



CC/86/10

ORIGINAL: English

DATE: September 20, 2013

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE

Eighty-Sixth Session Geneva, October 23, 2013

DEVELOPMENTS OF RELEVANCE TO UPOV IN OTHER INTERNATIONAL FORA

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

1. This document reports on developments of relevance to UPOV in other international fora since the eighty-fifth session of the Consultative Committee, held in Geneva on March 22, 2013, as follows:

I.	WORLD SEED PROJECT (WSP).....	3
II.	EAST ASIA PLANT VARIETY PROTECTION FORUM (EAPVP FORUM).....	3
III.	ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)	4
IV.	DEVELOPMENTS UNDER THE AUSPICES OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD).....	4
	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)	4
V.	DEVELOPMENTS UNDER THE AUSPICES OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)	4
	Commission on Genetic Resources for Food and Agriculture (CGRFA)	4
	International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)	5
	<i>Platform for the Co-Development and Transfer of Technologies</i>	5
	Consultation to Promote a Public-Private Partnership in Pre-breeding	6
VI.	WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)	7
	WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)	7
	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"	8
VII.	WORLD TRADE ORGANIZATION (WTO)	9
	Council for TRIPS (Trade-Related Aspects of Intellectual Property Rights).....	9
	<i>Meeting of the Council for TRIPS of June 11, 2013</i>	9
	<i>Future meeting</i>	10

VIII.	INTERNATIONAL SEED TESTING ASSOCIATION (ISTA).....	10
IX.	INTERNATIONAL RICE RESEARCH INSTITUTE (IRRI).....	11
X.	EXPO 2015.....	11
ANNEX I	Extracts from the ITPGRFA “Report of a Technical Consultation to Promote Public-Private Partnerships for Pre-Breeding” “Towards an International Public-Private Partnership for Pre-Breeding: Declaration of Intent”	
ANNEX II	Report of the Proposals Made by Delegations Regarding Future Work of the IGC, Following the Review and Stocktaking Conducted under Agenda Item 7, as at the Close of the Session on July 24, 2013	

I. WORLD SEED PROJECT (WSP)

2. The background to the World Seed Project (WSP) is provided in document CC/84/9 Rev. "Developments of Relevance to UPOV in Other International Fora", paragraphs 2 to 4.

3. On June 20, 2013, at FAO Headquarters, Rome, the WSP Steering Committee held a meeting with potential resource partners. The meeting was attended by his Excellency, Mr. Kofi Humado Clement, Minister for Food and Agriculture, Ghana, and his Excellency, Mr. Chiza Christopher, Minister for Agriculture, Food Security and Cooperatives, United Republic of Tanzania, who both re-confirmed their support for the WSP in their respective countries. With regard to potential donors, the meeting was attended by representatives from the European Commission and the Ministry of Economic Affairs, Netherlands. Possible avenues for resourcing the WSP were discussed and are being pursued.

4. The Consultative Committee is invited to note the developments concerning resourcing of the World Seed Project.

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

5. The background to the East Asia Plant Variety Protection Forum (EAPVP Forum) is provided in document CC/84/9 Rev. "Developments of Relevance to UPOV in Other International Fora", paragraphs 7 to 9.

6. The Office of the Union attended the Sixth EAPVP Forum Meeting, which was held in Kuching, Malaysia, on July 4 and 5, 2013.

7. The EAPVP Forum Meeting received a presentation from Mr. Le Van Viet, Official, International Cooperation Division, the National Office of Intellectual Property of Vietnam (NOIP), on the Association of South-East Asian Nations (ASEAN)¹ IPR Action Plan 2011-2015. Within that Action Plan, Strategic Goal 1 "Balanced IP System That Enables AMSs and Their IP Offices to Deliver Timely, Quality and Accessible IP Services Implementation Work Plans", contains Initiative 13 "Plant Variety Protection", for which Viet Nam is the "Country Champion". As a part of Initiative 13, Viet Nam developed a questionnaire to: "collate information on effective plant variety protection (PVP) regimes which will be important to investors/businesses of the bio-tech and/or seed industry in the region; and produce a useful reference tool for ASEAN Member States (AMSs) for improvement or are seeking technical cooperation partners". The issues covered by the questionnaire were reported to be the following:

- PVP systems in ASEAN: UPOV or others?
- Various definitions of "New Plant Variety";
- Distinctive features of PVP regime of each AMS;
- Various special rules regulating PVP, e.g. disclosure of source, consent of owners from which the plant variety has been improved and benefit sharing;
- Whether there is national treatment for persons from other AMSs and foreigners;
- Examination guidelines, tools or reference used in the course of examination of new plant varieties in AMSs;
- Problems in implementing PVP regimes in ASEAN.

