



CC/83/8

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE**Eighty-Third Session
Geneva, March 30, 2012**

REPORT

*adopted by the Consultative Committee*Opening of the session

- *1. The Consultative Committee held its eighty-third session in Geneva on March 30, 2012.
- *2. The session was opened and chaired by Mr. Choi Keun-Jin (Republic of Korea), President of the Council, who welcomed the participants.
- *3. The list of participants is reproduced in the Annex to this document.
- *4. The Chair informed the Consultative Committee that Ireland, which had been a member of the Union since November 8, 1981, had deposited its instrument of ratification of the 1991 Act of the UPOV Convention on December 8, 2011, and had become bound by the 1991 Act on January 8, 2012.
- *5. The Delegation of France informed the Consultative Committee that the legislation which gave effect to the provisions of the 1991 Act of the UPOV Convention had been promulgated on December 8, 2011, and reported that the instrument of ratification would be transmitted for depository purposes in the coming days.
- *6. The Vice Secretary-General reported that Mr. Raimundo Lavignolle had left the Office of the Union at the end of 2011 and expressed his appreciation for the dedicated and excellent service that Mr. Lavignolle had provided during his 13 years with the Office of the Union.

Adoption of the agenda

- *7. The Consultative Committee adopted the revised draft agenda, as presented in document CC/83/1 Rev. after the addition of document CC/83/3 Add. concerning the third meeting of the Working Group on Rules Concerning Observers, which had taken place on March 29, 2012, under item 6.

* An asterisk next to the paragraph number indicates that the text is reproduced from the Report on the Conclusions (document CC/83/7).

Documents proposed for adoption by the Council

*8. The Consultative Committee considered document C(Extr.)/29/2.

UPOV/INF/4/2 Financial Regulations and Rules of UPOV (Revision)
(document C(Extr.)/29/2, Annex)

*9. The Consultative Committee considered the Annex to document C(Extr.)/29/2.

*10. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF/4 "Financial Regulations and Rules of UPOV" (document UPOV/INF/4/2), on the basis of the amendments to document UPOV/INF/4/1, as presented in the Annex to document C(Extr.)/29/2.

UPOV/INF-EXN/2 List of INF-EXN Documents and Latest Issue Dates (Revision)
(document UPOV/INF-EXN/2 Draft 1)

*11. The Consultative Committee considered documents C(Extr.)/29/2 and UPOV/INF-EXN/2 Draft 1.

*12. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF-EXN "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/2) on the basis of document UPOV/INF-EXN/2 Draft 1.

WIPO Audit Committee's report on the WIPO Internal Audit and Oversight Division

*13. The Consultative Committee considered document CC/83/2.

*14. The Consultative Committee noted the information contained in the quarterly reports for 2011 of the WIPO Independent Advisory Oversight Committee, which were available in documents WO/IAOC/20/2, WO/IAOC/21/2, WO/IAOC/22/2 and WO/IAOC/23/2.

*15. The Consultative Committee decided to include a standard item in the agendas of the March/April sessions of the Consultative Committee entitled "Reports of the WIPO Independent Advisory Oversight Committee". The Consultative Committee agreed that, if a Consultative Committee session was not held in March/April, the item would be included in the relevant session of the Consultative Committee in October.

Extension of the appointment of the Vice Secretary-General

*16. The Consultative Committee considered document C(Extr.)/29/3.

*17. The Consultative Committee recommended to the Council to extend the appointment of the Vice Secretary-General from December 1, 2012, until November 30, 2015, and expressed its appreciation for his excellent performance.

Observers in UPOV bodies

*18. The Consultative Committee considered documents CC/83/3, CC/83/3 Add., UPOV/INF/19/1 Draft 1 and UPOV/INF/20/1 Draft 1.

*19. The Consultative Committee noted the report of the third meeting of the Working Group on Rules Concerning Observers (Working Group), which took place on March 29, 2012, as presented in document CC/83/3 Add.

