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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
 Geneva

**CONSULTATIVE COMMITTEE**

**Eighty-Fourth Session**  
**Geneva, October 31, 2012**

DEVELOPMENTS OF RELEVANCE TO UPOV IN OTHER INTERNATIONAL FORA

*Document prepared by the Office of the Union*

1. This document reports on developments of relevance to UPOV in other international fora since the eighty-third session of the Consultative Committee, held in Geneva on March 30, 2012, as follows:

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## I. WORLD SEED PROJECT (WSP)

2. The Second World Seed Conference, held in Rome from September 8 to 10, 2009, was jointly organized by UPOV, the Food and Agriculture Organization of the United Nations (FAO), the Organisation for Economic Co-operation and Development (OECD), the International Seed Federation (ISF) and the International Seed Testing Association (ISTA). At its seventy-eighth session, held in Geneva on October 21, 2009, the Consultative Committee noted that one of the suggestions at the Conference for a “follow-up” action had been for the five organizations to initiate a project in a group of model countries with a view to developing an enabling environment to encourage plant breeding and the production and distribution of high-quality seed for the benefit of farmers. The Consultative Committee agreed that the Office of the Union should participate in discussions to pursue such a project (see document CC/78/15 “Report”, paragraph 18), which has the title “World Seed Project: Strengthening the Seed Sector in Developing Countries”.

3. At its eightieth session (see document CC/80/7 Corr., paragraphs 11 to 18), held in Geneva on October 20, 2010, the Consultative Committee was informed that the aim of the five organizations was to complete the project outline and then approach potential sponsors for financial support for the implementation of the project in the selected countries. Specific project proposals would then be developed according to the needs of the selected countries and the sponsors, within the framework established in the project outline. With regard to completing the project outline and approaching potential sponsors for financial support for the implementation of the project in selected countries, it was agreed by the five organizations that a “Concept document” should be produced as a basis for approaching project countries and sponsors. The draft Concept document was circulated and approved by the Consultative Committee by correspondence by means of Circular E-1459 of January 17, 2011.

4. The Consultative Committee, at its eighty-third session, noted that the development of the World Seed Project (WSP) was supported by the Minister for Agriculture, Food Security and Cooperatives, in the United Republic of Tanzania, and the Minister for Food and Agriculture, in Ghana. It further noted that discussions between the Steering Committee of the WSP and the relevant officials in those States were underway in order to define the scope of the project and that initial contacts had also been made with some potential donors for the funding of the project in those States. The Consultative Committee was also informed that the Steering Committee of the WSP had also contacted Senegal (see document CC/83/7 “Report on the Conclusions”, paragraph 39).

5. A report on new developments concerning the World Seed Project will be made to the Consultative Committee at its eighty-fourth session.

*6. The Consultative Committee is invited to note the developments concerning the World Seed Project.*

## II. EAST ASIA PLANT VARIETY PROTECTION FORUM (EAPVP FORUM)

7. The website of the East Asia Plant Variety Protection Forum (EAPVP Forum) (<http://www.eapvp-forum.org/index.html>) states that:

“The East Asia Plant Variety Protection Forum is being held as a venue for the organizations in charge of protecting plant varieties in nations of East Asia (ASEAN+3) to exchange a wide range of ideas and information to facilitate the improvement of the implementation and the harmonization of the plant variety protection system in the Asian region through cooperative efforts and mutual understanding of each country’s systems and conditions.

“It is expected through the activities of the Forum that the creation of new varieties of plants and international trade in these new varieties are facilitated, the utilization of the intellectual property rights to develop diversified businesses for producing seeds and seedlings are motivated, and the further development of the agriculture, forestry, fisheries, and food industries of East Asia.”

8. The members of the EAPVP Forum and their status within UPOV are provided in Annex I to this document.

9. The Consultative Committee, at its eightieth session, held in Geneva on October 20, 2010, approved the approach of the Office of the Union in relation to the EAPVP Forum, as set out in paragraphs 24 to 26 of document CC/80/7 Corr. Paragraphs 24 to 26 of document CC/80/7 Corr. are reproduced in Annex II to this document.

10. The Office of the Union participated in the Fifth East Asia Plant Variety Protection Forum (EAPVP Forum) Meeting, held in Bangkok, Thailand, on May 28, 2012, and made presentations at the "International Seminar on Impact of Plant Variety Protection", held on May 29, 2012, in conjunction with the Fifth EAPVP Forum Meeting.

11. The Sixth EAPVP Forum Meeting is planned to be held in Malaysia in 2013. The Office of the Union plans to attend that meeting.

*12. The Consultative Committee is invited to note the developments concerning the EAPVP Forum.*

### III. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

13. At the annual meeting of the Organisation for Economic Co-operation and Development (OECD) Seed Schemes, held in Christchurch, New Zealand, on March 25 and 26, 2010, document TAD/CA/S/RD(2009)14/REV2 "A synthesis of international regulatory aspects that affect the seed trade" was considered. The purpose of TAD/CA/S/RD (2009)14/REV2 was:

"to summarise different regulatory aspects related to seed trade and the role of international organisations in contributing to its harmonisation. Special attention is brought to the role of the OECD Seed Schemes and its link to the work of the other international organisations. It will be used as a reference document of the OECD Seed Schemes, to inform high-level government officials and policy makers in Member countries of the Schemes and other countries interested to join the Schemes."

14. The OECD annual meeting of representatives of national designated authorities was held in Istanbul, Turkey, on May 12 and 13, 2011. The draft summary record of that meeting (document TAD/CA/S/M(2011)2) included the following record of discussions concerning the draft document TAD/CA/S/RD(2009)14/REV2 "A synthesis of international regulatory aspects that affect the seed trade":

"Questions were raised regarding the finalization this paper. The document will be of a value only if a little fine-tuning is needed for its finalisation. The Secretariat confirmed that the paper was put together by using the written inputs received from the international organisations and that no additional secretariat resources are needed for the finalisation of the present document.

"Delegates noted that they are supporting the finalisation of this paper. Since it is a fact sheet, the document should not be too long. The description of the role and responsibilities of each organisation would not take more than 1 page. The website link of each organisation would be added for more information. Furthermore, the Coordinating Centre would help the Secretariat in developing a flowchart for the OECD varietal certification. Clearance may be sought from the other international organisations regarding their chapter once the paper is finalised.

"Action: Delegates agreed to move forward with the document. This project will be added to the Summary Action Sheet. The revised paper will be discussed at the EAG meeting, with the aim of approving the finalised document at the 2012 Annual Meeting."

15. At its eighty-second session, held in Geneva on October 19 and on the morning of October 20, 2011, the Consultative Committee noted the plans for the Office of the Union to provide the OECD with a one-page description of the role and responsibilities of UPOV for inclusion in the OECD document "Different Regulatory Aspects affecting World Seed Trade" (see CC/82/14 "Report on the Conclusions", paragraph 83). The Office of the Union attended the OECD Extended Advisory Group Meeting, held in Paris on January 26 and 27, 2012 and provided initial comments in relation to draft document TAD/CA/S/RD(2009)14/REV4 "A synthesis of international regulatory aspects that affect the seed trade". The Office of the Union subsequently provided the OECD Secretariat with a one-page description of the role and responsibilities of UPOV for inclusion in the OECD document "Different Regulatory Aspects affecting World Seed Trade" by March 1, 2012.

16. At the OECD Annual Meeting of Representatives of National Designated Authorities (Annual Meeting), held in Helsinki, Finland, on July 12 and 13, 2012, document TAD/CA/S/RD(2009)14/REV5 "A synthesis of international regulatory aspects that affect the seed trade" was considered and was presented to delegates in the form of a "mock-up" brochure. The document had been revised after the meeting of the OECD Extended Advisory Group in January 2012. The UPOV representative explained that certain amendments were needed with regard to the section "plant variety protection and UPOV" and with regard to Annex 1 "Figure 1: Overview of different regulatory systems and actors in the seed supply chain". It was suggested that, if it was not

possible to amend the document at that stage in the adoption procedure, the Office of the Union would be glad to work with the OECD Secretariat to revise the document at the earliest opportunity thereafter.

17. The Annual Meeting adopted document TAD/CA/S/RD(2009)14/REV5. The reservations expressed by UPOV and other delegations were noted, and delegations were invited to submit their final comments to the OECD Secretariat by August 10, 2012. After that deadline, the document would be finalized by the Secretariat. It was also noted that future electronic editions of the brochure would provide opportunities for updates, when appropriate.

18. The Office of the Union submitted its comments on document TAD/CA/S/RD(2009)14/REV5 by means of a letter to the OECD Secretariat on August 3, 2012.

*19. The Consultative Committee is invited to note the developments concerning OECD.*

#### IV. DEVELOPMENTS UNDER THE AUSPICES OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

##### Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization to the Convention on Biological Diversity (Nagoya Protocol)

20. The Office of the Union attended the Second Meeting of the Open-Ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, held in New Delhi, India, from July 2 to 6, 2012.

21. The Sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP 6) and the Eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity (COP 11) will be held in Hyderabad, India, from October 1 to 5, 2012 and from October 8 to 19, 2012, respectively.

*22. The Consultative Committee is invited to note the developments concerning the CBD.*

#### V. 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)

##### *Research project on the economics of the Multilateral System of the ITPGRFA*

23. At its eighty-second session, held in Geneva on October 19 and on the morning of October 20, 2011, the Consultative Committee was informed that the Office of the Union had been contacted by Mr. Shakeel Bhatti, Secretary of the International Treaty on Genetic Resources for Food and Agriculture (ITPGRFA) with regard to an ITPGRFA research project on the economics of the Multilateral System of the ITPGRFA (Project). The cooperation of UPOV has been sought with regard to the data in the Plant Variety Database.

24. The draft project goals, outputs and timeline are described as follows:

##### “PROJECT GOALS

“This project will assist Treaty stakeholders in understanding the economic dimensions of the Multilateral System and its benefits, in the course of the implementation of the Treaty and the operation of the Multilateral System.

“The goal of this proposal is to lay the methodological foundations and develop a capacity for ongoing analysis of the volume of, and trends in, the exchange and use of PGRFA under an Standard Material Transfer Agreement (SMTA), with the specific purposes of being able to estimate and project forward monetary benefit-sharing contributions to the Treaty’s Benefit-sharing Fund. As part of this research, the project will assess the adequacy for this purpose of current data sources, and identify potential data sources that could be utilized or modified for these purposes.

“The proposal aims to demonstrate the value of such analysis and facilitate ongoing assessments of the exchange of PGRFA.

