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Geneva

CONSULTATIVE COMMITTEE

**Eighty-Eighth Session
Geneva, October 15, 2014**

COMMUNICATION STRATEGY

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

1. The purpose of this document is to report on developments concerning the communication strategy workplan approved by the Consultative Committee, including the presentation of proposals for answers to frequently asked questions, and to consider a proposal to update the UPOV logo as a part of the development of a coherent image for the range of UPOV materials and features.

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UPOV LOGO

2. Since the launch of the redesigned website in 2011, the Office of the Union has sought to use that design as a basis for a coherent image in its publications (e.g. Introduction to UPOV (microsite), UPOV Trilogy). In the immediate future, it is planned to develop a coherent image for the following UPOV material and features:

- Powerpoint presentations
- Leaflet
- Publications
- Stakeholder-focused features on the UPOV website
- YouTube channel

3. The Consultative Committee, at its eighty-third session, noted that the establishment of a UPOV channel on YouTube for hosting of UPOV videos would be arranged in conjunction with the development of a coherent image for UPOV publication and presentation materials, for consistency with the redesigned UPOV website (see document CC/83/8 "Report", paragraph 24).

4. The development of a coherent image has been discussed with the Editorial and Design Section of the Communication Division of the World Intellectual Property Organization (WIPO). One of the matters that has been raised is the possibility to refresh the UPOV logo to be more coherent with the image of the website and the formatting of UPOV documents, and to provide a more modern image of UPOV.

5. The design of a new logo would be done by the WIPO Editorial and Design Section, or would be outsourced at a modest cost. The cost of implementing a new logo would not be significant because, in the case of printed material that would need to be updated, existing stocks would be exhausted before versions with the new logo were introduced. In the case of existing electronic features, such as the UPOV website and document templates, the new logo would be incorporated by relevant WIPO colleagues. In addition, as explained in paragraph 2, there are many UPOV materials and features that are in the process of development, in which the UPOV logo would be integrated from the beginning.

6. Subject to approval by the Consultative Committee, the Office of the Union would seek to develop a proposal for a new logo for consideration by the Consultative Committee at its eighty-ninth session and approval by the Council at its thirty-second extraordinary session, both of which are to be held in Geneva on March 27, 2015. If the Consultative Committee approves this approach, the UPOV material and features listed in paragraph 2, for example, would be designed accordingly.

7. The Consultative Committee is invited to approve the development of a proposal for a new logo for consideration by the Consultative Committee at its eighty-ninth session and approval by the Council at its thirty-second extraordinary session, as set out in paragraphs 2 to 6.

WORKPLAN

Background

8. At its eighty-sixth session, the Consultative Committee approved the communication strategy as set out in Annex I to document CC/87/4, a copy of which is reproduced in Annex I to this document.

9. At its eighty-seventh session, held in Geneva on April 11, 2014, the Consultative Committee proposed that a report on the implementation of the workplan contained in the communication strategy (see Annex I, Section IV "Workplan") be presented to the Consultative Committee at its eighty-eighth session. The following sections provide a report on that basis.

Communication materials

Stakeholder-focused features on UPOV website

10. In order to facilitate use of the UPOV system and to improve the level of understanding of the UPOV system, stakeholder-focused features, based on existing information, will be introduced on the UPOV website as follows:

- Breeders (priority)
- Seed producers / plant propagators (priority)
- Farmers (priority)
- Processors, wholesalers and retailers
- Policy-makers
- General public

11. The stakeholder-focused features will be introduced on the UPOV website during 2015.

Answers to frequently-asked questions about the UPOV system

12. The Council, at its thirty-first extraordinary session, held in Geneva on April 11, 2014, adopted the answers to the frequently asked questions as set out in the Annex to document C(Extr.)/31/3 "Report by the President on the work of the eighty-seventh session of the Consultative Committee; adoption of recommendations, if any, prepared by that Committee". The adopted answers to the frequently asked questions are published on the UPOV website at <http://www.upov.int/about/en/faq.html>.