UPOV/INF/19 Rules governing the granting of observer status to States, intergovernmental organizations and international non-governmental organizations in UPOV bodies (Revision)

*20. The Consultative Committee recommended to the Council, at its forty-sixth ordinary session to be held in Geneva on November 1, 2012, to adopt the revision of the "Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies", on the basis of document UPOV/INF/19/1 Draft 1, amended as follows:

after paragraph 5	to add the following new paragraph: “The Consultative Committee, where it considers appropriate, may reconsider the observer status of intergovernmental and international non-governmental organizations and may apply appropriate measures.” and to renumber the subsequent paragraphs.
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UPOV/INF/20 Rules governing access to UPOV documents (Revision)

*21. The Consultative Committee recommended to the Council, at its forty-sixth ordinary session to be held in Geneva on November 1, 2012, to adopt the revision of the Rules Governing Access to UPOV Documents, on the basis of document UPOV/INF/20/1 Draft 1.

*22. The Consultative Committee granted observer status to the African Seed Trade Association (AFSTA) for the Council, the Administrative and Legal Committee (CAJ), the Technical Committee (TC) and the Technical Working Parties (TWPs).

Access to UPOV documents and publication of information

*23. The Consultative Committee considered documents CC/83/4 and CC/83/4 Add.

*24. The Consultative Committee noted the developments reported in document CC/83/4 and further noted that:

(a) the scanning and posting on the UPOV website of important documents that are only available in paper format would be planned according to available resources;

(b) relevant members of the Union had been invited, in December 2011, to provide a consolidated list of genera and species in order to include notifications by members of the Union on plant genera and species in UPOV Lex later in 2012;

(c) the posting on the UPOV website of the date of granting of observer status in the list of observers in UPOV bodies would be planned according to available resources;

(d) the publishing on the UPOV website of the information concerning the President and Vice-President of the Council and the Chairs and Vice-Chairs of the UPOV bodies, with the appropriate contact information, and the publishing on the UPOV website of the photographs of the Secretary-General and of the Vice Secretary-General would be arranged as soon as possible;

(e) the establishment of a UPOV channel on YouTube for hosting of UPOV videos would be done in conjunction with the development of a coherent image for UPOV publication and presentation materials, for consistency with the redesigned UPOV website.

*25. The Consultative Committee noted that the TC, at its forty-eighth session, held in Geneva from March 26 to 28, 2012, had agreed to add a cover page to all previous adopted versions of the Test Guidelines, indicating their status before those documents were published on the UPOV website. The TC had further agreed that consideration should be given to adding a disclaimer to all UPOV session documents in order to clarify the status of the documents.

*26. With regard to the webcasting of UPOV meetings, the Consultative Committee noted that the TC, at its forty-eighth session, had agreed that it would be appropriate to consider broadcasting live webcasts, and to place video recordings on the UPOV website, for future sessions of the TC, subject to arrangements to be agreed by the Consultative Committee. The TC had noted that the WebEx facility for the Enlarged Editorial Committee (TC-EDC) meeting had been very effective and had endorsed the continuation of that practice. The TC had also agreed that the Office of the Union should discuss with the hosts of the TWPs in 2012 whether they would wish to arrange for WebEx to be used for selected Test Guidelines' subgroup (TG Subgroup) discussions. It had welcomed the offer of France to test WebEx for [a] selected TG Subgroup[s] at the forty-first session of the Technical Working Party for Agricultural Crops (TWA), to be held in Angers, France, from May 21 to 25, 2012, and had invited the host and the Chairperson of the TWA to investigate a suitable TG Subgroup, in conjunction with the Office of the Union and the relevant Leading Expert[s]. It had also noted that the Chairman of the Technical Working Party on Automation and Computer Programs (TWC)

and the host of the thirtieth session of the TWC, to be held in Chisinau, Republic of Moldova, from June 26 to 29, 2012, would discuss possibilities to make selected presentations via the internet. The TC had agreed to request the Office of the Union to prepare a report on the use of WebEx at the TWP session[s], in order that the TC could review how to develop that approach further.