A final report is planned to be adopted by the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC), at its forty-second session, to be held in Langkawi, Malaysia, from November 11 to 15, 2013, and to be published in the ASEAN website/IP Portal, thereafter.

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

¹ Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam.

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

9. The Office of the Union was invited to make a presentation at the Technical Working Group Meeting of the OECD Forest Seed and Plant Scheme, held in Verona, Italy on April 22, 2013, under the agenda item "Legal right access to and benefit sharing of forest genetic resources – international rules and regulations for protection of intellectual property rights". The Office of the Union clarified that, under the UPOV Convention, the breeder's right is required to be independent of any measure taken by a UPOV member to regulate within its territory the production, certification and marketing of material of varieties and that such measures should not affect the application of the provisions of the UPOV Convention (see Article 18 of the 1991 Act and Article 14 of the 1978 Act of the UPOV Convention). The Office of the Union also recalled the important cooperation between UPOV and OECD in matters such as UPOV Test Guidelines, variety denominations and the World Seed Project.

10. The Consultative Committee is invited to note the developments concerning the OECD Forest Seed and Plant Scheme.

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)

11. The third Meeting of the Open-Ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing (ICNP-3) is scheduled to take place in Pyeongchang, Republic of Korea, from February 24 to 28, 2014, which the Office of the Union plans to attend.

12. 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)

Commission on Genetic Resources for Food and Agriculture (CGRFA)

13. The CGRFA held its fourteenth regular session in Rome, Italy, from April 15 to 19, 2013. The Office of the Union participated in that session. The items that were considered included the following:

Item 2.2: Review of relevant international targets and indicators for biodiversity for food and agriculture

14. The CGRFA considered document CGRFA-14/13/4.1 Rev.1 "Targets and Indicators for Plant Genetic Resources", concerning the development of targets and indicators for the implementation of Second Global Plan of Action for Plant Genetic Resources for Food and Agriculture (Targets and Indicators) (see <http://www.fao.org/docrep/meeting/027/mf557e.pdf>). It adopted the Targets and Indicators, as provided in document CGRFA-14/13/4.1 Rev., with minor changes. The adopted indicators included the following elements:

"[...]"

"Priority Activity 9: Supporting plant breeding, genetic enhancement and base-broadening efforts

- Number of crops with active public pre-breeding and breeding programmes
- Number of crops with active private pre-breeding and breeding programmes
- Number of active public crop breeders
- Number of active private crop breeders
- Number of new varieties released
- Number of breeding activities oriented to small scale farmers, villages or traditional communities

"[...]"

“Priority Activity 12: Supporting seed production and distribution

- Number of new varieties released
- Number of formal/registered seed enterprises
- The least number of varieties that together account for 80% of the total area for each of the five most widely cultivated crops
- Percentage of area supplied with seed meeting the standard of the formal seed sector for the five most widely cultivated crops
- Existence of a national seed policy and seed law

“[...]

“Priority Activity 15: Constructing and strengthening comprehensive information systems for plant genetic resources for food and agriculture

“[...]

- Number of released varieties documented in a publicly available information system”

15. The Consultative Committee is invited to note the developments concerning the CGRFA.

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

Platform for the Co-Development and Transfer of Technologies

16. The background to the “Platform for the Co-Development and Transfer of Technologies” (Platform) within the context of the ITPGRFA is provided in document CC/84/9 Rev. “Developments of Relevance to UPOV in Other International Fora”, paragraphs 28 to 30. The Consultative Committee, at its eighty-fourth session, held in Geneva, October 31, 2012, approved the participation of the Office of the Union in the Platform (see document CC/84/13 “Report on the Conclusions”, paragraph 66).

17. The Office of the Union attended the second meeting of the Platform, which was held in Bandung, Indonesia on June 30 and July 1, 2013. With regard to UPOV’s participation, it was clarified that UPOV’s involvement in the Platform would be in the capacity of one of the “technical advisors whose experience and expertise are relevant in the context of the different facilities of the Platform”.

18. The following extract from the draft report of the meeting provides a perspective of the initiative and the role of UPOV:

“In regard of the practical organization of the Platform and its activities, the meeting noted that all the action partners expressed a commitment to advancing non-monetary benefit-sharing under the umbrella of the Treaty through the Platform. It agreed that the Platform had the flexibility and the potential to host a number of facilities, such as the proposal that Embrapa had advanced, with the Support of IAARD [Indonesian Agency for Agricultural Research and Development] and AATF [African Agricultural Technology Foundation], for an information management and sharing portal; and a process to build on the information and improved genetic resources resulting from projects supported under the Benefit-sharing Fund, so that these might be shared with other stakeholders. The Platform also recognized the opportunity that cooperation with the Public-Private Partnership for Pre-Breeding represented [see below].