13. The Consultative Committee, at eighty-seventh session held in Geneva on April 11, 2014, requested the Office of the Union to prepare draft questions and answers with regard to the following matters, on the basis of contributions from the members of the Union (see document CC/87/10 "Report on the Conclusions", paragraph 27):

- (i) the UPOV Convention does not regulate varieties that are not protected by plant breeders' rights;
- (ii) the possibility for subsistence farmers to exchange negligible or unimportant quantities of harvested food produce against other vital goods within the local community;
- (iii) under the UPOV system, breeders decide the conditions and limitations under which they authorize the exploitation of their protected varieties. They may, for instance, allow farmers to exchange seeds freely within the local community; and
- (iv) information on the situation in UPOV with regard to the use of molecular techniques for a wider audience, including the public in general.

14. In response to Circular E-14/172 of June 18, 2014, the Office of the Union received contributions from the European Union, Kenya, Norway and the United States of America, which are presented in Annex II to this document.

Illustrative explanation of the benefits of the UPOV system

15. The workplan indicated that a brief, illustrative explanation of the benefits of the UPOV system aimed at an audience with no previous knowledge of plant breeding or plant variety protection and/or illustrative examples of the benefits of plant variety protection (e.g. case studies such as the Ashiro Rindo video, animated stories) would be developed as a part of UPOV's involvement in EXPO 2015.

16. In November 2012, WIPO received a letter from the Italian Ambassador in Geneva, encouraging it to participate in a pool of Geneva-based international organizations active in the field of science, technology and innovation (e.g. World Health Organization (WHO), International Telecommunication Union (ITU), World Meteorological Organization (WMO) and the European Organization for Nuclear Research (CERN)), and to submit a coordinated contribution to EXPO 2015 (see "Background") under the auspices of the United Nations (UN) participation. UPOV was subsequently approached by WIPO to participate in the Geneva-based group contribution.

17. 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). In particular, document CC/85/9 explained that, with regard to the resource implications and control of content of contributions from the participating organizations, the Coordinator, UN-Expo 2015 Team, Food and Agriculture Organization of the United Nations (FAO), clarified that “EXPO 2015 will also cover the costs of developing agreed UN proposals into appropriate digital exhibits/presentations by contracting with suitable companies, while the UN will retain overall control over the content”.

18. It is unclear whether it will be possible to develop a brief, illustrative explanation of the benefits of the UPOV system aimed at an audience with no previous knowledge of plant breeding or plant variety protection and/or illustrative examples of the benefits of plant variety protection as a part of UPOV’s involvement in EXPO 2015. If that is not possible, subject to available resources within the program and budget, the Office of the Union will seek to develop such a feature in 2015 or 2016.

Update of the Impact Study

19. The communication strategy indicated that an update of the Impact Study to incorporate new information including, for example, information from the Trilogy and on the development of regional systems of plant variety protection might be used to increase awareness of the objectives of the UPOV system of plant variety protection.

20. The workplan indicated that a plan for updating the Impact Study would be presented in 2014. However, the Consultative Committee may wish to consider deferring plans for the updating of the Impact Study pending its work to identify with the Secretary of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the Secretariat of WIPO possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV with a view to a possible joint publication on interrelated issues regarding innovation and plant genetic resources (see document CC/88/10 “Interrelation with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)”).

Communication methods

Electronic workshops (e-workshops)

21. The workplan indicated that particular consideration would be given to the increased use of electronic workshops (e-workshops) to increase the outreach of the Office of the Union and other speakers. Examples of new types of e-workshops would include workshops for discussion groups on selected themes. It was stated that all such workshops would be reported to the Consultative Committee and the Council and, as appropriate, authorization by the Council of the events would be sought in advance.

22. The Office of the Union has used e-workshops for training of Leading Experts on the use of the web-based Test Guidelines Template (see document TC/50/10 “Report on developments in UPOV including relevant matters discussed in the last sessions of the Administrative and Legal Committee, the Consultative Committee and the Council”).