#### “OUTPUTS

“The outputs of this project will be:

- “1. A synoptic paper of 30 to 40 pages, addressed to policy makers:
  - a. reviewing the importance and potential of such research for Contracting Parties and other stakeholders in the operation of the Multilateral System;
  - b. assessing the adequacy of current information, identifying actual and potential sources of information, and proposing ways of improving the relevant information base;
  - c. exploring methodologies for assessing likely income, projected over time, for the Benefit-sharing Fund, from PGRFA assessed under SMTAs, by crop, use, and type of product;
  - d. providing any data regarding such likely income that the project has generated; and
  - e. proposing further research priorities.
- “2. A set of background technical studies undertaken by the project.

#### “TIMELINE

“These materials will be completed by 31 March 2012. They will then be diffused through the ITPGRFA website, and will be made available to the Fifth Session of the Governing Body.”

25. At its eighty-second session, held in Geneva on October 19 and on the morning of October 20, 2011, the Consultative Committee approved the assistance of the Office of the Union to the ITPGRFA in explaining the content and search options in the Plant Variety Database in the context of the ITPGRFA research project (see document CC/82/14 “Report on the Conclusions”, paragraph 84).

26. By means of a letter of December 29, 2011, Dr. Pierluigi Bozzi, Associated Researcher, Development Studies Research Centre (SPES), Sapienza University of Rome, explained that the project was being carried out by a consortium of partner institutes and international organizations, including the Secretariat of the Treaty, Bioversity International, Lancaster University, Reading University and Sapienza University of Rome. In his letter, Dr. Pierluigi Bozzi invited Mr. Peter Button, Vice Secretary-General of UPOV, to participate in the peer review of the 40-page Synoptic Report that would be prepared by the project (see Project Outline in Annex III, in English only). Mr. Button expressed his appreciation for the invitation, whilst explaining that it might not be considered appropriate for the Vice Secretary-General of UPOV to undertake a peer review of an ITPGRFA project. In the context of mutual supportiveness between UPOV and ITPGRFA, the Vice Secretary-General agreed to provide comments on matters of direct relevance to UPOV, particularly with regard to Module 4, concerning data in the Plant Variety Database (PLUTO), and Module 5, concerning plant variety protection statistics.

27. There have been no further developments with regard to the ITPGRFA research project.

#### *Platform for the Co-Development and Transfer of Technologies*

28. During the Rio+20 United Nations Conference on Sustainable Development, a Second High-Level Round Table (HLRT2) in connection with the High-level Task Force of the Benefit-sharing Fund of the ITPGRFA, was co-organized by Brazil and Italy on June 21, 2012, for which the Secretary-General recorded a message (see <http://www.youtube.com/watch?v=9j7THKBGyvM&feature=relmfu>)

29. The HLRT2 adopted the “Rio Six Point Action Plan for the ITPGRFA”, with Point 1 of the Action Plan recommending the establishment of a “Platform for the Co-Development and Transfer of Technologies”. By letter of July 10, 2012, Mr. Shakeel Bhatti, Secretary of the ITPGRFA, invited the Vice Secretary-General of UPOV to a meeting on August 7 and 8, 2012, in Brasilia, to discuss the options for the establishment and intended activities of a “Platform for the Co-Development and Transfer of Technologies” (Platform) within the context of the ITPGRFA. The meeting was co-organized by the Ministry of Agriculture, Livestock and Food

Supply and the Ministry of the Environment of Brazil, the Brazilian Research Corporation (EMBRAPA) and the Indonesian Agency for Agricultural Research and Development (IAARD).

30. A copy of the program is attached as Annex IV (in English only) to this document. Session I provided an opportunity for the Potential Working Partners (EMBRAPA, IAARD, African Agricultural Technology Foundation (AATF), Society for Research and Initiatives for Sustainable Technologies and Institutions (SRISTI), The Centre for Genetic Resources, the Netherlands (CGN) and Syngenta) to present their potential contributions to the Platform. EMBRAPA, IAARD, AATF and SRISTI made reference to the use of plant variety protection for technology transfer and benefit-sharing. The output of the meeting was a Draft Mission Statement, a copy of which is provided as Annex V (in English only) to this document. The next meeting of the Platform will be held in India from December 10 to 12, 2012, hosted by SRISTI. Subject to the approval of the Consultative Committee, the Office of the Union would continue to attend the meetings of the Platform, as appropriate.

31. *The Consultative Committee is invited to:*

(a) *note that there have been no further developments concerning the ITPGRFA research project on the economics of the Multilateral System of the ITPGRFA; and*

(b) *approve the participation of the Office of the Union in the ITPGRFA Platform for the Co-Development and Transfer of Technologies.*

#### Commission on Genetic Resources for Food and Agriculture

32. The Sixth Session of the Intergovernmental Technical Working Group (Working Group) on Plant Genetic Resources for Food and Agriculture of the Commission on Genetic Resources for Food and Agriculture (CGRFA) will be held at the FAO headquarters in Rome from November 14 to 16, 2012. The Office of the Union plans to attend that session.

33. On August 23, 2012, the Office of the Union received a letter from FAO explaining that:

"[...] [the CGRFA] strongly emphasizes close cooperation and collaboration among all relevant bodies and instruments dealing with issues that are relevant to plant genetic resources to ensure complementarity and promote synergies for increasing the role and contribution of genetic resources to food security. In this regard, the Working Group regularly receives reports from such bodies and instruments which highlight their activities in this sector.

"Given the relevance of the work of the International Union for the Protection of New Varieties of Plants (UPOV) to the Working Group, I would like to invite you to provide a report of the activities undertaken by UPOV in relation to plant genetic resources for the forthcoming Session. The report will be presented as an information document and should be received by the Secretariat no later than 10 September 2012 in order to make it available online for Members in a timely manner."

34. On the basis of the invitation above, the Office of the Union provided a report, a copy of which is provided as Annex VI (English only) to this document.

35. *The Consultative Committee is invited to note the report provided by the Office of the Union to the Sixth Session of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture of the CGRFA and to approve the provision of similar reports to future sessions.*

## VI. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

### WIPO Framework for Designing National Intellectual Property Strategies for Development

36. The Consultative Committee, at its eighty-third session, held in Geneva on March 30, 2012, approved the participation of the Office of the Union in the World Intellectual Property Organization (WIPO) Framework for Designing National Intellectual Property Strategies for Development (Framework) in order to contribute to thematic module 2 "Agriculture, Rural Development and IP" (see document CC/83/7 "Report on the Conclusions", paragraph 41). A copy of the concept paper is provided as Annex VII to this document (English only).

37. The Office of the Union participated in meetings concerning the WIPO IP Strategies Framework held in Geneva, on April 23 and 24, 2012.

*38. The Consultative Committee is invited to note the developments concerning the WIPO IP Strategies Framework.*

### WIPO Questionnaire "A tool to assess the current status of the national intellectual property system, strategic objectives and needs in line with national development priorities"

39. The Consultative Committee, at its eighty-third session approved the contribution of the Office of the Union to the development of the WIPO Questionnaire "A tool to assess the current status of the national intellectual property system, strategic objectives and needs in line with national development priorities" (see document CC/83/7 "Report on the Conclusions", paragraph 42).

40. The WIPO Questionnaire is designed to assess the current status of the national intellectual property system, strategic objectives and needs in line with national development priorities. The purpose of the WIPO Questionnaire is to assist officials involved in the development of national intellectual property strategies in collecting information on their countries' current status, needs and objectives. The initial input of the Office of the Union was focused on "Cluster 6: Agricultural Sector", with regard to plant variety protection. It is anticipated that the WIPO Questionnaire and the WIPO IP Strategies Framework (see paragraph 36, above) would become part of a tool kit for intellectual property policy makers.

41. Since the eighty-third session of the Consultative Committee, a new draft of the WIPO Questionnaire "Tool 2: Baseline Survey Questionnaire – Assessing the current state of the national intellectual property system and its links with national development properties", has been developed with the following clusters:

- "1. IP administration and management
- "2. Generation of IP by universities, research organizations, business, industry, SMEs and individuals
- "3. Commercialization of IP and technology transfer by universities, research organizations, business, industry, SMEs and individuals
- "4. Copyright and copyright industries
- "5. Plant variety rights and seed industries
- "6. Enforcement of IP rights
- "7. IP and public policy"

42. The Office of the Union will continue to provide an input in the development of the WIPO Questionnaire with particular regard to "Cluster 5: Plant variety rights and seed industries".

*43. The Consultative Committee is invited to note the developments concerning the WIPO Questionnaire "Tool 2: Baseline Survey Questionnaire – Assessing the current state of the national intellectual property system and its links with national development properties".*

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

44. The nineteenth session of the WIPO IGC was held in Geneva from July 18 to 22, 2011, under the chairmanship of Ambassador Philip Richard Owade (Kenya). The decisions of the nineteenth session of the IGC were published on the WIPO website, and the decisions taken on genetic resources are reproduced below:

“GENETIC RESOURCES

“The Committee requested that document WIPO/GRTKF/IC/19/6 (“Draft Objectives and Principles Relating to Intellectual Property and Genetic Resources”) be transmitted as a working document to the next session of the Committee, as amended by the text presented to the Committee by the facilitators on genetic resources, Mr. Ian Goss (Australia) and Mr. Hem Pande (India) and incorporating the amendments thereto made by the Committee in plenary. The Committee also requested that document WIPO/GRTKF/IC/19/6, as so amended, be included as part of the Committee’s report to the WIPO General Assembly taking place from September 26, 2011 to October 5, 2011.

“With reference to document WIPO/GRTKF/IC/19/7 (“Options for Future Work on Intellectual Property and Genetic Resources”), the Committee requested the Secretariat to finalize, and update regularly as required, the activities referred to in Cluster C (“Options on Mutually-Agreed Terms for Fair and Equitable Benefit-Sharing”) and to provide information thereon to the Committee at each session. The Secretariat was requested to re-issue document WIPO/GRTKF/IC/19/7, including Clusters A (“Options on defensive protection of genetic resources”) and B (“Options on disclosure requirement”), as a working document for the next session of the Committee.

“The Committee also requested that document WIPO/GRTKF/IC/19/11 (“Like-Minded Countries Contribution to the Objectives and Principles on the Protection of Genetic Resources and Preliminary Draft Articles on the Protection of Genetic Resources”), be transmitted as a working document to the next session of the Committee.”

45. The decision concerning the work of the IGC on genetic resources (GRs) by the WIPO General Assembly, at the Forty-Ninth Series of Meetings of the Assemblies and other Bodies of the Member States of WIPO, held from September 26 to October 5, 2011, is reproduced below (document WO/GA/40/19 “Report”, paragraph 181):

“The WIPO General Assembly took note of the information contained in document WO/GA/40/7, and decided to renew the mandate of the IGC for the 2012-2013 biennium on the terms set out in paragraph 16 of the said document.”