“Within the framework of each of these facilities, core teams of action partners, with the support of technical advisory partners, could develop and implement a range of important activities, such as the documentation of good practices or the identification of existing potential components of technology packets. The action partners could individually or jointly implement activities of the facilities, or host facilities. The facilities themselves should follow the broad parameters of being demand-driven, action-oriented, problem-based and incremental.

“The meeting also recognized that, for coherence and coordination, a light, informal platform structure was needed, with a broad but strategic programmatic approach, and with coordination being provided through interim Secretariat support.

“The meeting agreed that membership should remain open to other interested partners who wish to work within it, and technical advisors whose experience and expertise are relevant in the context the different facilities of the Platform. It agreed that, at this early stage of development, the priority should be to launch the platform, and to undertake the pilot activities, rather than to immediately formalize institutional arrangements.

“The meeting agreed on the following programmatic and institutional steps:

- The elaboration of a strategic paper, setting forth the programmatic approach of the Platform, to be commissioned by the Secretariat to independent experts;
- The preparation and circulation of a draft collaboration agreement among action partners, to be prepared by the Secretariat, for the review by the action partners;
- The identification by the action partners of officers to represent the Platform, and to move its preparations along, bearing in mind that, at the Brasilia meeting, Dr. Mauricio Lopes, the President of Embrapa, had agreed to act as Interim Chairman of the Platform;
- Subject to the availability of funding, the convening of an annual meeting of action partners and technical advisors, open to all interested persons, including donors, which would receive an implementation report from the various Platform facilities;
- Subject to the availability of funding, the preparation of an annual plan of work by the Secretariat, in collaboration with key action partners of each facility, to be reviewed and agreed at the annual meeting;
- A periodic review of the programmatic approach set forth in the strategic paper.

“The meeting agreed on an annual default timeline for the start-up of the Platform, through the above activities.

“The meeting agreed that the information portal to be developed by Embrapa, with the support of IAARD and AATF, would be the pilot facility of the Platform. It recommended that, on the basis of mock-up of the portal design by AATF, more consultations would be held in the small group of the institutions actually involved in the proposal, and with the participation of UPOV and Bioversity International as technical advisory partners. A concept note and work plan for the pilot facility, including the selection of crops targeted, would then be prepared and circulated among all the action partners and technical advisors for comments, between August and December 2013.

“The meeting agreed that Embrapa and IAARD should report on progress made towards establishing and launching the Platform, as practical non-monetary benefit-sharing in support of the International Treaty, and in implementation of one of the elements of the *The Rio Six-Point Action Plan*, at the forthcoming Fifth Session of the Governing Body.”

19. The information contained in the UPOV PLUTO, GENIE and UPOV Lex databases and the GENESYS database (<http://www.genesys-pgr.org/>), hosted by Bioversity International, was considered to be of particular relevance for the information portal to be developed by Embrapa with the support of IAARD and AATF. In order for UPOV to be able to contribute to the development of the information portal, the Consultative Committee is invited to agree that the Office of the Union explore how the information in the PLUTO, GENIE and UPOV Lex databases might be made available through the portal. Prior to the launch of the information portal, the approval of the Consultative Committee would be sought with regard to the inclusion of information from the PLUTO, GENIE and UPOV Lex databases.

20. The third meeting of the Platform, which the Office of the Union plans to attend, is scheduled to take place in conjunction with the Fifth Session of the Governing Body of the ITPGRFA, to be held in Muscat, Oman, from September 24 to 28, 2013.

21. The Consultative Committee is invited to note the developments concerning the ITPGRFA Platform for the Co-Development and Transfer of Technologies and to agree that the Office of the Union explore how the information in the PLUTO, GENIE and UPOV Lex databases might be made available through that platform.

Consultation to Promote a Public-Private Partnership in Pre-breeding

22. The Consultative Committee at its eighty-fifth session, held in Geneva on March 22, 2013, approved the participation of the Office of the Union in the work of a multi-stakeholder team on the definition of mechanisms for enhancing public private partnerships in pre-breeding, following the request from the “Plant Genetic Resources and Seeds Team and a number of other functional units, especially the International Treaty on Plant Genetic Resources for Food and Agriculture”, as set out in paragraphs 1 to 3 of document CC/85/9 Add.

