

Council

C(Extr.)/34/2

**Thirty-Fourth Extraordinary Session
Geneva, April 6, 2017**

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ADOPTION OF DOCUMENTS

Document prepared by the Office of the Union

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1. The purpose of this document is to provide information concerning the following documents that the Council will be invited to adopt at its thirty-fourth extraordinary session:

Explanatory notes:

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|----------------|--|
| UPOV/EXN/EDV/2 | Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)
(document UPOV/EXN/EDV/2 Draft 8) |
| UPOV/EXN/PPM/1 | Explanatory Notes on Propagating Material under the UPOV Convention
(document UPOV/EXN/PPM/1 Draft 7) |

Information documents:

- | | |
|-----------------|---|
| UPOV/INF/6/5 | Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)
(document C(Extr.)/34/2, Annex) |
| UPOV/INF-EXN/10 | List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)
(document UPOV/INF-EXN/10 Draft 1) |

EXPLANATORY NOTES

UPOV/EXN/EDV: Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision) (document UPOV/EXN/EDV/2 Draft 8)

2. The CAJ, at its seventy-third session, held in Geneva on October 25, 2016, agreed the amendments proposed in document UPOV/EXN/EDV/2 Draft 7 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)” and agreed that, on that basis, a revised draft of document UPOV/EXN/EDV should be put forward for adoption by the Council at its thirty-fourth extraordinary session (see document CAJ/73/10 “Report on the Conclusions”, paragraphs 8 and 9).

3. *The Council is invited to adopt a revision of document UPOV/EXN/EDV/1 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention” (document UPOV/EXN/EDV/2) on the basis of document UPOV/EXN/EDV/2 Draft 8.*

UPOV/EXN/PPM: Explanatory Notes on Propagating Material under the UPOV Convention (document UPOV/EXN/PPM/1 Draft 7)

4. The CAJ, at its seventy-third session, agreed the following amendments to document UPOV/EXN/PPM/1 Draft 6 “Explanatory Notes on Propagating Material under the UPOV Convention”:

“FACTORS THAT ~~MIGHT BE~~ HAVE BEEN CONSIDERED IN RELATION TO PROPAGATING MATERIAL

“The UPOV Convention does not provide a definition of ‘propagating material’. Propagating material encompasses reproductive and vegetative propagating material. The following are non-exhaustive examples of factors that have been considered by members of the Union in relation to whether material is propagating material. Those factors should be considered in the context of each member of the Union and the particular circumstances.

[...]

(ii) whether the material has been or may be used to propagate the variety;

(iii) whether the material is capable of producing entire plants of the variety ~~and is factually used for propagating purposes;~~

[...]”

UPOV organized a “Seminar on Propagating and Harvested Material in the context of the UPOV Convention,” in Geneva on October 24, 2016. The proceedings of the Seminar can be found at http://www.upov.int/meetings/en/topic.jsp?group_id=73

5. The CAJ agreed that, subject to the changes in paragraph 4 above, a draft of the “Explanatory Notes on Propagating Material under the UPOV Convention” based on document UPOV/EXN/PPM/1 Draft 6 (document UPOV/EXN/PPM/1) be presented for adoption by the Council at its thirty-fourth extraordinary session (see document CAJ/73/10 “Report on the Conclusions”, paragraphs 15 to 18).

6. The Council is invited to adopt document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention” on the basis of document UPOV/EXN/PPM/1 Draft 7.

INFORMATION DOCUMENTS

UPOV/INF/6: Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision) (document C(Extr.)/34/2, Annex)

7. Document UPOV/INF/6, Part II “Notes based on information materials concerning certain Articles of the 1991 Act of the UPOV Convention” includes extracts from explanatory notes.

8. In conjunction with the explanatory notes that the Council will be invited to adopt at its thirty-fourth extraordinary session (see section “Explanatory Notes“, paragraphs 2 to 5), it is proposed to adopt a revision of document UPOV/INF/6 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” on the basis of the proposed amendments to document UPOV/INF/6/4, as presented in the Annex to this document.

9. The Council is invited to adopt a revision of document UPOV/INF/6 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/5), on the basis of the proposed amendments to document UPOV/INF/6/4, as presented in the Annex to this document.

UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)
(document UPOV/INF-EXN/10 Draft 1)

10. In conjunction with the explanatory notes and the information documents that the Council will be invited to adopt at its thirty-fourth extraordinary session, it is proposed to adopt a revision of document UPOV/INF-EXN/9 "List of UPOV/INF-EXN Documents and Latest Issue Dates" on the basis of document UPOV/INF-EXN/10 Draft 1.

11. The Council is invited to adopt a revision of document UPOV/INF-EXN/9 "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/10) on the basis of document UPOV/INF-EXN/10 Draft 1.

[Annex follows]

ANNEX

PROPOSED AMENDMENTS TO
DOCUMENT UPOV/INF/6/4 "GUIDANCE FOR THE PREPARATION OF LAWS
BASED ON THE 1991 ACT OF THE UPOV CONVENTION" (DOCUMENT UPOV/INF/6/5)

NOTES ON ARTICLE 14 SCOPE OF THE BREEDER'S RIGHT

Subject to approval by the Council, at its thirty-fourth extraordinary session, of the revision of document UPOV/EXN/EDV/1 "Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention" (presented in document UPOV/EXN/EDV/2 Draft 8) and document UPOV/EXN/PPM/1 "Explanatory Notes on Propagating Material under the UPOV Convention" (presented in document UPOV/EXN/PPM/1 Draft 7), to update the text of "NOTES ON ARTICLE 14" with the new text of documents UPOV/EXN/EDV/2 and UPOV/EXN/PPM/1.

[End of Annex and of document]