46. Document WO/GA/40/7, paragraph 16, provides as follows:

“At its 19<sup>th</sup> session, the IGC agreed to recommend to the WIPO General Assembly the renewal of its mandate for the 2012-2013 biennium. In this regard, the IGC agreed to recommend the following decision to the General Assembly:

“Bearing in mind the Development Agenda recommendations, the WIPO General Assembly agrees that the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore be renewed as follows:

“(a) The Committee will, during the next budgetary biennium (2012/2013), and without prejudice to the work pursued in other fora, expedite its work on text-based negotiations with the objective of reaching agreement on a text(s) of an international legal instrument(s) which will ensure the effective protection of GRs, TK and TCEs.

“(b) The Committee will follow, as set out in the [table below], a clearly defined work program, based on sound working methods, for the 2012/2013 biennium. This work program will make provision initially for four sessions of the IGC, three of which will be thematic, as detailed in the future work program of the IGC, taking into account sub paragraph (d) with regard to the possible consideration by the General Assembly in 2012 of the need for additional meetings.

“(c) The focus of the Committee’s work in the 2012/2013 biennium will build on the existing work carried out by the Committee and use all WIPO working documents, including WIPO/GRTKF/IC/19/4, WIPO/GRTKF/IC/19/5, WIPO/GRTKF/IC/19/6 and WIPO/GRTKF/IC/19/7, which are to constitute the basis of the Committee’s work on text-based negotiations, as well as any other textual contributions by Members.



“(d) The Committee is requested to submit to the 2012 General Assembly the text(s) of an international legal instrument(s) which will ensure the effective protection of GRs, TK and TCEs. The General Assembly in 2012 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.

“(e) The General Assembly requests the International Bureau to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula.

“(f) With a view to enhancing the positive contribution of observers, the General Assembly invites the Committee to review its procedures in this regard. To facilitate this review, the General Assembly requests the secretariat to prepare a study outlining current practices and potential options.

Date	Activity
February 2012	IGC 20 (GRs). Undertake text based negotiations with a focus on considering options for a draft legal text as detailed in WIPO/GRTKF/IC/19/7. In developing this text, the IGC should also carefully consider texts already submitted by Members. Duration 8 days, including Saturday.
April/May 2012	IGC 21 (TK). Focus on 4 key Articles viz Subject Matter of Protection, Beneficiaries, Scope of Protection and Limitations and Exceptions.
July 2012	IGC 22 (TCEs). Focus on 4 key Articles viz Subject Matter of Protection, Beneficiaries, Scope of Protection and Limitations and Exceptions
September 2012	WIPO General Assembly
2013	IGC 23. Consider decision of General Assembly and take stock of further work required to finalize the text/s.”

47. The following sessions of the WIPO IGC were held in Geneva in 2012, under the chairmanship of Ambassador Philip Richard Owade (Kenya).

- (a) IGC 20, from February 14 to 22, 2012, on the subject of genetic resources (GRs);
- (b) IGC 21, from April 16 to 20, 2012, on the subject of traditional knowledge (TK); and,
- (c) IGC 22, from July 9 to 13, 2012, on the subject of traditional cultural expressions (TCEs).

48. The IGC 20 (GRs), IGC 21 (TK) and IGC 22 (TCEs) developed the following texts, in accordance with the General Assembly mandate contained in document WO/GA/40/7. The IGC decided that these texts be transmitted to the WIPO General Assembly for consideration by the General Assembly at its forty-first session to be held in Geneva from October 1 to 9, 2012. These texts are enclosed as Annexes A, B and C, respectively, to document WO/GA/41/15 “Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)” and published on the WIPO website ([http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=25020](http://www.wipo.int/meetings/en/details.jsp?meeting_id=25020)).

Sessions	The title of the texts
IGC 20 (GRs)	“Consolidated Document Relating to Intellectual Property and Genetic Resources”
IGC 21 (TK)	“The Protection of Traditional Knowledge: Draft Articles”
IGC 22 (TCEs)	“The Protection of Traditional Cultural Expressions: Draft Articles”

49. Annex A to document WO/GA/41/15 (“Consolidated Document Relating to Intellectual Property and Genetic Resources”), includes the following text:

“Chairman’s Note

“This text represents the results, at the conclusion of the IGC’s 20<sup>th</sup> session, in accordance with the mandate of the WIPO General Assemblies (contained in WO/GA/40/7). It represents a work in progress and is without prejudice to the positions of the participants.

“Where one or more options are presented on any issue it is understood that the possibility remains for there to be a **no** option or additional options on the issues. [...]

“[ARTICLE 3]  
[SCOPE [OF [LEGAL] PROTECTION]]  
[[MANDATORY] DISCLOSURE REQUIREMENTS]

[...]

“DISCLOSURE PROTECTION

“OPTION 1

“3.3 [Contracting Parties] [Countries] shall provide in [their national intellectual property] [patent] legislation a mandatory disclosure requirement. The disclosure requirement should be mandatory. This implies that it should be implemented in a legally binding and universal manner.

“3.4 Check Point:

(a) Option 1. [Contracting Parties] [Countries] shall appoint national intellectual property offices as a checkpoint for disclosure of the country of origin and source of genetic resources, [their derivatives] and associated traditional knowledge [and for their monitoring.]

(b) Option 2. The patent system must provide for a mandatory disclosure requirement ensuring that the IP Offices becomes a key checkpoint for disclosure [and monitoring] of the utilization of genetic resources and/or associated TK (in line with Article 17 of the CBD Nagoya Protocol).

“OPTION 2

“3.5 [Contracting Parties] [Countries] may provide in their national patent legislation a mandatory disclosure requirement.

“OPTION 3

“3.6 Patent disclosure requirements shall not include a mandatory disclosure relating to genetic resources [, their derivatives and associated traditional knowledge] unless such disclosure is material to the patentability criteria of novelty, inventive step or enablement.

“3.7 Patent applicants shall be under no requirement to disclose the source, origin or other information relating to genetic resources [unless such information is material to the patentability requirements of novelty, inventive step or enablement.

“[ARTICLE 5]  
RELATIONSHIP WITH INTERNATIONAL AGREEMENTS

“5.1 [Contracting Parties] [Countries] shall establish a coherent system and promote mutually supportive relationship between intellectual property rights involving the utilization of genetic resources, [their derivatives] and associated traditional knowledge and existing international agreements and treaties.

“5.2 [Contracting Parties] [Countries] shall support, in particular, the implementation of the Convention on Biological Diversity (including communication with its Clearing House) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization to the Convention of Biological Diversity, the ITPGRFA and the TRIPS Agreement and, as the case may be, of regional agreements. PLT and PCT would need to be amended.

“5.3 The disclosure of source requirement enables the [contracting Parties] [countries] of relevant international agreements, including the CBD/ITPGRFA, the PCT, the PLT and the TRIPS Agreement to fulfill their respective obligations.”

50. Annex B to document WO/GA/41/15 (“The Protection of Traditional Knowledge: Draft Articles”), provides as follows:

“Introduction

“This text represents the results at the conclusion of the IGC’s 21<sup>st</sup> session, in accordance with the mandate of the WIPO General Assemblies (contained in WO/GA/40/7). It represents a work in progress.

[...]

“ARTICLE 4 BIS

“DISCLOSURE REQUIREMENT

“4 BIS.1 [[Patent and plant variety] Intellectual property applications that concern [an invention] any process or product that relates to or uses traditional knowledge shall include information on the country from which the [inventor or the breeder] applicant collected or received the knowledge (the providing country), and the country of origin if the providing country is not the same as the country of origin of the traditional knowledge. The application shall also state whether prior informed consent to access and use has been obtained.]

“4 BIS.2 [If the information set out in paragraph 1 is not known to the applicant, the applicant shall state the immediate source from which the [inventor or the breeder] applicant collected or received the traditional knowledge.]

“4 BIS.3 [If the applicant does not comply with the provisions in paragraphs 1 and 2, the application shall not be processed until the requirements are met. The [patent or plant variety] intellectual property office may set a time limit for the applicant to comply with the provisions in paragraphs 1 and 2. If the applicant does not submit such information within the set time limit, the [patent or plant variety] intellectual property office may reject the application.]

“4 BIS.4 [Rights arising from a granted patent or a granted plant variety right shall not be affected by any later discovery of a failure by the applicant to comply with the provisions in paragraphs 1 and 2. Other sanctions, outside of the patent system and the plant variety system, provided for in national law, including criminal sanctions such as fines, may however be imposed.]

*“Alternative*

“4 BIS.4 Rights arising from a grant shall be revoked and rendered unenforceable when the applicant has failed to comply with the obligations of mandatory requirements as provided for in this article or provided false or fraudulent information.”

51. As provided in paragraph 16(d) of document WO/GA/40/7, the “General Assembly in 2012 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.” (see paragraph 46 of this document).

*52. The Consultative Committee is invited to note the developments in relation to WIPO IGC.*

Workshop for Sustainable Wheat Production in East Africa – a case Study on the Role of Intellectual Property

53. At the invitation of the Director General of WIPO, the Office of the Union attended a “Workshop for Sustainable Wheat Production in East Africa – a Case Study on the Role of Intellectual Property” (Workshop), held at the WIPO headquarters, in Geneva, on May 10 and 11, 2012. The letter of invitation from the Director General explained the initiative as follows:

“Food security is probably one of the most urgent challenges which humankind is facing today. There is no doubt that the response has to come from agriculture, essentially. However, the answer is not simply to produce more food with more inputs. More food needs to be produced in a sustainable way. We have to preserve nature and the environment. To have sustained impact the approach will require new and creative models for open collaboration, innovation and value sharing across the production chain. The World Intellectual Property Organization (WIPO) has a major responsibility to raise awareness on how intellectual property (IP) can contribute to agricultural development and food security.

“After discussion on the working level with potential partners from the public and the private sectors, the concept of a WIPO initiative on sustainable wheat production in the United Republic of Tanzania has been elaborated. The intention is to demonstrate the decisive role of intellectual property rights as an enabler for innovation, investment and technology transfer throughout the wheat production and commercialization chain (including insurance, credit, licensing and royalty collection). Creative models of open innovation and value capture can provide a step change in IP utilization.

“The objective of the workshop is to further refine the scope of the project, identify suitable project partners and assign specific responsibilities to them. Partners involved in sectors such as plant breeding, seed production and distribution, plant protection, agricultural technology, marketing and financing, from both the public and the private sectors, will meet with the aim to coordinate their efforts while using the full potential of intellectual property protection. A concept note is attached.

“It is felt that UPOV has a decisive contribution to make to the success of this venture. [...]”