23. On May 30 and 31, 2013, in Rome, Italy, the Office of the Union attended a meeting co-organized by the Italian National Academy of Sciences and the ITPGRFA under the auspices of the Global Partnership

Initiative for Plant Breeding Capacity Building, a multi-stakeholder platform convened by FAO. The meeting was attended by 25 participants from agricultural research and development institutions and universities from eight countries in Asia, Europe, the Near East and North and South America. Also represented were delegates from two Consultative Group on International Agricultural Research (CGIAR) centers (the International Maize and Wheat Improvement Center (CIMMYT) and the International Center for Agricultural Research in the Dry Areas (ICARDA); UPOV; the Syngenta Foundation; the ITPGRFA; the Global Crop Diversity Trust; FAO; civil society; and a seed company. The participants provided an insight into the extent of pre-breeding in national and international public institutes and in the private sector and the extent of public-private partnerships in pre-breeding.

24. An initial exchange on understanding the concept of “pre-breeding” suggested that it might be described as pre-competitive joint research, funded by the public and/or private sectors, to provide a link between basic science and breeding such that breeders have access to a broad range of genetic diversity and biological technologies in a usable form.

25. The draft declaration of intent is attached, in English only, as Annex I to this document.

26. The Consultative Committee is invited to note the developments concerning the consultation to promote public-private partnerships for pre-breeding.

VI. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

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

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

28. The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) held three sessions in Geneva in 2013, as follows:

Session / Date	Subject matter
Twenty-Third Session (IGC/23) February 4 to 8	Genetic resources (GRs)
Twenty-Fourth Session (IGC/24) April 22 to 26	Traditional knowledge (TK)
Twenty-Fifth Session (IGC/25) July 15 to 24	Traditional cultural expressions (TCEs); and to review and take stock of the text(s) of the International legal instrument(s) ensuring the effective protection of TCEs, TK, and GRs, and to make a recommendation to the General Assembly

29. At its Twenty-Third Session, held in Geneva from February 4 to 8, the IGC developed, on the basis of document WIPO/GRTKF/IC/23/4, a further text, “Consolidated Document Relating to Intellectual Property and Genetic Resources”. The IGC decided that the text, as at the close of the session on February 8, 2013, be transmitted to the WIPO General Assembly taking place in September 2013, in accordance with the Committee’s mandate and the work program for 2013. The latest text is available in the Annex to document WIPO/GRTKF/IC/23/5 “Consolidated Document Relating to Intellectual Property and Genetic Resources” (see http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_25/wipo_grtkf_ic_25_5.pdf).

30. At its Twenty-Fourth Session, held in Geneva from April 22 to 26, the IGC developed, on the basis of document WIPO/GRTKF/IC/24/4, a further text, “The Protection of Traditional Knowledge: Draft Articles Rev. 2”. The IGC decided that this text, as at the close of the session on April 26, 2013, be transmitted to the WIPO General Assembly taking place in September 2013, in accordance with the Committee’s mandate and the work program for 2013. The latest text is available in the Annex to document WIPO/GRTKF/IC/23/6 “The Protection of Traditional Knowledge: Draft Articles” (see http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_25/wipo_grtkf_ic_25_6.pdf).

31. At its Twenty-Fifth Session, held in Geneva, from July 15 to 24, the IGC developed, on the basis of document WIPO/GRTKF/IC/25/4, a further text, "The Protection of Traditional Cultural Expressions: Draft Articles Rev. 2". The IGC decided that this text, as at the close of Agenda item 6 in document WIPO/GRTKF/IC/25/1 Prov. 2, on July 19, 2013, be transmitted to the WIPO General Assembly taking place in September 2013, in accordance with the Committee's and the work program for 2013. The latest text is available in the Annex to document WIPO/GRTKF/IC/23/7 "The Protection of Cultural Expressions: Draft Articles" (see http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_25/wipo_grtkf_ic_25_7.pdf).

32. At its Twenty-Fifth Session, the IGC reviewed and took stock of the texts of the international legal instrument(s) ensuring the effective protection of traditional knowledge, traditional cultural expressions and genetic resources (see paragraphs 27 to 29 of this document), and decided to transmit to the WIPO General Assembly taking place in September 2013 its "Report of the proposals made by delegations regarding future work of the IGC, following the Review and Stocktaking conducted under Agenda Item 7, as at the close of the session on July 24, 2013" (the "Report of the proposals": see http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_25/wipo_grtkf_ic_25_ref_future_work_of_the_igc.pdf), as well as a record of interventions made on the report, which is reproduced in Annex II to this document.

33. The Forty-Third (21st Ordinary) Session of WIPO General Assembly is scheduled to take place in Geneva from September 23 to October 2, 2013.

34. The Consultative Committee is invited to note the developments concerning the IGC.

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"

35. At its eighty-third session, held in Geneva, on March 30, 2012, the Consultative Committee approved the contribution of the Office of the Union to a draft 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" (WIPO Questionnaire) (see document CC/83/8 "Report", paragraph 42). The background to this contribution is provided in document CC/84/9 Rev. "Developments of Relevance to UPOV in Other International Fora", paragraphs 39 to 41, document CC/85/9 "Developments of Relevance to UPOV in Other International Fora", paragraphs 23 and 24.

