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DRAFT

(REVISION OF THE ANNEX TO DOCUMENT C/39/13)

**RULES GOVERNING THE GRANTING OF OBSERVER STATUS
TO STATES, INTERGOVERNMENTAL ORGANIZATIONS
AND INTERNATIONAL NON-GOVERNMENTAL
ORGANIZATIONS IN UPOV BODIES**

Document prepared by the Office of the Union

*to be considered by the Council at its forty-sixth ordinary session
to be held in Geneva on November 1, 2012*

GRANT OF OBSERVER STATUS IN UPOV BODIES

1. At its twenty-second ordinary session, on October 19, 1988, the Council decided to delegate to the Consultative Committee the power to decide on matters concerning the granting of observer status to non-governmental organizations (see paragraph 128(ii) of document C/XXII/14). Since that decision, and pursuant to the practice of the Council and the Consultative Committee, the granting of observer status to States, intergovernmental organizations and international non-governmental organizations in UPOV bodies is set out in the following paragraphs.

2. The granting of observer status to intergovernmental and international non-governmental organizations is reserved to those organizations with competence in areas of direct relevance in respect of matters governed by the UPOV Convention. The constituent treaty for intergovernmental organizations and the statutes for international non-governmental organizations will form the basis to determine that competence.

(a) Council (ordinary and extraordinary sessions)

(i) The Office of the Union is authorized to grant observer status to additional States if it considers that they have officially expressed an interest in becoming a member of UPOV and in participating in the sessions of the Council.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular Council session. Such invitations will subsequently be reported to the Consultative Committee.

(b) Consultative Committee – This Committee normally holds closed sessions restricted to the members of the Union. Observer States and certain intergovernmental organizations may be invited by the Office of the Union to participate within an item of the agenda concerning the preliminary examination of their legislation in order to respond to any questions raised by the Consultative Committee, but would not be present during the discussions of the legislation.

(c) Administrative and Legal Committee (CAJ)

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of the CAJ.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council, the Chair of the CAJ and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular CAJ session. Such invitations will subsequently be reported to the Consultative Committee.

(d) Technical Committee (TC)

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of the TC.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status.

(iii) Where agreed by the President of the Council, the Chair of the TC and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization to attend a particular TC session. Such invitations will subsequently be reported to the Consultative Committee.

(e) Technical Working Parties (TWPs)

(i) The Office of the Union is authorized to grant observer status to additional States, which have been granted observer status to the Council, if they have officially expressed an interest in participating in the sessions of one or several TWPs.

(ii) The Consultative Committee decides on the intergovernmental and international non-governmental organizations to be granted observer status. The technical competence of organizations will be considered in deciding whether to grant observer status to the TWPs. The constituent treaty for intergovernmental organizations and the statutes for international non-governmental organizations will form the basis to determine that technical competence.

(iii) Where agreed by the Chair of the relevant TWP and the Office of the Union, an *ad hoc* invitation may be made to an intergovernmental or international non-governmental organization or a relevant expert to attend a particular session of a TWP. Such invitations will subsequently be reported to the Consultative Committee.

3. The following procedure should be followed by an organization wishing to obtain observer status:

(a) In the first instance, the head of the organization should send a letter to the Secretary-General of UPOV requesting the granting of observer status to the Council and, if appropriate, to the CAJ, the TC and/or the TWPs.

(b) The letter should contain a brief description of the organization's objectives, activities, structure and membership and: for intergovernmental organizations, a copy of the constituent treaty; and for international non-governmental organizations a copy of the statutes.

(c) Organizations which have been granted observer status to the Council may subsequently request, by means of a letter from the head of the organization, observer status to the CAJ, the TC and/or the TWPs, if this was not initially requested.

4. In the case of an international non-governmental organization with different coordination entities, observer status will be granted to only one coordination per organization.

5. Unless specified otherwise, observer status in sessions of relevant UPOV bodies (Council, CAJ, TC and/or TWPs) is granted for an unspecified duration.

6. The Consultative Committee, where it considers appropriate, may reconsider the observer status of intergovernmental and international non-governmental organizations and may apply appropriate measures.

7. The observer status of an international non-governmental organization will be reviewed if the statutes for that international non-governmental organization are changed. Each international non-governmental organization shall promptly notify the Office of the Union of any change to its statutes.

8. The Consultative Committee will be informed, on a regular basis, of the list of observer States and organizations in UPOV bodies and *ad hoc* invitations to attend a particular session of a UPOV body.

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