



To the
Deputy Secretary-General of the
International Union for the Protection of
New Varieties of Plants (UPOV)
Mr Peter Button
34, chemin des Colombettes
CH 1211 Geneva

Dr Hermann Stürmer
Head of Division 511 - Crop Production

POSTAL ADDRESS Rochusstraße 1, 53123 Bonn

PHONE +49 (0)228 99 529-4180

FAX +49 (0)228 99 529 - 4262

E-MAIL 511@bmel.bund.de

INTERNET www.bmel.de

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Translation

Dear Mr Button,

Many thanks for your letter of 6 November 2013. I greatly appreciate that, due to the questions raised by the Delegations of the United States of America and Germany on the occasion of the UPOV autumn meeting 2013, you have put the issue "Financing of long-term employee benefits" on the agenda of the 87th meeting of the Consultative Committee to be held on 11 April 2014 and that you have submitted an explaining document (CC/87/8) to this effect.

First of all, I would like to take this opportunity to outline the German position on the "value adjustment" of the reserve fund which, in our view, is inadmissible as well as on the ASHI liabilities in general.

To begin with, I would like to mention that Germany's position on the financing of ASHI liabilities does not imply that we put in question our liabilities towards UPOV employees. The UPOV staff regulations allow for retirees to get expenses reimbursed in case of illness. We provide our share of the employer's contribution generated by the mandatory contributions of the Member States and will also do so in the future

Furthermore, I would like to point out that an adoption of IPSAS does not stipulate future liabilities to be fully covered. Under IPSAS, these liabilities only need to be recognized in the financial statements. Therefore, it is not correct to reduce the reserve fund by the ASHI liabilities in the opening balance sheet of 2012. The ceiling of the reserve fund specified in the UPOV financial regulations refers to the actual amount available in the fund and not to a lower amount resulting from the financial statements.

Presently, we can not see an urgent need for action for setting up a special fund for financing the ASHI liabilities, particularly since it has not even been sorted out which financial resources should be made available for the fund. In our view, the comparison with the WIPO made by the UPOV is not expedient as the WIPO is financed by considerable other resources, such as fees, whereas the UPOV is financed to a great extent by contributions of the UPOV Member States which have to be prepared to make considerable additional contributions to the ASHI special fund. The projections made by UPOV lead to exorbitant sums that are expected to increase even more in the next four years to come. We cannot tolerate an expensive special fund based on such fictional calculations. Especially since these calculations are not objectively verifiable for the Member States and are not bound to come true as a change of even single parameters lead to significantly different requirements.

From the German perspective, the current regulation should thus remain unchanged for the time being. The current ASHI payments are to be provided by the UPOV staff budget (pay-as-you-go system), financed by mandatory contributions of the Member States (employees' contributions), and we assume that it is also financed by the contributions of UPOV employees themselves (employees' contributions). This system has proven its reliability, it is based on the amounts actually required and thus does not give any motive to be changed.

What we could imagine at best is to setup a fully-funded ASHI special fund as has already been implemented in several international organisations without additional payments of the Member States. Let me just mention the OECD as an example where a supplement for (new) employees in place up to now has been dropped and the future savings resulting from this measure go to an ASHI fund.

I would like to point out that in the present UPOV documents a lot still remains unclear, particularly the value adjustment made under item 11 of document CC/78/8. On this basis, it is not possible for the Member States to do a comprehensive analysis so that Germany strongly disagrees to establish an ASHI special fund at this point in time.

I would appreciate if we could intensely discuss our views at the upcoming meeting of the Consultative Committee and would ask you to furnish this letter to the Delegations of the other UPOV Member States prior to the meeting. An English translation of this letter is attached.

Yours sincerely,
For the Federal Ministry