36. At the eighty-fifth session of the Consultative Committee, held in Geneva on March 22, 2013, the Delegation of the Plurinational State of Bolivia requested a copy of the contribution of the Office of the Union on plant variety protection to the draft of the WIPO Questionnaire. The Vice Secretary-General agreed to include in the next version of document CC/85/9 the information that the Office of the Union provided to WIPO, if that would be acceptable to WIPO. WIPO replied that the contribution of the Office of the Union was included in a work in progress version of the WIPO Questionnaire that is not available for distribution. WIPO also reported that the final version of the WIPO Questionnaire had been included in a tool kit for intellectual property policy makers containing the following: Tool 1: Methodology; Tool 2: Baseline Survey Questionnaire; and Tool 3: Benchmarking Indicators. The tool kit has been named "The WIPO Methodology and Tools for the Development of National IP Strategies".

37. As announced at the eighty-fifth session of the Consultative Committee, the Office of the Union had also been invited to comment on the section on plant variety protection in "Tool 3: Benchmarking Indicators" (see document CC/85/9 "Developments of Relevance to UPOV in Other International Fora", paragraph 24 and document CC/85/10 "Report on the Conclusions", paragraph 48).

38. The contribution by the Office of the Union to the work in progress version of "Tool 3: Benchmarking Indicators" was the conclusions from the "Symposium on Plant Breeding for the Future", held in Geneva on October 21, 2011 (see http://www.upov.int/meetings/en/details.jsp?meeting_id=24133), the "Symposium on the Benefits of Plant Variety Protection for Farmers and Growers", held in Geneva, on November 2, 2012, (see http://www.upov.int/meetings/en/details.jsp?meeting_id=26104) and the "Seminar on Plant Variety Protection and Technology Transfer: the Benefits of Public-Private Partnership", held in Geneva, on April 11 and 12, 2011 (see http://www.upov.int/meetings/en/details.jsp?meeting_id=22163). An extract was also provided from the UPOV Report on the Impact of Plant Variety Protection (see http://www.upov.int/export/sites/upov/en/publications/pdf/353_upov_report.pdf).

39. WIPO reported that the “The WIPO Methodology and Tools for the Development of National IP Strategies” is now available in the WIPO website at <http://www.wipo.int/ipstrategies/en/methodology/>, as follows:

“In light of the need for a harmonized and integrated approach in guiding national undertakings for the formulation of intellectual property (IP) strategies, Development Agenda Project DA_10_05 was mandated to produce a standard, yet flexible, methodology to be validated in a pilot process in six countries.

“The project has now been completed in all six countries (Algeria, Dominican Republic, Mali, [Republic of] Moldova, Mongolia and [the United Republic of] Tanzania) and produced a number of important outputs, including, in particular, a set of tools and mechanisms to assist interested countries in formulating IP strategies which are aligned with national development priorities. The project has also resulted in the successful completion of national IP strategies in the six countries, each through unique national processes of consultation and policy formulation in line with national development goals.

“The methodology, developed, tested and consolidated on the basis of feedback from the pilot countries, includes a thorough research and IP audit phase and a national consultation process during which stakeholders are invited to review, discuss and consolidate the draft IP strategy framework, with a view to presenting the final strategy to the government for adoption.

“Tool 1 - The Process

“Tool 2 - Baseline Questionnaire

“Tool 3 - Benchmarking Indicators”

40. The Consultative Committee is invited to note the developments concerning the WIPO Methodology and Tools for the Development of National IP Strategies.

VII. WORLD TRADE ORGANIZATION (WTO)

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

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

Meeting of the Council for TRIPS of June 11, 2013

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

43. The meeting was opened by Ambassador H.E. Mr. Alfredo Suescum (Panama), Chair of the Council for TRIPS. The minutes of the meeting are contained in document IP/C/M/73, which is expected to become available by October 30, 2013, at the following address of the WTO website: <http://docsonline.wto.org/?language=1>.

44. 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. The Chair of the Council for TRIPS will continue consultations on the following suggestions:

(a) the Secretariat of the Convention on Biological Diversity (CBD) be invited to brief the Council for TRIPS on the outcome of the tenth meeting of the Conference of the Parties to the CBD held in Nagoya, Japan in October 2010;

(b) the WTO Secretariat be requested to update the three factual notes that summarize the points the delegations have made in the Council’s past discussions on these three agenda items.