54. Present at the Workshop, or otherwise associated, were representatives of the Government of the United Republic of Tanzania (Government officials and scientists), professors from Sokoine University, United Republic of Tanzania, representatives from the Consultative Group on International Agricultural Research (CGIAR) and the International Maize and Wheat Improvement Center (CIMMYT), the Tanzania based private breeding and seed sector, representatives of companies operating globally in wheat-related innovation, representatives of FAO, UPOV and the International Seed Federation (ISF) and, with a view to a possible future cooperation, potential donors.

55. The discussions at the meeting were used to develop a draft case study outline within the overall objective to track how IP can be used to promote wheat production. The method to be used in the case study will be to initiate action and to see whether, by cooperating, partners can align their interests and thereby raise wheat productivity and hence promote food security. The study will document the collaborations between partners and will monitor results achieved.

56. It is anticipated that the next step will be a meeting in the United Republic of Tanzania, which the Office of the Union would attend, either physically or by web conference, subject to approval by the Consultative Committee.

*57. The Consultative Committee is invited to approve the participation of UPOV in the WIPO initiative on sustainable wheat production in the United Republic of Tanzania.*

## VII. WORLD TRADE ORGANIZATION (WTO)

58. In accordance with paragraph 19 of the Ministerial Declaration, adopted by the Fourth World Trade Organization (WTO) Ministerial Conference, held in Doha, Qatar, from November 9 to 14, 2001, the agenda of meetings of the Council for TRIPS (Trade-Related Aspects of Intellectual Property Rights) includes three items which are relevant to UPOV, namely: review of Article 27.3(b) of the TRIPS Agreement, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore.

59. The Ministerial Declaration, adopted by the Sixth WTO Ministerial Conference held in Hong Kong, Special Administrative Region (SAR) of China, from December 13 to 18, 2005, states in its paragraph 44 that the Ministers “note the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS [...]”. It stated also in its paragraph 39 that the Ministers “request the Director General [of WTO] [...] to intensify his consultative process on all outstanding implementation issues [...]” [including, inter alia, the relationship between the TRIPS Agreement and the Convention on Biological Diversity]. “The Director-General shall report to each regular meeting of the TNC [Trade Negotiation Committee] and the General Council [of WTO]. [...]”.

60. Background information relevant to the review of Article 27.3(b) of the TRIPS Agreement, the relationship between the TRIPS Agreement and the CBD, and the protection of traditional knowledge and folklore, is given on the WTO website as follows:

[http://www.wto.org/english/tratop\\_e/trips\\_e/art27\\_3b\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm) (English)

[http://www.wto.org/french/tratop\\_f/trips\\_f/art27\\_3b\\_f.htm](http://www.wto.org/french/tratop_f/trips_f/art27_3b_f.htm) (French)

[http://www.wto.org/spanish/tratop\\_s/trips\\_s/art27\\_3b\\_s.htm](http://www.wto.org/spanish/tratop_s/trips_s/art27_3b_s.htm) (Spanish)

### Meeting of the Council for TRIPS on June 5 and 6, 2012

61. The Council for the Agreement on Trade-Related Aspects of Intellectual Property Rights (the “Council for TRIPS”) met on June 5 and 6, 2012.

62. The meeting was opened by Ambassador Dacio Castillo (Uruguay), Chairperson of the Council for TRIPS. The minutes of the meeting are contained in document IP/C/M/70, which is expected to become available by the end of October 2012, at the following address of the WTO website: <http://docsonline.wto.org/?language=1>.

63. 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.

Future meeting and request for information on cooperation

64. The next meeting of the Council for TRIPS, which the Office of the Union plans to attend, is scheduled for November 6 and 7, 2012.

65. The meeting of the Council for TRIPS scheduled for November 6 and 7, 2012, is to have a special focus on technical cooperation and has, as in previous years, invited 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, by October 11, 2012. As in most previous years, the Office of the Union plans to provide information on the services that UPOV provides for enhancing the effectiveness of the UPOV system and the assistance it has provided to States and organizations in the introduction and implementation of the UPOV system.

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

[Annexes follow]

## ANNEX I

MEMBERS OF THE EAST ASIA PLANT VARIETY PROTECTION FORUM  
AND THEIR STATUS WITHIN UPOV**I. Members of UPOV**

China
Japan
Republic of Korea
Singapore
Viet Nam

**II. States Which Have Initiated With the Council of UPOV the Procedure for Becoming Members of the Union**

	Observer Status Within UPOV			
	Council	CAJ	TC	TWP
Malaysia	✓	✓		✓
Philippines	✓			

**III. States Which Have Been in Contact with the Office of the Union for Assistance in the Development of Legislation on Plant Variety Protection**

	Observer Status Within UPOV			
	Council	CAJ	TC	TWP
Brunei Darussalam				
Cambodia	✓			
Indonesia	✓			
Lao People's Democratic Republic				
Thailand	✓	✓		

**IV. Other**

Myanmar
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[Annex II follows]

ANNEX II

Extract from  
document CC/80/7 Corr. "Developments of relevance to UPOV in other international fora"

"24. In deciding on participation in specific activities of the EAPVP Forum, the Office of the Union is guided by the prioritization set out in the Program and Budget for the 2010-2011 Biennium, as agreed by the Council (see document C/43/4 Rev.), which states that:

'14. Following the guidance from the Council, activities will be carried out in accordance with the following approach:

- services to existing members of the Union with a view to improving the effectiveness and efficiency of the plant breeders' rights system;
- prioritization and concentration of information, advice and training activities on new members of the Union and potential new members, according to their commitment to accede to the UPOV Convention;
- coordination of activities;
- prioritization of external relations' activities; and
- use of communication technologies (e.g. distance learning, video-conferencing).'

"25. In the case of EAPVP Forum activities, the Office of the Union will pursue the objectives set out document C/43/4 Rev., Sub-program UV.2 "Improved Services to Members of the Union / Ensuring an Effective System of Plant Variety Protection concerning", for members of the Union, and Sub-program UV.3 "Extending the Coverage of Protection of New Varieties of Plants", for States that are not yet members of the Union. The objectives in Sub-program UV.3 are set out in document C/43/4 Rev., as follows:

"Sub-program UV.3  
Extending the Coverage of Protection of New Varieties of Plants

Objectives:

- To assist States and certain organizations, particularly governments of developing countries and countries in transition to a market economy, in the development of legislation conforming with the 1991 Act of the UPOV Convention.
- To assist States and certain organizations in the accession to the 1991 Act of the UPOV Convention.
- To assist States and certain organizations in implementing an effective plant variety rights system in line with the 1991 Act of the UPOV Convention."

"26. In the context of "the harmonization of the plant variety protection system in the Asian region through cooperative efforts", the EAPVP Forum organizes a number of activities in relation to the harmonization of test guidelines and DUS testing and has sought the support of Office of the Union and members of the Union in those activities. In order to ensure that such harmonization is based on UPOV principles and that the activities of the Office of the Union follow UPOV's policies and priorities, the Office of the Union seeks to base its activities in the EAPVP Forum on facilitating the involvement of members of the Union and observer States to UPOV in the work of the Technical Committee and the Technical Working Parties. In that regard, it is recognized that the resources provided by the EAPVP Forum could provide substantial support for participation in the work of the Technical Committee and the Technical Working Parties. On that basis, the following approach was discussed at the "3<sup>rd</sup> Workshop for Cooperation in Harmonization of Test Guidelines and DUS Test":

"(a) Experts from members of the Union (and from observer States to UPOV (currently Cambodia, Indonesia, Malaysia, Philippines and Thailand) to participate in UPOV Technical Working Parties (TWPs), as appropriate, in order to contribute to UPOV Test Guidelines under development by the TWPs, such that those UPOV Test Guidelines cover the Asian region;

“(b) EAPVP Forum test guidelines to make cross-reference to the corresponding characteristic number in the UPOV Test Guidelines (see document TGP/7/2 Draft 6, section 4.1.4 under Section 4 “Development of Individual Authorities’ Test Guidelines”);

“(c) The Office of the Union to support a EAPVP Forum workshop in 2011, in order to:

- “(i) prepare experts to participate in the UPOV TWPs;
- “(ii) provide guidance on the selection of characteristics, the drafting of characteristics and the process for developing UPOV Test Guidelines;
- “(iii) provide guidance on the development of EAPVP Forum test guidelines from UPOV Test Guidelines;
- “(iv) provide guidance on the development of EAPVP Forum test guidelines in the absence of UPOV Test Guidelines; and

“(d) UPOV to provide an annual report on technical developments in UPOV (including adoption and revision of TGP documents and program for development and revision of UPOV Test Guidelines), at an appropriate EAPVP Forum activity.”

[Annex III follows]



ANNEX III  
(in English only)

Identifying and Quantifying the Potential Monetary and Non-monetary Benefits Arising from the Utilization of Plant Genetic Resources under the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture

PROJECT OUTLINE

December 2011

The International Treaty on Plant Genetic Resources for Food and Agriculture (PGRFA), hereinafter the Treaty, establishes a multilateral system which facilitates access to and exchange of the plant genetic resources of a range of food crops by means of Standard Material Transfer Agreements (SMTAs). Those who commercialize products that incorporate plant genetic resources received under an SMTA must pay a percentage of their profits into a fund to be administered by the Treaty's Governing Body, under certain conditions. This Benefit-Sharing Fund is to be used to promote conservation and sustainable use of plant genetic resources, particularly by farmers and indigenous communities, whose rights and contributions to genetic diversity the Treaty expressly recognizes.

The present project aims to develop a methodology for the identification and quantification of the benefits arising from the utilization of PGRFA under the multilateral system in order to estimate the build-up of funds in the Benefit-Sharing Fund of the Treaty. The project will achieve its objective through five in-depth technical studies (project modules), which will form the basis for preparation of a synoptic study as key output of the project.

The first module provides the conceptual framework with which a quantification of benefits can be approached. It identifies and classifies the variety of economic value which are generated through the access to and exchange of PGRFA under SMTAs by reviewing existing literature and drawing in particular on the framework of Total Economic Value. Monetary and non-monetary benefits will be discussed.

Module 2 constitutes the heart of the project as it develops an algorithm (a mathematical model) in order to predict the volume of monetary benefits that are likely to flow to the Benefit-Sharing Fund from products incorporating materials accessed under the terms and conditions of the SMTA. This innovative model will make it possible to consider a number of possible scenarios, extrapolating future benefit flows based on different starting assumptions. Since very little information currently exists to allow for a projection of monetary benefits resulting from the exchange of PGRFA under SMTAs, this module has to be understood as a first step toward such projection.