Social media

23. The workplan indicated that a UPOV channel on YouTube for hosting of UPOV videos would be arranged in conjunction with the development of a coherent image for UPOV publication and presentation materials. The timetable for the introduction of a UPOV channel on YouTube will reflect the possible development of a new UPOV logo, as set out in paragraphs 2 to 6 of this document.

24. In order to raise awareness about the distance learning course DL-205 “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”, the Office of the Union arranged for a message aimed at IP professionals to be tweeted via WIPO.

Measuring Results

25. The communication strategy workplan explains that minimal resources will be used in monitoring the results and that, as far as technically possible and within available resources, results will be measured as follows:

- Visits to UPOV website
- Visits to stakeholder-focused features on UPOV website
- Participation in workshops

26. The results will be reported as a part of the annual report of the Secretary-General (see document C/48/2) and performance report for the biennium (see document C/48/12).

27. *The Consultative Committee is invited to:*

(a) note that stakeholder-focused features will be introduced on the UPOV website during 2015;

(b) consider the draft questions and answers in Annex II, as a basis for proposing FAQs for adoption by the Council at its forty-eighth ordinary session, to be held in Geneva on October 16, 2014;

(c) note the plans to develop a brief, illustrative explanation of the benefits of the UPOV system aimed at an audience with no previous knowledge of plant breeding or plant variety protection and/or illustrative examples of the benefits of plant variety protection, as set out in paragraph 18 of this document;

(d) defer plans for the updating of the Impact Study pending work to identify with the Secretary of the ITPGRFA and the Secretariat of WIPO possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV with a view to a possible joint publication on interrelated issues regarding innovation and plant genetic resources;

(e) note the use of e-workshops for training of Leading Experts on the use of the web-based Test Guidelines Template;

(f) note that the timetable for the introduction of a UPOV channel on YouTube will reflect the possible development of a new UPOV logo;

(g) note the tweeting of a message concerning the DL-205 course; and

(h) note that results of the communication strategy will be reported as a part of the annual report of the Secretary-General and performance report for the biennium.

[Annexes follow]

COMMUNICATION STRATEGY

(approved by the Consultative Committee at its eighty-sixth session)

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I. AIM AND OBJECTIVES

1. The aim of the communication strategy is to improve awareness and understanding of the UPOV system in order to support the development of plant variety protection for the benefit of society.
2. In order to achieve that aim, the objectives of the communication strategy are to:
 - (a) raise awareness of UPOV and the benefits of the UPOV system of plant variety protection;
 - (b) provide improved information for members of the Union on the operation of the UPOV system; and
 - (c) enhance the understanding of the UPOV system by stakeholders.

II. AUDIENCE

3. The following table summarizes the audience focus around which this communication strategy is based:

Objective	Authorities of UPOV members	States / Intergovernmental organizations that contact the Office of the Union	Policy makers	International Intergovernmental Organizations	Breeders/Applicants	Seed producers / plant propagators	Farmers/Growers	Non-Governmental Organizations	Education professionals and students	General Public
(a) to raise awareness of UPOV and the benefits of the UPOV system of plant variety protection	X	X	X	X	X	X	X	X	X	X
(b) to provide improved information for members of the Union on the operation of the UPOV system	X									
(c) enhance the understanding of the UPOV system by stakeholders	X	X	X	X	X	X	X	X	X	X

III. CURRENT SITUATION AND GAP ANALYSIS

4. This section reviews the current situation and seeks to identify gaps as a basis for possible future work, which is considered in Section IV "Workplan".