45. At the meeting, the Council for TRIPS decided to extend the transition period under Article 66.1 of the TRIPS Agreement for least developed country Members until July 1, 2021, or until such date on which they cease to be a least developed country member, whichever date is earlier. The full decision can be found in document IP/C/64 <http://docsonline.wto.org/?language=1> and is reproduced below:

"The Council for Trade-Related Aspects of Intellectual Property Rights (the "Council for TRIPS"),

Having regard to the transition period for least developed country Members provided for in paragraph 1 of Article 66 of the TRIPS Agreement (the 'Agreement');

Recalling that this transition period was extended by the Decision of the Council for TRIPS of 30 November 2005 (IP/C/40) until 1 July 2013;

Having regard to the request from least developed country Members, dated 5 November 2012, for a further extension of this transition period, contained in document IP/C/W/583;

Recognizing the special needs and requirements of least developed country Members, the economic, financial and administrative constraints that they continue to face, and their need for flexibility to create a viable technological base;

Recognizing the continuing needs of least developed country Members for technical and financial cooperation so as to enable them to realize the cultural, social, technological and other developmental objectives of intellectual property systems;

Decides as follows:

1. Least developed country Members shall not be required to apply the provisions of the Agreement, other than Articles 3, 4 and 5, until 1 July 2021, or until such a date on which they cease to be a least developed country Member, whichever date is earlier.

2. Recognizing the progress that least developed country Members have already made towards implementing the TRIPS Agreement, including in accordance with paragraph 5 of IP/C/40, least developed country Members express their determination to preserve and continue the progress towards implementation of the TRIPS Agreement. Nothing in this decision shall prevent least developed country Members from making full use of the flexibilities provided by the Agreement to address their needs, including to create a sound and viable technological base and to overcome their capacity constraints supported by, among other steps, implementation of Article 66.2 by developed country Members.

3. This Decision is without prejudice to the Decision of the Council for TRIPS of 27 June 2002 on 'Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least-Developed Country Members for Certain Obligations with respect to Pharmaceutical Products' (IP/C/25), and to the right of least developed country Members to seek further extensions of the period provided for in paragraph 1 of Article 66 of the Agreement."

Future meeting

46. The next meeting of the Council for TRIPS, which the Office of the Union plans to attend, is scheduled to take place on October 10 and 11, 2013. The October meeting will have a special focus on technical cooperation. The Chair of the Council for TRIPS invited WTO members and intergovernmental organization observers to the Council for TRIPS, including UPOV, to provide information, before September 18, 2013, on their technical and financial cooperation programs relevant to the implementation of TRIPS Agreement.

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

VIII. INTERNATIONAL SEED TESTING ASSOCIATION (ISTA)

48. The Office of the Union was invited to speak at the Discussion Forum of the ISTA Congress (the Forum) held on July 17, 2013, about the use of molecular techniques within UPOV and coordination between international organizations in the area of seed/molecular techniques.

49. The Office of the Union participated in the Forum and made a presentation on the following topics:

- Introduction to UPOV and the role of UPOV Technical Working Parties (TWPs)
- Overview of DUS examination
- Use of biochemical and molecular techniques in the DUS examination
- Cooperation between relevant international organizations

IX. INTERNATIONAL RICE RESEARCH INSTITUTE (IRRI)

50. On June 18, 2013, the Office of the Union was contacted by Mrs. Elsie Quait-Randall, Head, Innovations Management, International Rice Research Institute (IRRI), Los Banos, Laguna, Philippines, in relation to a proposal to develop an intellectual property (IP) management strategy for a consortium based in IRRI, working on the development of rice with a C4 photosynthetic system. In that context, she requested if the Office of the Union could provide information on plant variety protection. The Office of the Union accepted to provide information on plant variety protection as appropriate.

51. The Consultative Committee is invited to note the request by IRRI for the provision of information on plant variety protection and the acceptance by the Office of the Union.

X. EXPO 2015

52. The Consultative Committee at its eighty-fifth session, noted the information concerning the EXPO 2015, which would take place in Milan, from May 1 to October 31, 2015, under the theme "Feeding the Planet, Energy for Life", as set out in document CC/85/9, paragraphs 33 to 37. The Consultative Committee noted that the approval of the Consultative Committee would be sought before a final commitment to UPOV's participation in EXPO 2015 was made (see document CC/85/10 "Report on the Conclusions", paragraph 51).

53. There have been no significant developments concerning EXPO 2015 since the eighty-fifth session of the Consultative Committee.

54. The Consultative Committee is invited to note that there have been no significant developments concerning EXPO 2015 since the eighty-fifth session of the Consultative Committee.

[Annexes follow]

Extracts from the ITPGRFA “Report of a Technical Consultation
to Promote Public-Private Partnerships for Pre-Breeding”

“Towards an International Public-Private Partnership for Pre-Breeding

“Declaration of Intent

“[...]

