

**Consultative Committee****CC/94/9****Ninety-Fourth Session  
Geneva, October 25, 2017****Original:** English  
**Date:** July 26, 2017**INTERNATIONAL SYSTEM OF COOPERATION***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***EXECUTIVE SUMMARY**

1. The purpose of this document is to provide a report on developments concerning the Working Group on a possible International System of Cooperation (WG-ISC).
2. The Consultative Committee will be invited to note the progress in the work of the WG-ISC, as set out in this document and in the report to be made to the Consultative Committee at its ninety-fourth session.

**INTRODUCTION**

3. At its ninety-second session, held in Geneva on October 27, 2016, the Consultative Committee considered document CC/92/10 "International System of Cooperation" (see document CC/92/20 "Report on the Conclusions", paragraphs 58 to 60).
4. The Consultative Committee agreed the draft mandate and terms of reference for a Working Group on a Possible International System of Cooperation (WG-ISC), as set out in the Annex to this document and approved that a meeting of the WG-ISC be held immediately following the ninety-second session of the Consultative Committee.
5. The Mandate and Terms of Reference of the WG-ISC require a report on progress to the Consultative Committee after each meeting of the WG-ISC and require that WG-ISC documents be made available to the Consultative Committee (see *modus operandi* (d) and (e), respectively).
6. The WG-ISC documents are made available on the same part of the UPOV website as the documents of the Consultative Committee (<http://www.upov.int/restrict/meetings/en/>).
7. Document CC/93/4 "International System of Cooperation" reported on the first meeting of the WG-ISC, held in Geneva on October 27, 2016.

**PROGRESS AT THE SECOND MEETING OF THE WG-ISC**

8. Document CC/93/4 reported that the draft agenda for the second meeting of the WG-ISC (document UPOV/WG-ISC/2/1) was as follows:
  1. Opening of the meeting
  2. Adoption of the agenda
  3. Analysis of issues in relation to needs of PVP Offices (document UPOV/WG-ISC/2/2)
  4. Next steps
  5. Date and program of the next meeting.
9. It was reported that document UPOV/WG-ISC/2/2, Annex I, proposed a list of issues that might be considered relevant for the needs of the PVP offices, as identified at the first meeting of the WG-ISC, structured on the basis of the following elements:

- (i) DUS Examination
- (ii) Novelty
- (iii) Priority
- (iv) Denomination
- (v) Cooperation in administrative matters
- (vi) Facilitating applications.

10. Document UPOV/WG-ISC/2/2, Annex II, provided an analysis of all issues contained in document CC/92/10 in relation to the terms of reference and mandate of the WG-ISC and the needs of the PVP Offices as identified at the first meeting of the WG-ISC.

11. The Consultative Committee, at its ninety-third session, held in Geneva on April 6, 2017, received an oral report from the Vice Secretary-General on developments at the second meeting of the Working Group on a Possible International System of Cooperation (WG-ISC), held in Geneva on April 5, 2017, as follows:

- The WG-ISC had reviewed the needs of PVP Offices, as set out in document UPOV/WG-ISC/2/2, and had agreed that it would be useful to add capacity-building in DUS examination as a need and to increase the scope of needs concerning exchange of DUS reports. The WG-ISC also reviewed the issues in document CC/92/10 that were associated with the identified needs. It agreed that some of the issues were not of a high priority and/or were not seen to be feasible in the short-/medium-term but agreed to retain all the associated issues for the time being, as far as they were within the terms of reference of the WG-ISC.
- The WG-ISC had agreed that the third meeting should focus on presentations of the current mechanisms within UPOV to meet the identified PVP offices, including possible limitations and should include the presentation of information from PVP offices on their experiences. Some of the elements that the WG-ISC agreed should be included were:
  - DUS Examination –presentations by the Office of the Union and the Chairperson of the Technical Committee on: existing arrangements for DUS cooperation; the results of the TC survey in on Cooperation in DUS Examination; existing quality assurances systems in members of the Union;
  - Novelty – presentations on: key elements in the explanatory notes on novelty; experiences in the implementation of the novelty provisions by members of the WG-ISC; role of the PLUTO Database;
  - Priority - presentations on: key elements in the explanatory notes on priority; experiences in the implementation of the priority provisions by members of the WG-ISC;
  - Cooperation in administrative matters – presentations on experiences of members of the WG-ISC on ways to mutually recognized documents.

With regard to variety denominations, the WG-ISC agreed to await for the outcome of the work at the WG-DEN before discussing the matter further.

12. The report of the second meeting of the Working Group on a Possible International System of Cooperation (WG-ISC), held in Geneva on April 5, 2017, is provided as document UPOV/WG-ISC/2/3 “Report”.

#### PROGRAM FOR THE THIRD MEETING OF THE WG-ISC

13. The third meeting of the WG-ISC will be held in Geneva on the afternoon of October 24, 2017.

14. At its second meeting, the WG-ISC agreed that its third meeting should focus on the presentation of information on the current situation within UPOV and within individual members of the Union participating in the WG-ISC in relation to the items identified in paragraph 11 of this document, with a view to facilitating consideration of substantial matters at its fourth meeting.