In recognition of the difficulties of generating the necessary empirical data for the quantification of monetary benefits, i.e. for the population of the algorithm, the project adopts a multi-pronged approach reflected in the remaining three modules: direct inquiry (module 3), large-scale computational analysis (module 4), and econometric analysis (module 5). Due to the novelty of this research, the limited time frame and unavailability of much of the needed data, the studies of the project restrict themselves to analysing in detail the three main crops of wheat, maize and rice, which are thought to constitute about 50% of the value of the world seed market.

Module 3 consists of a questionnaire survey of plant breeding experts in private industry, industry associations, and a selection of national and international institutions. A small number of crucial CC/83/6 ANNEX III questions directly related to determining the parameters of the mathematical model is being discussed with the experts and their estimates for relevant figures sought. Answers are not seen to provide rigorous data, but rather to help corroborate figures gathered elsewhere as well as to allow for the running of scenarios based on the best informed estimates available where other figures cannot be found.

Module 4 draws on the computational power of Lancaster University's Sociomics Core Facility for the mining of large patent and plant variety protection (PVP) databases (US Patent Office, European Patent Office, Patent Cooperation Treaty, UPOV's PLUTO), the generation of statistics on relevant patents and PVP, as well as analysis of pedigree information of protected plant varieties with the help of the International Crop Information System (ICIS). Lancaster has available an index of patent applications making mention of any of 6 million species' names from the Global Biodiversity Information System and Encyclopaedia of Life, which

facilitates the generation of statistics relating to the crops under the multilateral system of the Treaty (Annex 1 crops). This module aims to provide figures for the population of the algorithm and the analysis of module 5, as well as demonstrate the potential of this computational methodology for the evaluation of the monetary benefits resulting from exchange of PGRFA.

Module 5 consists of an analysis of the world seed trade, in particular the global sales values of seed and planting materials. It provides an overview of world seed production and trade, including an assessment of the share of Annex 1 crops in this production and trade and a discussion of the difficulty in obtaining the necessary data for such an assessment. Moreover, this module analyses the innovative activity in Annex 1 crops (measured in terms of patent and PVP applications as well as variety releases in developing countries), and traces the pedigree of a cross section of varieties in order to assess the proportion of varieties that are likely to include in their ancestry materials which are now available under the multilateral system. It also provides an assessment of the benefit flows to be expected from mandatory payments on the one hand, and voluntary payments on the other.

There are five main outputs of the project:

1. A study of the economic values, appropriable and non-appropriable, of plant genetic resources for food and agriculture (Module 1).
2. An analysis of the world seed trade (Module 5).
3. An a mathematical model to predict the volume of monetary benefits that are likely to flow to the BSF of the Treaty from products incorporating materials accessed under the terms and conditions of the SMTA. The model will be developed in Excel, with a user interface that allows initial values to be entered and varied dynamically (by sliders), in order to demonstrate in real time the effects of differing assumptions (Module 2).
4. A methodological paper on the potential of large-scale data analysis in mapping the innovative activity resulting from exchange of PGRFA (Module 4).
5. A synoptic report, summarising the findings of the project modules and pointing towards future research opportunities.

[Annex IV follows]



Proposed revised Agenda

**PLATFORM FOR THE CO-DEVELOPMENT  
AND TRANSFER OF TECHNOLOGIES  
FIRST WORKSHOP**

**7<sup>th</sup> – 8<sup>th</sup> August 2012**

**Embrapa CECAT – Tambaqui Room  
Brasilia, Brazil**

**7<sup>TH</sup> AUGUST 2012**

<http://www.planttreaty.org>

**(09.00 – 9.30)**

➤ **Opening and Welcome**

*Brazilian Agriculture Research Corporation (Embrapa) – Pedro Arraes  
Ministry of Agriculture, Livestock and Food Supply – Roberto Lorena  
Ministry of Environment – Prof. Roberto Cavalcanti  
Ministry of Foreign Affairs – Min. Paulino Carvalho Neto  
Indonesian Agency for Agricultural Research and Development – Muhamad Sabran  
Chairman of the Second High-level Roundtable on the International Treaty at Rio+20  
– Mauricio Lopes  
Secretary of the International Treaty – Shakeel Bhatti*

**(09.30 – 10.45)**

➤ **Review and approval of the agenda**

*Co-Chairs – Savio Mendonça (Brazil) and Muhamad Sabran (Indonesia)  
Rapporteur – M.J. Sampaio*

➤ **The background to the Workshop: Benefit-sharing in the Context of the Treaty**

*Shakeel Bhatti, Secretary, International Treaty*

➤ **Non-monetary benefit-sharing under the Treaty**

*Bert Visser, Center for Genetic Resources (CGN), Netherlands*

➤ **Expected outcomes of the Workshop**

*Clive Stannard / M.J. Sampaio*

**(10.45 – 11.00)**

➤ **Coffee break**

## SESSION 1

**(11.00 – 11.15)**

- **Technology transfer for directions established by the Governing Body**
    - *Ensuring focus and impact: focusing on assisting farmers to adapt to climate change with a special focus on improving nutrition with selected crops*
    - *Technology recipients' support needs*
- Shakeel Bhatti

**(11.15 – 13.00)**

- **10 minutes presentations by each potential partner institution on their capacity & potential contributions to the Platform related to technology transfer, exchange of information and capacity building** (e.g. partners in co-development, policy makers/institutional drivers, helpdesk, implementing entities, brokers, etc)

### Potential Working Partners:

- **Brazilian Agriculture Research Corporation** - Dr. Mauricio Lopes
- **Indonesian Agency for Agricultural Research and Development** - Dr. Muhamad Sabran
- **African Agricultural Technology Foundation** - Al-Haji Tejan-Cole
- **National Innovation Foundation/SRISTI** -
  - Prof. Anil Gupta (video address)
  - Dr. Vipin Kumar
- **Center for Genetic Resources (CGN)** – Dr. Bert Visser
- **Syngenta** – Cecilia Oswald

### Potential Consulting Partners:

- **G-20 Tropical Agriculture Platform** – Andrea Sonnino (video address)
- **UPOV** - Peter Button
- **WIPO** - Anatole Krattiger

**(13.00 – 14.00)**

- **Lunch at Embrapa**

**(14.00 – 15.00)**

- **Sharing Experiences for the Work of the Platform: past successes and failures in co-developing and transferring agricultural technologies**
  - *Embrapa's experiences* - Dr. Filipe Teixeira
  - *Group discussion on experiences of other working partners*

**(15:00 – 16:00)**

### **Two Breakout Groups:**

- **The role and contributions of working partners in the Platform:**
  - *How the relationships will work*
  - *How the working partners will identify potential contributions and activities*
  - *How do the partners work with each other and, collectively, engage others*
  - *How will the partners report to the Governing Body*

- *Short- and long-term objectives and possible development paths for the Platform*
- *Transaction costs and resource needs*

**(16.00 – 16.30)**

**Coffee break**

**(16:30 – 17:45)**

- ***Continued: The role and contributions of working partners in the Platform***

**(17:45 – 18:00)**

- ***Group rapporteur to prepare summary for next day***

**8<sup>TH</sup> AUGUST 2012**

**SESSION 2**

**(09.15 – 9.45)**

***Rapporteurs- summary***

**(09.45 – 10.15)**

- ***Technology transfer within the context of existing projects of the Benefit-sharing Fund Treaty Secretariat - Álvaro Toledo***

**(10.15 – 10.45)**

**Coffee break**

**(10:45 – 12:00)**

- ***Enhancing technology transfer in the next Call for Proposals of the Benefit-sharing Fund: Advice from the Working Partners on a possible TT window of the BSF:***
  - *Project design and structure: project templates; partnership arrangements, length and size of projects; technology transfer methodologies*
  - *Criteria for screening and appraisal of proposals*
  - *Helpdesk arrangements*

**(12.00 – 13.00)**

- ***Launching the Platform and testing pilot proposals on technology transfer in the next Call for proposals of the Benefit-sharing Fund :***
  - *the role of the Platform;*
  - *the support from a possible Call window*

**(13.00 – 14.00)**

- ***Lunch at Embrapa***

**SESSION 3**

***(14.00 – 17.00 with coffee break - 16:30-17:00)***

- ***Planning for the Platform: Next steps for the partners***
  - *Defining the concept of the platform*
  - *Identification of a Chair for immediate activities*
  - *Possible other partners*
  - *Activities of the partners in the next year*
    - *Contribution of the platform to the various stages of the third round of the project cycle*
    - *Next meetings and follow-up*
    - *Informing the Governing Body*
    - *External events: informing Contracting Parties and other stakeholders*

***(17.00 – 17.30)***

- ***Closing - summary***

[Annex V follows]

**PLATFORM FOR  
THE CO-DEVELOPMENT AND TRANSFER OF TECHNOLOGIES  
IN SUPPORT OF**

**THE FUNDING STRATEGY OF THE INTERNATIONAL TREATY ON PLANT  
GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

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**DRAFT MISSION STATEMENT**

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The International Treaty on Plant Genetic Resources for Food and Agriculture is the international framework for the conservation and sustainable utilization of plant genetic resources for food and agriculture, and the fair and equitable sharing of the benefits. Such benefits flow, as a priority, to farmers in developing countries, especially in least developed countries, who conserve and sustainably utilize plant genetic resources for food and agriculture.

The Treaty calls for technology transfer as a primary form of non-monetary benefit-sharing.<sup>1</sup> Technology transfer is also a major objective of many other international agreements.<sup>2</sup> The Governing Body of the Treaty has called for measures to realise effective technology transfer and has invited Contracting Parties and other relevant stakeholder to explore innovative benefit-sharing measures for technology transfer.<sup>3</sup>

The Rio Six-point Action Plan for the International Treaty<sup>4</sup> recommends, as a priority action to be undertaken by stakeholders in the Treaty, “to establish a Platform for the Co-Development and Transfer of Technologies, within the context of non-monetary benefit-sharing under the Treaty”.<sup>5</sup>

An integrated global operational mechanism to promote, support and realize technology transfer related to plant genetic resources for food and agriculture, for the benefit of small-scale farmers in developing countries, offers an innovative approach to effective benefit-sharing. A group of institutions with expertise of relevant technologies of a wide range of types has therefore, by common agreement, undertaken to establish such a platform, as an initiative within the Funding Strategy of the Treaty,<sup>6</sup> in order to create a methodology to enable technology transfer to meet the needs of such beneficiaries. The benefits are intended

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<sup>1</sup> Articles 13.1, and, in particular, 13.2b and d.

<sup>2</sup> Convention on Biological Diversity, *etc.*

<sup>3</sup> Resolution 4/2011, paragraph 19.

