decide on convening a Diplomatic Conference, and will consider the need for additional meetings, taking account of the budgetary process.</p>

10. The IGC held its twenty-sixth session in Geneva, from February 3 to 7, 2014. At that session, the IGC considered document [WIPO/GRTKF/IC/26/4](#) "Consolidated Document Relating to Intellectual Property and Genetic Resources", from which it developed a text, "Consolidated Document Relating to Intellectual Property and Genetic Resources Rev.2". The IGC decided that the text, as at the close of agenda item 7 (see document [WIPO/GRTKF/IC/26/1 Prov.4](#) "Draft Agenda") on February 7, 2014, be transmitted to the WIPO General Assembly to be held in September 2014, subject to any agreed adjustments or modifications arising on cross-cutting issues at the twenty-eighth session of the IGC to be held in July 2014, in accordance with the IGC's mandate and the work program for 2014 (see paragraph 9, above). The text to be transmitted to the WIPO General Assembly is available from the WIPO website at: http://www.wipo.int/meetings/en/details.jsp?meeting_id=31362.

11. The twenty-seventh session of the IGC is scheduled to take place in Geneva from March 24 to April 4, 2014, and the twenty-eighth session of the IGC in Geneva in July 2014 (see paragraph 9, above).

12. The Consultative Committee is invited to note the developments in relation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

III. WORLD TRADE ORGANIZATION (WTO)

Council for TRIPS (Trade-Related Aspects of Intellectual Property Rights)

13. The background to this item is provided in documents CC/84/9 Rev. and CC/85/9 both entitled "Developments of relevance to UPOV in other international fora", paragraphs 58 to 60 and paragraphs 30 and 31, respectively.

Meeting of the Council for TRIPS of October 10 and 11, 2013

14. The Council for the Agreement on Trade-Related Aspects of Intellectual Property Rights (the “Council for TRIPS”) met on October 10 and 11, 2013.

15. The meeting was opened by Ambassador H.E. Mr. Alfredo Suescum (Panama), Chair of the Council for TRIPS. The minutes of the meeting are contained in documents IP/C/M/74, IP/C/M/74 Corr. and IP/C/M/74 Add.1 which are available at the following address of the WTO website: <http://docsonline.wto.org/?language=1>.

16. The Council for TRIPS dealt with the agenda items “Review of the Provisions of Article 27.3(b)”, “Relationship between the TRIPS Agreement and the Convention on Biological Diversity” and “Protection of Traditional Knowledge and Folklore” simultaneously. The Council for TRIPS did not receive any new submissions in relation to these agenda items. The Council for TRIPS took note of the statements made by the delegations and agreed to continue discussions at its next meeting.

17. The Chair of the Council for TRIPS suggested that the Council continue to discuss the three agenda items together on the basis of contributions by WTO Members. As requested by the TRIPS Council at its meeting in June 2013, he had continued his predecessor’s consultations on the suggestions that the CBD Secretariat be invited to brief the Council on the Nagoya Protocol that had been adopted at the tenth meeting of the Conference of the Parties to the CBD held in Nagoya, Japan in October 2010. Furthermore, at that meeting, the TRIPS Council had also requested him to consult on the proposal Ecuador had made at the TRIPS Council’s meeting in November 2012 that the Secretariat be requested to update the three factual notes that summarized the points delegations had made in the TRIPS Council’s past discussions on the review of the provisions of Article 27.3(b); on the relationship between TRIPS and CBD; and protection of traditional knowledge and folklore. The Chair of the Council for TRIPS said that, unfortunately, he was not in a position to report any new developments in delegations’ positions on these two matters.

18. In light of the discussion, the Chair of the Council for TRIPS suggested that the TRIPS Council request the Chair to continue consulting on the suggestions that the CBD Secretariat be invited to brief the Council on the outcome of the Nagoya meeting, and that the Secretariat be requested to update three factual notes that summarize the points delegations had made in the Council’s past discussions on these three agenda items. In addition, he said that he would convey to the WTO Director-General the suggestions that he reopen consultations on TRIPS implementation issues.

19. The Council for TRIPS October meeting has a special focus on technical cooperation. The Chair of the Council for TRIPS invited WTO members and intergovernmental organization observers to the Council for TRIPS, including UPOV, to provide information on their technical and financial cooperation programs relevant to the implementation of TRIPS Agreement. UPOV submitted its contribution on October 9, 2013 (see document IP/C/W/591/Add.6 “Technical cooperation activities: information from other intergovernmental organizations – International Union for the Protection of New Varieties of Plants” available at <http://docsonline.wto.org/?language=1>).

Future meeting

20. The next meeting of the Council for TRIPS, which the Office of the Union plans to attend, is scheduled to take place on February 25 and 26, 2014.

21. *The Consultative Committee is invited to note the developments in relation to WTO.*

[Annex follows]

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ANNEX



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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Our Ref.: ITPGRFA/UPOV

Your Ref.:

Rome, 27 January 2014

<http://www.planttreaty.org>

Dear Dr Gurry,

Please allow me to extend to you my best wishes for 2014. May it bring with it good health and success.

Following the successful conclusion of the Fifth Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture ("the International Treaty") last year, I would like to bring to your attention some of the major outcomes that are of relevance to the International Union for the Protection of New Varieties of Plants (UPOV).

At first I would like to thank you for sending a representative of the Office of UPOV to attend this latest Session of the Governing Body. Also, let me recall the close linkages that exist between the UPOV Convention and the International Treaty in several areas that are of core importance to our respective agreements and emphasize that there has already been a close and fruitful cooperation between our respective bodies in the past.

The Fifth Session of the Governing Body convened from 24 to 28 September 2013 in Muscat, Oman. As in the past Sessions, the UPOV Convention was again a topic of discussions and deliberations and, consequently, also in certain Resolutions of this Session of the Governing Body.

In Resolution 1/2013 on the implementation of the International Treaty's Multilateral System of Access and Benefit-Sharing, the Governing Body, *inter alia*, thanks the Council of UPOV for the practical support that has been provided to the International Treaty in the context of non-monetary benefit-sharing initiatives by the Office of UPOV. As you are certainly aware, the Office of UPOV agreed to participate in the efforts of stakeholders and Contracting Parties under the International Treaty to establish a Platform for the Co-Development and Transfer of Technologies. They intend this platform to provide a way to realize technology transfer as a form of non-monetary benefit-sharing, as provided for in the International Treaty.

././.

Dr Francis Gurry
Secretary-General
International Union for the Protection
of New Plant Varieties (UPOV)
Geneva

<http://www.planttreaty.org>

In relation to farmers' rights and the implementation of Art 9 of the International Treaty, the Governing Body requested me, by Resolution 8/2013, "to invite UPOV and WIPO to jointly identify possible areas of interrelations among their respective international instruments" as relates to the concept of farmers' rights of the International Treaty. Without intending to prejudice its outcome, this consultation process could for example lead to a joint publication by UPOV, WIPO and the International Treaty on interrelated issues regarding innovation and plant genetic resources among our respective international instruments.

As requested by our membership, I look forward to discussing this issue with you at your earliest convenience in order to begin work on this new joint activity and continue our ongoing collaboration. It would be a pleasure for me to have an initial meeting on this and perhaps other related issues in the coming weeks and we will coordinate with your office to arrange a convenient time for our meeting.

I look forward to receiving your reply and to continuing our cooperation on all matters of mutual interest to the UPOV Convention and the International Treaty.

Yours sincerely,



Dr Shakeel Bhatti
Secretary
International Treaty on Plant Genetic Resources
for Food and Agriculture