15. By means of Circular E-17/114, of July 5, 2017, members of the Union participating in the WG-ISC were invited to present information at the third meeting of the WG ISC, to be held in Geneva on October 24, 2017, on the following elements:

- DUS Examination: “Existing quality assurances systems in members of the Union”  
(see document UPOV/WG-ISC/2/3 “Report”, paragraph 8);
- Novelty: “Examples of the implementation of the novelty provisions”  
(see document UPOV/WG-ISC/2/3 “Report”, paragraph 9(b));
- Priority: “Experiences in the implementation of the priority provisions, including determination of the date of the first application”  
(see document UPOV/WG-ISC/2/3 “Report”, paragraph 11(b)); and/or
- Cooperation in administrative matters: “Ways to mutually recognize documents”  
(see document UPOV/WG-ISC/2/3 “Report”, paragraph 14).

16. Presentations were requested to be provided to the Office of the Union by September 22, 2017.

17. An oral report on the presentations made to the WG-ISC and any other developments, at the third meeting of the WG-ISC, will be made by the Vice Secretary-General at the ninety-fourth session of the Consultative Committee.

*18. The Consultative Committee is invited to note the progress in the work of the WG-ISC, as set out in this document and in the report to be made to the Consultative Committee at its ninety-fourth session.*

[Annex follows]

ANNEX

Mandate and Terms of Reference of the Working Group on a Possible International System of Cooperation (WG-ISC),  
as agreed by the Consultative Committee  
at its ninety-second session, held in Geneva on October 27, 2016

*Purpose*

1. To prepare proposals for consideration by the Consultative Committee concerning a possible ISC that would:
  - (a) not affect the responsibility of the members of the Union in relation to the grant and protection of breeders' rights, or other international obligations;
  - (b) be relevant for all members of the Union, irrespective of the Act of the UPOV Convention by which they are bound;
  - (c) would not affect the existing flexibility of members of the Union to formulate policy and to address their own specific needs and circumstances according to the relevant Act of the UPOV Convention;
  - (d) be based on voluntary participation by members of the Union according to their measures for participation;
  - (e) allow members of the Union to choose to participate in selected elements of an ISC;
  - (f) be based on voluntary cooperation between members of the Union;
  - (g) not affect cooperation with, and between, members of the Union that did not participate in an ISC;
  - (h) be based on filing of applications with individual members of the Union and not with the Office of the Union;
  - (i) not be based on examination of applications by the Office of the Union;
  - (j) not affect the determination and payment of fees by individual members of the Union;
  - (k) not affect the right of each member of the Union to conduct its own examination for the granting of breeders' rights;
  - (l) be based as far as possible on existing UPOV initiatives and materials, including in particular: the GENIE database; the Electronic Application Form (EAF) project; the UPOV similarity search tool for variety denomination purposes; and UPOV information materials.
2. For the above proposals, to provide the Consultative Committee with an analysis of the:
  - (a) the need for an ISC;
  - (b) advantages and disadvantages of the proposals, compared to existing arrangements;
  - (c) existence of a legal basis under the Acts of the UPOV Convention;
  - (d) impact on domestic legislation, administrative procedures, rights and policy framework, in relation to the relevant Act of the UPOV Convention, for the PVP Offices of UPOV members;
  - (e) potential advantages and disadvantages for:
    - (i) society in the members of the Union;
    - (ii) PVP Offices of members of the Union, including:
      - costs and income
      - number of applications and income received for applications;
    - (iii) domestic and foreign breeders, including for small- and medium-sized enterprises (SMEs);
    - (iv) farmers; and
    - (v) UPOV.

*Composition*

- (a) to be composed of the following members of the Union:
  - Bolivia (Plurinational State of)
  - Brazil
  - Canada
  - Chile
  - Colombia
  - Ecuador
  - European Union (European Commission, Community Plant Variety Office of the European Union (CPVO), Estonia, France, Germany, Netherlands and United Kingdom)
  - Japan
  - Norway
  - United States of America
- (b) other members of the Union would be free to participate at any meeting of the WG-ISC and make comments, where so desired;
- (c) the WG-ISC would be restricted to members of the Union and the WG-ISC would revert back to the Consultative Committee if the WG-ISC recommends to invite observers or experts to any of its meetings;
- (d) meetings to be chaired by the Vice Secretary-General.

*Modus operandi*

- (a) to meet, as far as possible, in conjunction with the sessions of the Consultative Committee at a time and frequency to address the requests of the Consultative Committee;
- (b) in the first instance, to prepare a document presenting the issues for consideration according to the following structure:
  - (i) International system of administration
  - (ii) Preliminary observation on novelty and denomination
  - (iii) DUS examination
  - (iv) Examination by members of the Union using the ISC
- (c) to prepare a document containing proposals, analysis and information according to the purpose specified above, for consideration by the Consultative Committee, according to a timetable to be specified by the Consultative Committee;
- (d) to report on progress to the Consultative Committee after each meeting of the WG-ISC;
- (e) WG-ISC documents to be made available to the Consultative Committee.

[End of Annex and of document]