<sup>4</sup> The Rio Six-point Action Plan for the International Treaty was adopted by consensus at the Second High-level Roundtable on the International Treaty on Plant Genetic Resources for Food and Agriculture on the occasion of the United Nations Conference on Sustainable Development (Rio de Janeiro, Brazil, 21 June 2012).

<sup>5</sup> DEFINE.

<sup>6</sup> Article 18.

to include: improved food security; social and economic development; improved resilience in their farming systems, and in particular, an improved capacity to adapt to climate change, through the use of PGRFA.

The Platform seeks:

1. To respond to needs identified by target beneficiaries;
2. To create a functioning network of institutions with the skills and experience to support and undertake initiatives and projects that aim to co-develop and transfer technologies<sup>7</sup> to beneficiaries in developing countries;
3. To contribute to food security, and the social and economic development of the target beneficiaries, through the establishment of a “one-stop shop” for coherent “technology transfer packets”;
4. To promote the co-development and transfer of technologies, recognizing that technology transfer requires a range of supporting activities, in particular capacity- and institution-building;
5. To mobilize in-kind contributions from both the public and the private sectors for this purpose.
6. To mobilize financial and in-kind support to deliver relevant technologies, including through the Treaty’s Benefit-sharing Fund;
7. To support the implementation of the Benefit-sharing Fund project cycle through the provision of relevant expert advice and capacity.

The Platform will adhere to the following principles:

1. The Platform considers that technology transfer is a means to deliver benefits to target beneficiaries, rather than an end in itself.
2. The Platform recognizes that there is a wide range of approaches to technology transfer, and a broad range of potential solutions, in responding to needs.
3. The Platform will work within the context of the Treaty’s Funding Strategy. The establishment of the Platform will be reported to the Fifth Session of the Treaty’s Governing Body in 2013, and progress reports will thereafter be made to all sessions.
4. The Platform will consult with a wide range of stakeholders in the Treaty, in developing and implementing its activities.
5. In keeping with the Treaty’s multilateral objectives, genetic materials developed in the context of initiatives and projects supported by the Platform will be available through the Treaty’s Multilateral System of Access and Benefit-sharing.

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<sup>7</sup> DEFINE.



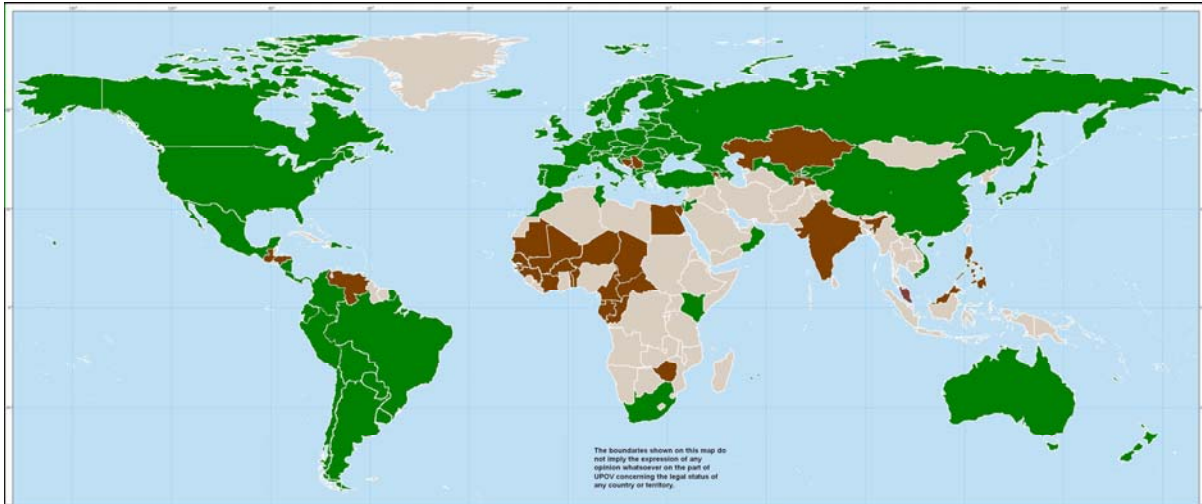
ANNEX VI  
(In English only)

REPORT ON ACTIVITIES BY  
THE INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)  
IN RELATION TO PLANT GENETIC RESOURCES FOR THE SIXTH SESSION OF THE INTERGOVERNMENTAL  
TECHNICAL WORKING GROUP ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE,  
TO BE HELD IN ROME AT THE HEADQUARTERS OF THE FOOD AND AGRICULTURE ORGANIZATION  
OF THE UNITED NATIONS (FAO), FROM NOVEMBER 14 TO 16, 2012

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## INTRODUCTION

The International Union for the Protection of New Varieties of Plants (UPOV) was established in 1961 by the International Convention for the Protection of New Varieties of Plants (the “UPOV Convention”). The mission of UPOV is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society. The UPOV Convention and membership of UPOV provides an effective, internationally recognized system of plant variety protection (PVP). As of September 10, 2012, UPOV has 70 members (shown in green), and 15 States and one Organization have initiated the procedure for becoming UPOV members (shown in brown).



A further 22 States and two intergovernmental organizations have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention. Details are provided in the Annex to this report.

The UPOV Convention provides the basis for UPOV members to encourage plant breeding by granting breeders of new plant varieties an intellectual property right: the breeder's right. In order to obtain protection, the breeder needs to file individual applications with the authorities of UPOV members entrusted with the task of granting breeders' rights ([http://www.upov.int/members/en/pvp\\_offices.html](http://www.upov.int/members/en/pvp_offices.html)).

The UPOV Convention specifies the acts that require the breeder's authorization in respect of the propagating material of a protected variety and, under certain conditions, in respect of the harvested material. The breeder's right means that the authorization of the breeder is required to propagate the variety for commercial purposes.

Under the UPOV Convention, the breeder's right is only granted where the variety is (i) new, (ii) distinct, (iii) uniform, (iv) stable and has a suitable denomination.

The breeder's right does not extend to acts done (i) privately and for non-commercial purposes, (ii) for experimental purposes and (iii) for the purpose of breeding other varieties. The 1991 Act of the UPOV Convention also contains an optional exception, under which UPOV members may permit farmers, on their own farms, to use part of their harvest of a protected variety for the planting of a further crop.

In order to become a UPOV member the advice of the UPOV Council in respect of the conformity of the law of a future member with the provisions of the UPOV Convention is required. This procedure leads, in itself, to a high degree of harmony in those laws, thus facilitating cooperation between members in the implementation of the system. Guidance documents on how to develop legislation and become a UPOV member can be found at [http://www.upov.int/upov\\_collection/en/](http://www.upov.int/upov_collection/en/). The legislation of UPOV members can be consulted in UPOV Lex at <http://www.upov.int/upovlex/en/>.

The effectiveness of the UPOV system is enhanced by the provision of guidance and information materials such as Explanatory Notes (“UPOV/EXN” series), Information Documents (“UPOV/INF” series), the General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants, with its associated TGP documents, and the “Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability” (see Test Guidelines at [http://www.upov.int/test\\_guidelines/en/](http://www.upov.int/test_guidelines/en/)). Such materials provide the basis for harmonization and,

thereby, facilitate cooperation between UPOV members (see UPOV Collection at [http://www.upov.int/upov\\_collection/en/](http://www.upov.int/upov_collection/en/)).

Further measures to support and enhance cooperation between members relate to information available in the PLUTO Plant Variety Database (see <http://www.upov.int/pluto/en/>) and in the GENIE database (see <http://www.upov.int/genie/en/>).

For training on the UPOV Convention see <http://www.upov.int/resource/en/training.html>

## UPOV AND PLANT GENETIC RESOURCES<sup>1</sup>

### Access to Genetic Resources

UPOV considers that plant breeding is a fundamental aspect of the sustainable use and development of genetic resources. It is of the opinion that access to genetic resources is a key requirement for sustainable and substantial progress in plant breeding. The concept of the “breeder’s exemption” in the UPOV Convention, whereby acts done for the purpose of breeding other varieties are not subject to any restriction, reflects the view of UPOV that the worldwide community of breeders needs access to all forms of breeding material to sustain greatest progress in plant breeding and, thereby, to maximize the use of genetic resources for the benefit of society.

### Benefit-Sharing

The “breeder’s exemption”, established in the UPOV Convention, means that acts done for the purpose of breeding other varieties are not, under the UPOV Convention, subject to any restriction and the breeders of protected varieties (initial varieties) are not entitled to financial benefit-sharing with breeders of varieties developed from the initial varieties, except in the case of essentially derived varieties (EDV).

The Food and Agriculture Organization of the United Nations (FAO), at its 31<sup>st</sup> Conference, on November 3, 2001, adopted the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), which recognizes the concept of the breeder’s exemption, in that breeders are excepted from mandatory financial benefit-sharing whenever their products are “available without restriction to others for further research and breeding ...” (see ITPGRFA, Article 13.2. (d)(ii)).

In addition to the breeder’s exemption and the research exemption, the UPOV Convention contains a compulsory exception to the breeder’s right whereby the breeder’s right does not extend to acts done privately and for non-commercial purposes. Therefore, activities of subsistence farmers, where these constitute acts done privately and for non-commercial purposes, are excluded from the scope of the breeder’s right and such farmers freely benefit from the availability of protected new varieties.

The inclusion of the optional exception in the 1991 Act of the UPOV Convention recognizes that, for some crops, there has been a common practice of farmers saving the product of the harvest for propagating purposes, and this provision allows each member of the Union to take account of this practice and the issues involved on a crop-by-crop basis, when providing plant variety protection. The use of the words “within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder” is consistent with an approach whereby, if the optional exception is implemented, it is done in a way which does not undermine the incentives provided by the UPOV Convention for breeders to develop new varieties.

## UPOV INFORMATION AND ACTIVITIES

### Website resources

The redesigned UPOV website, which was launched on November 1, 2011, includes the following new features:

- freely accessible PLUTO database of plant varieties (see <http://www.upov.int/pluto/en/>);
- multimedia presentation on UPOV (see <http://www.upov.int/overview/en/>);

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<sup>1</sup> See [http://www.upov.int/export/sites/upov/news/en/2003/pdf/cbd\\_response\\_oct232003.pdf](http://www.upov.int/export/sites/upov/news/en/2003/pdf/cbd_response_oct232003.pdf)

- video on the use of plant variety protection by gentian farmers in the Ashiro region of Japan (“the Ashiro Rindo story”) (see [http://www.upov.int/multimedia/en/2011/ashiro\\_rindo.html](http://www.upov.int/multimedia/en/2011/ashiro_rindo.html));
- UPOV Collection of materials explaining the UPOV system (see [http://www.upov.int/upov\\_collection/en/](http://www.upov.int/upov_collection/en/));
- UPOV Lex database of UPOV members’ laws (<http://www.upov.int/upovlex/en/>);
- documents of the Administrative and Legal Committee (CAJ), Technical Committee (TC) and Technical Working Parties (TWPs), which were formerly only accessible to members and observers, have been made publicly accessible (<http://www.upov.int/meetings/en/topic.jsp>); and
- UPOV Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability (Test Guidelines) in Word format (see [http://www.upov.int/test\\_guidelines/en/](http://www.upov.int/test_guidelines/en/)).