“The Consultation affirmed the critical importance for crop improvement of the discipline of pre-commercial pre-breeding, which:

- Underwrites food and nutrition security, by providing the widest possible range of useful genetic variations to plant breeders, in forms which can be used efficiently and rapidly in developing well-adapted crop varieties.
- Enhances the world's capacity to mitigate threats of climate change and genetic extinction and erosion.
- Addresses the constraints to bringing exotic materials into crop germplasm, in an efficient manner, for both the private and public sectors.
- Is an integral part of the continuum of activities that link the conservation of genetic resources, through their sustainable use by farmers and plant breeders, to the delivery of high quality seeds and planting materials, and the supply of adequate and nutritious food to farming communities and consumers.
- Improves the resilience and sustainability of seed systems.

“The justification of the need to establishment of an international initiative to promote Public-Private Partnership for Pre-Breeding, includes the need to:

- Provide an international forum for setting priorities and mobilizing resources for prebreeding activities.
- Promote the strengthening of capacities for pre-breeding activities, building on existing capacities and initiatives.
- Advocate, promote and facilitate sustained long-term investment in pre-breeding.
- Create a sustained public awareness of the importance of pre-breeding for world food security.
- Identify and promote models for partnership, and disseminates information on best practices.
- Promote the transfer of knowledge, technologies and materials to support pre-breeding.
- Promote access to, and use of, plant genetic resources for food and agriculture, for sustainable agriculture and world food security, within the framework of the International Treaty.

“The Consultation identified a number of basic principles for the initiative:

- The initiative for Public-Private Partnership will operate within the framework of the International Treaty on Plant Genetic Resources for Food and Agriculture, and its structures for access and benefit-sharing.
- The initiative should be created and directly implemented by a group of practitioners, representing the major categories of stakeholders.
- It should focus on client-driven objectives, with the clients being the generators and users of pre-breeding material, at all levels: germplasm curators, researchers and breeders in the public and private sectors, and farmers. As objectives, priorities and approaches vary across countries and regions, a wide focus and capacity development effort are essential.
- The Partnership will provide a forum for consideration of all issues important for prebreeding, including: the establishment of agreed objectives and priorities; support for the mobilization of resources for agreed activities and programmes; and the role of Intellectual property management in public-private partnerships, with the identification of best practices and model clauses; facilitate the ease of integration of technologies in pre-breeding.

- The partnership should not itself seek to undertake pre-breeding, but to provide a policy and support forum to strengthen pre-breeding, with the aim of promoting the widest possible access to high-potential, stabilised, pre-commercial materials.
- In recognition that the public awareness of the importance of pre-breeding for the sustainable use of plant genetic resources and for world food security is very low, the partnership should include a strong advocacy outreach, to build public awareness and support.
- A further focus for advocacy should be national and international decision makers, in the public and private sectors, who control the allocation of financial and other resources that could be used for pre-breeding. This is important, because resistance to funding multi-year activities, such as are needed for pre-breeding, is a major obstacle to overcome.

“The following was agreed:

- “1. The Declaration of Intent will be presented at the Third High-level Roundtable on the International Treaty on Plant Genetic Resources for Food and Agriculture, Bandung, Indonesia, 2-4 July 2013, and at the Fifth Session of the Governing Body of the International Treaty, in Muscat, Oman, 24-28 September 2013 with the proposal for the establishment of a global facilitating initiative to promote public-private partnership for pre-breeding.
- “2. A side event on Public-Private Partnership For Pre-Breeding will be presented at the Fifth Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture, in Oman in September 2013.
- “3. Tom Payne (CIMMYT) undertook to prepare a paper on public-private partnerships for pre-breeding, and the lessons that could be learned for the establishment of the initiative for promoting Public-Private Partnership, drawing on the experience of CIMMYT, and other organizations. He would consult Enrico Porceddu (Italy), Sidney Parentoni (EMBRAPA, Brazil), Carl Bulich, (GFP, Germany), Morten Rasmussen (Nordgen, Sweden) and Swapna Datta (India). The paper would be ready by 15 August 2013, and will be circulated for comments and inputs from other participants in the Consultation, by 1 September. This will be facilitated through web-based tools.
- “4. Enrico Porceddu (Italy) undertook to consult the International Seed Federation, to inform them of the initiative, and to request them to nominate persons who could represent the private sector in the further development of the Partnership.
- “5. An International Symposium on public-private partnerships in pre-breeding, would, if possible, be held in early 2014. FAO undertook to develop a concept note, and to seek support. Participants mentioned Norway and France as possible hosts. The Norwegian and French participants undertook to see if the relevant institutions in these countries would be interested and willing to collaborate in this initiative and provide support. They would work with the FAO Secretariat in this. It is hoped to be able to announce plans for the Symposium at the Governing Body of the International Treaty in September 2013.
- “6. The Symposium would be a forum for assessing the state of practice in public-private partnerships in crop improvement and on pre-breeding, needs, priorities, and potentials. The symposium would focus on the aims, scope of activities, structure and governance of the envisaged initiative.”