*27. The Consultative Committee noted that the CAJ, at its sixty-fifth session, held in Geneva on March 29, 2012, had noted that webcast meetings would be freely accessible on the internet. However, it had noted that it was possible to restrict access to meeting communications by Webinar and WebEx. The Vice Secretary-General had clarified for the CAJ that questions concerning policy on access would be considered by the Consultative Committee.

*28. The Consultative Committee agreed that consideration of the use of electronic communication of meetings should be considered at its eighty-fourth session, on the basis of a document to be prepared by the Office of the Union.

*29. The Consultative Committee considered document CC/83/4 Add. and agreed that the "Symposium on the benefits of plant variety protection for farmers and growers" be open for attendance to the public, subject to room capacity, with priority being given to participants from members of the Union, observer States and observer organizations.

*30. The Consultative Committee approved the webcasting of the Symposium.

*31. The Consultative Committee agreed the explanation of the aim of the Symposium, as follows:

"The aim of the 'Symposium on the benefits of plant variety protection for farmers and growers' (Symposium) is to provide illustrations of how plant variety protection can improve incomes for farmers and growers by supporting the development and supply of new, improved varieties that are suited to their needs. The Symposium will also provide examples of how farmers and growers can use plant variety protection as breeders."

*32. The Consultative Committee endorsed the plans for the draft program of the Symposium, as set out in Annex I to document CC/83/4 Add., and agreed the inclusion of one speaker from those recommended by APBEBES to give a presentation in accordance with the aim of the Symposium, as set out above.

*33. The Vice Secretary-General recalled that the Consultative Committee, at its seventy-fourth session, held in Geneva on October 24, 2007, had endorsed the development of an advanced course "Examination of Applications for Plant Breeders' Rights" (DL-305) and had entrusted the Office of the Union to take the necessary actions to develop and implement that course, as set out in Annex II of document CC/74/4. In that regard, the Consultative Committee noted that the Office of the Union had reached agreement, in principle, to cooperate with Naktuinbouw (Netherlands) in the development of the modules in Section IV "DUS Examination". It noted that the costs for employing a consultant to draft the text would be shared equally between UPOV and Naktuinbouw and that, in addition, Naktuinbouw colleagues would be involved in the preparation and evaluation of the modules.

*34. The Consultative Committee noted that the Republic of Korea proposed to change the venue for the forty-fifth session of the Technical Working Party for Ornamental Plants and Forest Trees (TWO), to be held from August 6 to 10, 2012, and the preparatory workshop on August 5, 2012, from Seoul to Jeju, and agreed to recommend the change of location to the Council for the revision of the document "Calendar of Meetings in 2012" (document C/45/8 Rev.2).

UPOV policy for financing speakers and participants

*35. The Consultative Committee considered document CC/83/5.

*36. The Consultative Committee requested the Office of the Union to prepare a document on the UPOV policy for financing speakers and participants, for consideration at its eighty-fourth session, to be held in Geneva, on October 31, 2012.