#### Seminars and Symposia

UPOV has recently organized the following events in Geneva, the presentations for which can be found on the UPOV website (see [http://www.upov.int/meetings/en/topic.jsp?group\\_id=73](http://www.upov.int/meetings/en/topic.jsp?group_id=73)):

- Symposium on Plant Breeding for the Future (held in Geneva, on October 21, 2011)
- Seminar on Plant Variety Protection and Technology Transfer: the Benefits of Public-Private Partnership (held in Geneva, from April 11 to April 12, 2011)

On November 2, 2012, UPOV will organize the following event in Geneva:

- Symposium on the Benefits of Plant Variety Protection for Farmers and Growers

#### Cooperation with the Food and Agriculture Organization of the United Nations (FAO)

##### *Commission on Genetic Resources for Food and Agriculture (CGRFA)*

The Office of the Union attended the Fifth Session of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture of the Commission on Genetic Resources for Food and Agriculture (Commission), held in Rome from April 27 to 29, 2011, and the Thirteenth Regular Session of the Commission (CGRFA-13), held in Rome, from July 18 to 22, 2011.

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

- Research project on the economics of the Multilateral System of the ITPGRFA

The Council of UPOV, at its forty-fifth ordinary session, held in Geneva on October 20, 2011, agreed with the request of the Secretariat of the ITPGRFA for the Office of the Union to cooperate with ITPGRFA on a research project on the economics of the Multilateral System of the ITPGRFA, based on information available from the Plant Variety Database (PLUTO).

- Platform for the Co-Development and Transfer of Technologies

At the invitation of the Secretary of the ITPGRFA, the Office of the Union attended a meeting on August 7 and 8, 2012, in Brasilia, to discuss the options for the establishment and intended activities of a “Platform for the Co-Development and Transfer of Technologies” within the context of the ITPGRFA.

For further information about UPOV, please contact the Office of the Union:

E-mail: [upov.mail@upov.int](mailto:upov.mail@upov.int) Website: [www.upov.int](http://www.upov.int)

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[Appendix follows]

APPENDIX

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)  
as of September 10, 2012

**I. Members of UPOV**

Albania <sup>3</sup>	Chile <sup>2</sup>	France <sup>3</sup>	Latvia <sup>3</sup>	Poland <sup>3</sup>	Switzerland <sup>3</sup>
Argentina <sup>2</sup>	China <sup>2</sup>	Georgia <sup>3</sup>	Lithuania <sup>3</sup>	Portugal <sup>2</sup>	The former Yugoslav Republic of Macedonia <sup>3</sup>
Australia <sup>3</sup>	Colombia <sup>2</sup>	Germany <sup>3</sup>	Mexico <sup>2</sup>	Republic of Korea <sup>3</sup>	Trinidad and Tobago <sup>2</sup>
Austria <sup>3</sup>	Costa Rica <sup>3</sup>	Hungary <sup>3</sup>	Morocco <sup>3</sup>	Republic of Moldova <sup>3</sup>	Tunisia <sup>3</sup>
Azerbaijan <sup>3</sup>	Croatia <sup>3</sup>	Iceland <sup>3</sup>	Netherlands <sup>3</sup>	Romania <sup>3</sup>	Turkey <sup>3</sup>
Belarus <sup>3</sup>	Czech Republic <sup>3</sup>	Ireland <sup>3</sup>	New Zealand <sup>2</sup>	Russian Federation <sup>3</sup>	Ukraine <sup>3</sup>
Belgium <sup>1</sup>	Denmark <sup>3</sup>	Israel <sup>3</sup>	Nicaragua <sup>2</sup>	Singapore <sup>3</sup>	United Kingdom <sup>3</sup>
Bolivia (Plurinational State of) <sup>2</sup>	Dominican Republic <sup>3</sup>	Italy <sup>2</sup>	Norway <sup>2</sup>	Slovakia <sup>3</sup>	United States of America <sup>3</sup>
Brazil <sup>2</sup>	Ecuador <sup>2</sup>	Japan <sup>3</sup>	Oman <sup>3</sup>	Slovenia <sup>3</sup>	Uruguay <sup>2</sup>
Bulgaria <sup>3</sup>	Estonia <sup>3</sup>	Jordan <sup>3</sup>	Panama <sup>2</sup>	South Africa <sup>2</sup>	Uzbekistan <sup>3</sup>
Canada <sup>2</sup>	European Union <sup>3,4</sup>	Kenya <sup>2</sup>	Paraguay <sup>2</sup>	Spain <sup>3</sup>	Viet Nam <sup>3</sup>
	Finland <sup>3</sup>	Kyrgyzstan <sup>3</sup>	Peru <sup>3</sup>	Sweden <sup>3</sup>	

(Total 70)

<sup>1</sup> 1961 Convention as amended by the Additional Act of 1972 is the latest Act by which one State is bound.

<sup>2</sup> 1978 Act is the latest Act by which 20 States are bound.

<sup>3</sup> 1991 Act is the latest Act by which 48 States and one organization are bound.

<sup>4</sup> Operates a (supranational) Community plant variety rights system which covers the territory of its 27 members.

**II. States and intergovernmental organizations which have initiated the procedure for  
acceding to the UPOV Convention**

*States (15):*

Armenia, Bosnia and Herzegovina, Egypt, Guatemala, Honduras, India, Kazakhstan, Malaysia, Mauritius, Montenegro, Philippines, Serbia, Tajikistan, Venezuela and Zimbabwe.

*Organization (1):*

African Intellectual Property Organization (OAPI)

*(member States of OAPI (16): Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal, Togo).*

**III. States and intergovernmental organizations which have been in contact with the Office  
of the Union for assistance in the development of laws based on the UPOV Convention**

*States (22):*

Algeria, Bahrain, Barbados, Brunei Darussalam, Cambodia, Cuba, Cyprus, El Salvador, Ghana, Indonesia, Iraq, Islamic Republic of Iran, Lao People's Democratic Republic, Libya, Pakistan, Saudi Arabia, Sudan, Thailand, Tonga, Turkmenistan, United Republic of Tanzania and Zambia.

*Organizations (2):*

African Regional Intellectual Property Organization (ARIPO)

*(member States of ARIPO (18): Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sierra Leone, Somalia, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia, Zimbabwe)*

Southern African Development Community (SADC)

*(member States of SADC (15): Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia, Zimbabwe).*

CONCEPT PAPER

WIPO FRAMEWORK FOR DESIGNING NATIONAL INTELLECTUAL PROPERTY  
STRATEGIES FOR DEVELOPMENT

Objective

The aim of the project is to develop a conceptual framework to assist countries to produce national intellectual property (IP) strategies for development which directly reference and support their development needs and priorities.

Introduction to project

The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations, mandated with promoting the protection of IP for economic, cultural, and social development of its 184 Member States. In 2007, the Member States of WIPO agreed upon a Development Agenda, which aims to ensure that development considerations form an integral part of WIPO's work.

As part of the focus on development and IP, an increasing number of countries are endeavoring to develop national IP strategies, and it is important for every country to develop a strategy to approach IP and to use IP for its specific economic circumstances and aspirations. To this end, WIPO (jointly the Development Agenda Coordination Division and the Office of the Chief Economist) has initiated a project to create a Framework for Designing National IP Strategies for Development ('IP Strategies Framework') to assist all countries in developing national IP strategies which directly reference and support their development needs and priorities.

The resulting IP Strategies Framework will be made available to WIPO's Member States, and WIPO will provide its services upon demand to assist countries to develop national IP strategies using the Framework. The IP Strategies Framework will be flexible, to be useful to countries with different development needs and priorities, and provide guidance to countries in developing their IP strategies without being prescriptive. The Framework is designed to help link IP decision-making at the national level to a broader, development-oriented public policy framework with a results-based approach.

The IP Strategies Framework will provide national policy-makers with a means to identify the IP policy options that are relevant and useful to address the development goals outlined in their national development plans. These development goals may be articulated in priorities, targets, timeframes and indicators of achievement tailored to each country's conditions, and often rely on economic data as a point of departure. While development goals and priorities vary significantly from country to country, the key development issues are of a similar nature, and tend to be grouped in common sectors or issues, such as health, culture and education, industry development, rural development, and environment.

The IP Strategies Framework will enable countries to identify the specific areas of IP policy that a country may use to address their national development goals. The IP options that are available to each country will depend in part upon their international commitments in the field of IP, and to the IP infrastructure in place, such as existing IP laws, policies, institutions and cooperation, informed of the WIPO Development Agenda considerations.

The IP Strategies Framework will also provide guidance on how to use the economic, social and technological data identified in the development of a national IP and innovation strategy. As such, it will identify the key indicators that should be consulted in the development of a national IP strategy. Economic, social and technological data may provide an insight into the priority sectors for national development, and priority issues to be addressed in a national IP strategy.

### Linkages to related WIPO work

The IP Strategies Framework project is closely related to two separate WIPO Development Agenda projects, whose outcome will be integrated to provide comprehensive support to Member States in developing and implementing national IP strategies:

I. The WIPO Development Agenda project on Improvement of National, Sub-regional and Regional Institutional User Capacity (DA\_10\_05), contained in document [CDIP/3/INF/2](#), aims to strengthen national IP institutional capacities through the development of a methodological and integrated approach to IP policy, strategy, institutional reform and modernization.

The Project DA\_10\_05 methodology is being validated through a piloting process in six countries, based on the use of practical tools, aimed at assisting officials involved in the development of national IP strategies in (a) assessing the current status of the country's IP system, (b) defining strategic IP targets and priority areas and identifying how these can contribute to national development objectives; and (c) assessing specific IP needs with a view to formulating a national IP strategy in line with national development priorities and objectives.

The output of this Development Agenda project will complement the macro-level conceptual approach provided by the IP Strategies Framework, by informing the project with the applied methodology and empirical research gained from the pilot projects. The case studies and reports of the Development Agenda project will be published on the WIPO portal on National IP Strategies.