[Annex II follows/
L'annexe II suit/
Anlage II folgt/
Sigue el Anexo II]

Report of the Proposals Made by Delegations Regarding Future Work of the IGC,
Following the Review and Stocktaking Conducted under Agenda Item 7,
as at the Close of the Session on July 24, 2013
[reproduced]

Renewal of Mandate

Option 1:

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 improved as follows:

- (a) The Committee will, during the next budgetary biennium 2014/2015, conclude its work on text-based negotiations to finalize a text(s) of an international legal instrument(s) which will ensure the effective protection of GRs, TK and TCEs.
- (b) The focus of the Committee's work in the 2014/2015 biennium will build on the existing work carried out by the Committee and streamline WIPO's working documents, WIPO/GRTKF/IC/25/5, WIPO/GRTKF/IC/25/6 and WIPO/GRTKF/IC/25/7, which will be the basis of the Committee's work on text-based negotiations.

Option 2:

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 2014/2015, and without prejudice to the work pursued in other fora, continue to 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 focus of the Committee's work in the 2014/2015 biennium will build on the existing work carried out by the Committee and use all relevant WIPO documents, including WIPO/GRTKF/IC/25/5, WIPO/GRTKF/IC/25/6, and WIPO/GRTKF/IC/25/7 and other new proposals, which will serve as the basis of the Committee's work on text-based negotiations.

Option 3:

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 2014/2015, and without prejudice to the work pursued in other fora, continue to expedite [with a view of finalizing] 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 focus of the Committee's work in the 2014/2015 biennium will build on the existing work carried out by the Committee and use all WIPO working documents, including WIPO/GRTKF/IC/25/5, WIPO/GRTKF/IC/25/6 and WIPO/GRTKF/IC/25/7 which are to constitute the basis of the Committee's work on text-based negotiations, as well as any other textual contributions by members.

Number of IGC Sessions

Option 1:

There will be eight sessions of the IGC in the 2014/2015 biennium. Three thematic and one cross-cutting per year.

Option 2:

Three thematic and one cross-cutting session in 2014.

Option 3:

Three thematic and one cross-cutting session in 2014. If required, the General Assembly in 2014 will consider the need for additional sessions of the IGC in 2015.

Option 4:

Three thematic sessions in 2014, including a cross-cutting exercise. If required, the General Assembly in 2014 will consider the need for additional sessions of the IGC in 2015.

Option 5:

Three thematic and one cross-cutting session in the 2014/2015 biennium.

Option 6:

Three thematic and one cross-cutting session in 2014 and the General Assembly in 2014 will decide on the future work of 2015.

Reference to Diplomatic Conference

Option 1:

The General Assembly will convene a Diplomatic Conference at the earliest time in the 2014/2015 biennium.

Option 2:

The IGC will finalize the text by September 2014; the General Assembly in 2014 will decide the date for convening the Diplomatic Conference by the end of 2014.

Option 3:

The General Assemblies in 2015 will decide on whether to convene a Diplomatic Conference.

Option 4:

The Committee is requested to submit to the 2015 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 will in 2015 take stock of and consider the text, progress made and decide on convening a Diplomatic Conference.

Studies/Examples

Option 1:

Participants are invited to submit examples to inform the discussion of objectives and principles, and each proposed article, including examples of protectable subject matter and subject matter that is not intended to be protected.

To inform the IGC of the impact of its work and to aid in its progress the IGC is encouraged to request studies.

Option 2:

No mention of studies or examples in the Mandate.

Option 3:

With a view to enhancing the discussions, resolving areas of difference and creating consensus as to the principles and objectives of the instrument(s) as well as key articles, the Committee requests that the Secretariat gather additional information in a paper. The paper will contain practical evidence and examples and how they relate to the articles in question. It will aim at further informing discussions in the cross-cutting as well as thematic sessions.

Proposals

Proposal 1 (GRULAC):

Each session of the IGC will be preceded by a one day high level segment with Ambassadors and Senior Officials to share views on key policy issues relating to the negotiations, to further inform/guide the process.

Proposal 2 (Indigenous Caucus/Peru):

The Committee notes the proposal of the Indigenous Caucus to hold a special session/intersessional/informal meeting, conditional on their ability to secure funds, to exchange views between Member States and observers from indigenous and local communities on issues relating to all three texts.

[End of Annex II and of document]