Developments of relevance to UPOV in other international fora

- *37. The Consultative Committee considered document CC/83/6.
- *38. The Consultative Committee noted the developments concerning the East Asia Plant Variety Protection Forum (EAPVP Forum), the Organisation for Economic Co-operation and Development (OECD), the Convention on Biological Diversity (CBD), the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the World Trade Organization (WTO), as set out in document CC/83/6.
- *39. The Consultative Committee 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. 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. Initial contacts had also been made with some potential donors for the funding of the project. The Consultative Committee noted that the Steering Committee of the WSP had also contacted Senegal.
- *40. The Consultative Committee noted that the Office of the Union had provided the OECD Secretariat with a brief description of the role and responsibilities of UPOV for inclusion in the OECD document "Different Regulatory Aspects Affecting World Seed Trade" on March 1, 2012.
- *41. The Consultative Committee 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.
- *42. The Consultative Committee approved the contribution of the Office of the Union in 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".
43. The Delegation of Norway noted that, since the Council document of June 2003 regarding "Access to genetic resources and benefit-sharing", there had been significant developments in other international fora, for instance the adoption of the Nagoya Protocol in 2010 and the ongoing discussions in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). With reference to document CC/83/6, paragraphs 29 to 32, the Delegation gave a brief report on the Norwegian participation at the twentieth session of the IGC which was held in Geneva from February 14 to 22, 2012, on the subject of intellectual property and genetic resources. At that session the IGC had addressed three main issues: defensive protection; disclosure requirement and establishing goals and principles and the Delegation of Norway emphasized that Norway was in favor of introducing a mandatory disclosure requirement. The Delegation believed that mandatory disclosure was the most important single measure that could be introduced to ensure that rights to genetic resources and traditional knowledge associated with genetic resources were safeguarded within the patent system. It further noted that a disclosure requirement could in fact partly be seen as a mechanism on defensive protection as it would contribute to provide information that was of relevance for novelty and inventive step. A number of States, at that session, were in favor of some kind of a disclosure requirement, although there were different views on how such a requirement should be applied. The Delegation was of the opinion that there was a sign of a development on the relationship between intellectual property and genetic resources and UPOV would need to address that development in light of the future development in the field of plant variety protection.
44. The Delegation of the United States of America, in response to the intervention made by the Delegation of Norway, noted that it had a different view on the issue of the disclosure requirement and could not support such a requirement. It stated that the disclosure requirement had not been shown to be useful in accomplishing its objective of protecting against misappropriation. Furthermore, the Delegation noted that the UPOV system did not permit imposing such a requirement, but that applicants were free to include such information in an application for plant breeder's rights. It said that many applications do, in fact, note the origin of the genetic material, but applications sometimes use a significant number of genetic resources, which would make meeting a disclosure requirement difficult, as well as complicate how the information would be communicated to the public. The Delegation suggested caution in addressing the issue due to the different perspectives on the utility of a disclosure requirement.
45. The Delegation of Japan noted that the matter of disclosure was very important, but considered that it should be optional. It recalled that the process of plant breeding involved the use of a large number of genetic resources with different origins. The Delegation was of the opinion that it was very important that, under the UPOV Convention, the materials could be used freely for the development of new varieties using different breeding processes, such as backcrossing.

46. The Consultative Committee noted the interventions made by the Delegations of Norway, United States of America and Japan.

*47. The Consultative Committee noted the developments in relation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

Draft press release

*48. The Consultative Committee recommended to the Council to approve the draft press release reproduced in the Annex to document C(Extr.)/29/5, with the addition of the name of the Vice Secretary-General under "Extension of the appointment of the Vice Secretary-General", subject to developments in the Council.

Program for the eighty-fourth session

49. The following program was agreed for the eighty-fourth session of the Consultative Committee:

1. Opening of the session
2. Adoption of the agenda
3. Preliminary examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention
4. Documents proposed for adoption by the Council
5. Financial situation of the International Union for the Protection of New Varieties of Plants as at December 31, 2011
6. Arrears in contributions as of September 30, 2012
7. Access to UPOV documents and publication of information
8. UPOV Distance Learning Course
9. Assistance webpage on the UPOV website
10. UPOV policy for financing speakers and participants
11. Observers in UPOV bodies
12. Status of the examination of laws of those States and organizations which have initiated the procedure for acceding to the UPOV Convention
13. Reports from new members of the Union
14. Developments of relevance to UPOV in other international fora
15. Preparation of the Calendar of Meetings
16. Draft press release
17. Program for the eighty-fifth session
18. Adoption of the report on the conclusions (if time permits)
19. Closing of the session

50. *This report was adopted by correspondence.*

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres/
in the alphabetical order of the names in French of the members/
in alphabetischer Reihenfolge der französischen Namen der Mitglieder/
por orden alfabético de los nombres en francés de los miembros)

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