II. The WIPO Development Agenda project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development (Recommendations 33, 38 and 41), contained in document CDIP/4/8, has, as one of its objectives, to develop a framework for the objective assessment of the development impact of WIPO's activities, including through country level assessment frameworks and, where possible as an integrated part of national IP Strategies. These will be integrated with the IP Strategies Framework as a second part of the project report, designed to assist countries to adopt a results-based approach and include a mechanism in their national IP strategies to enable ongoing monitoring and evaluation of development-effectiveness.

### Methodology

The IP Strategies Framework will be developed by a cluster of six expert working groups including eminent development economists and IP experts hired under Special Service Agreement (SSA) , together with advisors from UN organizations, in key fields of economic, cultural and scientific development.

The IP Strategies Framework will consist primarily of a report, composed of an introduction and executive summary, and six thematic modules:

1. Public Health and IP
2. Agriculture, Rural Development and IP
3. Culture and IP
4. Education, Science and IP
5. Environment, Energy and IP
6. Industry Development, Trade and IP

The IP Strategies Framework report will also address a number of cross-cutting issues, which are relevant to each of the abovementioned modules and will be addressed throughout. These cross-cutting issues include; IP administration and infrastructure, IP policy formulation and coordination, IP enforcement, science and technology, traditional knowledge and gender.

In order to identify the IP policy mechanisms to address national development goals and priorities, and to find possible solutions to common challenges, the IP Strategies Framework will address the following matrix:

	National Development Goals	Key Indicators / Qualitative Analysis	Interface with IP System	IP Policy Levers	Key Elements of an Enabling Environment
Public Health and IP					
Agriculture, Rural Development and IP					
Culture and IP					
Education and IP					
Environment, Energy and IP					
Industry Development, Trade and IP					

Each expert working group will validate, improve and populate the above matrix, to describe how the different elements of the IP and innovation system can be used to address different development goals. At the same time, each group will identify the most suitable economic indicators that may help to identify priority issues to be addressed in the national IP strategy. The groups will also identify priorities, and make prioritized recommendations for designing a national IP system, depending upon the implementation capacity of each country.

A report will be issued by each expert working group, which will be consolidated as modules in the IP Strategies Framework report, which will be published as a WIPO document and made freely available in all official UN languages. The working language of the expert working groups will be English.

A National IP Strategies portal will be established on the WIPO website, which will integrate the IP Strategies Framework project with WIPO's other work in this area, including a separate framework report to facilitate the monitoring and assessment of development results at the national level. The portal will make available the reports resulting from the Development Agenda project on Improvement of National, Sub-regional and Regional Institutional User Capacity. The portal will also provide a regularly updated source of resource material, including case studies, interviews, follow-up research and information on national IP strategies and experiences in their development and implementation on a country-by-country basis.

## I. EXPERT WORKING GROUPS

Each module of the IP Strategies Framework will be developed and drafted by an expert group comprised of:

- (a) group leader
- (b) three development economists and IP experts
- (c) rapporteur (economist or IP expert)
- (d) IGO advisor(s), and
- (e) WIPO Secretariat.

Terms of reference and guidelines will be developed for each participant role. In particular:

- (a) group leaders will be responsible for leading the process, chairing the meetings, coordinating the online collaboration, and timely delivery of the group's report;
- (b) development economists and IP experts will engage in preparatory work, contribute to discussions in meetings and the online forum, and deliver work tasks allocated by group



leaders. Group leaders and experts will have the authority to interview or consult externally to the project, as part of the research and peer review process;

- (c) rapporteurs will be responsible for documenting the meeting discussions and allocation of work, contributing to the discussions, and assisting group leaders with drafting the report. Rapporteurs should have strong drafting skills and an ability to present information in a structured manner;
- (d) IGO advisors will contribute to policy discussions, make available background research and report on consistency with related work in the UN system; and
- (e) the WIPO Secretariat will provide logistic support for the meeting and participants, provide background research as requested and assist with drafting and editing the group reports, to ensure consistency throughout the IP Strategies Framework. Consultants and interns may also be engaged through the process as required to provide support to the Secretariat from Geneva.

Each expert working group will have representatives from diverse regions to the greatest extent possible, including both developed and developing countries and economies in transition, and represent a range of experience and perspectives on the role of IP in development. A number of experts will be appointed with expertise in cross-cutting issues such as IP administration and infrastructure, traditional knowledge, science and technology and IP enforcement, and these experts will be asked to review the output of other groups, to ensure that such issues are appropriately considered throughout the IP Strategies Framework.

Experts involved in the WIPO Development Agenda project on Improvement of National, Sub-regional and Regional Institutional User Capacity, mentioned above, will also be invited to participate in the expert working group meetings, along with WIPO colleagues involved in relevant development-related projects and activities, so as to inform and complement the discussions of the expert working groups. The expert working groups will also be briefed and assisted by WIPO colleagues involved in the WIPO Development Agenda project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of the Impact of the Organization's Activities on Development, with a view to adopting a results-based approach to the project, in line with WIPO's results-based management system.

#### Expert working group tasks

The main tasks of each expert working group are as follows:

- (a) populate the matrix/template by identifying the different types of IP levers that may impact on countries' development objectives in each specific field of public policy, and that would need to be addressed in a national IP strategy for development. These policy levers could include references to IP infrastructure, institutions, and policy issues that cut across government sectors;
- (b) identify relevant data that will be required in order to guide the formulation of the strategy in each sector in a given country;
- (c) indicate the types of targets or indicators that may be relevant for inclusion in a national IP strategy for development;
- (d) consider source documents, including development plans and national development strategies;
- (e) take note of flanking strategies, and complementary work that has been or is being undertaken in other international organizations, non-governmental organizations and private entities; and
- (f) deliver a report on the conclusions of the expert working group using the agreed matrix/template. Each report should be approximately 30-50 pages in length.

The expert working group reports will be consolidated, and given an introduction and executive summary. The report will be edited by WIPO and published as the WIPO Framework for Designing National IP Strategies for Development, in electronic and hard copy on the WIPO portal on National IP Strategies.

### Group meetings and timetable

The IP Strategies Framework process will commence with a meeting of expert group leaders. The purpose of this meeting is to discuss and reach a common understanding among different groups on the scope of the project; to ensure a common understanding of the matrix, the methodology and the desired outcome; and, to finalize the terms of reference of each respective group so as to avoid duplication of work and ensure that all essential issues are covered in the project.

The next step will be the establishment of the first two expert working groups: Public Health and IP, and Agriculture, Rural Development and IP. The remaining groups will be launched at intervals over the course of 2012-2013. The project is expected to conclude with publication of the IP Strategies Framework document, and will be launched with a WIPO event in 2013.

Each expert working group will have 5-6 months to produce its final sector report, from the date each group is established:

- Month 1: Appointment of group leader and team members
  - preparatory materials circulated
  - group leader assigns preparatory tasks
  
- Month 2: First meeting
  - draft report circulated, discussion and review among group members/observers via online forum
  - group leader assigns follow-up tasks
  
- Month 4: Second meeting
  - revised draft circulated, discussion and review among group members/observers via online forum
  - peer review by other project participants via online forum
  
- Month 5: Delivery of final draft report
  - editing of report by WIPO Secretariat in consultation with group leader

### II. Deliverable

Following submission of the final expert working group report, two months will be required for the Secretariat to compile and edit the group reports into the WIPO Framework for Designing National IP Strategies for Development, in consultation with group leaders and relevant WIPO colleagues working in related fields.

### III. Meeting venues

Each expert working group will meet twice, at two-month intervals, at venues identified by WIPO and in coordination with the appropriate national authorities.

### IV. Online forum

In addition, WIPO will host an online forum to provide support and enable an exchange of views and peer-review for the expert working groups. The online forum will be restricted to project participants, accessible by password, and will enable the Secretariat to provide updates on progress, provide biographical and contact details for expert group members, and enable group leaders to coordinate drafting of the report with input from group members and other involved experts. The online forum will be developed together with WIPO's ICT Department.

At an appropriate stage of the project, the project documents and process will be made public on the WIPO website. A portal on National IP Strategies will be created, in order to provide ongoing information and resources to Member States and other stakeholders, on issue related to development and implementation of national IP strategies. The portal will host the IP Strategies Framework report, and resources such as case studies, anecdotal reports of experiences of use of IP policies in different industries and countries, interviews with IP policy makers, follow-up research and information on national IP strategies and their implementation on a country-by-country basis. This portal will integrate the different projects at WIPO on national IP

strategies, including the two related Development Agenda projects, and relevant WIPO technical assistance and activities in Cooperation for Development.

#### V. Resources and budget

The project is financed from the regular WIPO budget, as previously approved. Each expert will be engaged as a consultant under an SSA contract with terms of reference, and will be paid remuneration plus travel costs. The budget will include costs associated with organizing the meetings, plus travel for necessary WIPO officials. Where possible, national hosts will be requested to provide venues.

#### VI. Communication strategy

As described above, a web page will be established on the WIPO website at the appropriate stage of the process to provide information on the project and to publish the IP Strategies Framework report and related WIPO material. WIPO's Media Relations section will be involved to provide appropriate publicity for the project.

The IP Strategies Framework will be published on a dedicated WIPO web page; a portal for National IP Strategies. The portal will host case studies and experiences among Member States in using or implementing the IP Strategies Framework at the national level, and thereby provide information resources to Member States and the wider public.

#### VII. Development Agenda linkages

The WIPO Framework for Designing National IP Strategies for Development has direct linkages with various recommendations of the WIPO Development Agenda, as follows:

Recommendation No.	
1	Technical assistance shall take into account the priorities and special needs of developing countries. - National IP strategies will assist countries to ascertain their priorities and needs, and to work with WIPO to tailor assistance.
4	Assist Member States in setting up appropriate national strategies in the field of IP, with respect to SMEs and scientific research institutions and cultural industries.
10	Assist Member States to develop and improve national IP institutional capacity through further development of infrastructure and other facilities with a view to making national IP institutions more efficient and promote fair balance between IP protection and the public interest.
11	Assist Member States to strengthen national capacity for protection of domestic creations, innovations and inventions.
24	To explore IP related policies and initiatives necessary to promote the transfer and dissemination of technology.
37	Upon request and as directed by Member States, WIPO may conduct studies on the protection of intellectual property, to identify the possible links and impacts between intellectual property and development.
40	To request WIPO to intensify its cooperation on IP related issues with United Nations agencies, according to Member States' orientation, in particular UNCTAD, UNEP, WHO, UNIDO, UNESCO and other relevant international organizations, especially the WTO in order to strengthen the coordination for maximum efficiency in undertaking development programs.
45	To approach IP enforcement in the context of broader societal interests and especially development-oriented concerns, with a view that "the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations", in accordance with Article 7 of the TRIPS Agreement.