Materials

5. The following sections list the most relevant materials that UPOV currently has with regard to the objectives set out in Section I "Aim and Objectives":

(a) *Raising awareness of UPOV and the benefits of the UPOV system of plant variety protection*

6. The most relevant materials that UPOV currently has are:

<u>Material</u>	<u>Location</u>
Introduction to UPOV (microsite)	http://www.upov.int/overview/en/
Ashiro Rindo story	http://www.upov.int/multimedia/en/2011/ashiro_rindo.html
Video interviews	(UPOV YouTube channel –see below)

UPOV leaflet (Publication No. 437)	http://www.upov.int/about/en/list_publications.html
UPOV Report on the Impact of Plant Variety Protection (Impact Study)	http://www.upov.int/export/sites/upov/about/en/pdf/353_upov_report.pdf
Declaration/Proceedings from the Second World Seed Conference	http://www.worldseedconference.org/en/worldseedconference/home.html
Trilogy ¹ publication	
UPOV events and presentations	
UPOV Posters	
Articles in general press	
Articles in specialist press	

7. As indicated in the list above, UPOV has a considerable quantity of material that explains the objectives of the UPOV system of plant variety protection. However, the objective to increase awareness of the objectives of the UPOV system of plant variety protection might be aided by the following:

- (i) answers to frequently-asked questions about the UPOV system;
- (ii) additional illustrative examples of the benefits of plant variety protection (e.g. case study videos such as Ashiro Rindo, animated stories); and
- (iii) an update of the Impact Study to incorporate new information including, for example, information from the Trilogy and on the development of regional systems of plant variety protection.

(b) *Providing improved information for members of the Union on the operation of the UPOV system*

8. The most relevant materials that UPOV currently has are:

<u>Material</u>	<u>Location</u>
UPOV Collection	http://www.upov.int/upov_collection/en/
Distance Learning Courses	http://www.upov.int/resource/en/training.html
UPOV Lex	http://www.upov.int/upovlex/en/
Plant Variety Database (PLUTO)	http://www.upov.int/pluto/en/
GENIE database	http://www.upov.int/genie/en/
Presentations at UPOV/other events	

9. The materials and methods of communication for members of the Union on the operation of the UPOV system are covered by the regular work of the UPOV bodies and the Office of the Union according to programs approved by the Council. That work is kept under constant and detailed review, for example in relation to the UPOV Collection. That review also includes consideration of new initiatives, such as the development of the advanced distance learning course DL-305 "Examination of Applications for Plant Breeders' Rights" (DL-305) and would include responses to developments such as the letter of the International Seed Federation (ISF) of January 21, 2013, on the subject "Application, examination and granting aspects of PBR applications".

¹ Publication combining the proceedings of the "UPOV Seminar on Plant Variety Protection and Technology Transfer: the Benefits of Public-Private Partnership", the "Symposium on Plant Breeding for the Future" and the "Symposium on the benefits of plant variety protection for farmers and growers".

(c) *Enhancing the understanding of the UPOV system by stakeholders*

10. The most relevant materials that UPOV currently has are:

<u>Material</u>	<u>Location</u>
Introduction to UPOV (microsite)	http://www.upov.int/overview/en/
Ashiro Rindo story	http://www.upov.int/multimedia/en/2011/ashiro_rindo.html
Video interviews	(UPOV YouTube channel –see below)
UPOV Report on the Impact of Plant Variety Protection	http://www.upov.int/export/sites/upov/about/en/pdf/353_upov_report.pdf
Trilogy publication	
UPOV events and presentations	
Articles in specialist press	
UPOV Collection	http://www.upov.int/members/en/upov_membership.html
Distance Learning Courses	http://www.upov.int/resource/en/training.html
UPOV Lex	http://www.upov.int/upovlex/en/
Plant Variety Database (PLUTO)	http://www.upov.int/pluto/en/
GENIE database	http://www.upov.int/genie/en/

11. The Seminar on Plant Variety Protection and Technology Transfer: the Benefits of Public-Private Partnership (Seminar) and the Symposium on the Benefits of Plant Variety Protection for Farmers and Growers (Symposium) demonstrated that plant variety protection provides benefits for breeders in both the private and public sectors and can enable farmers and growers to become breeders. The Symposium also demonstrated that plant variety protection can play an important role in improving incomes for farmers and growers. One of the means to support the objective of improving the level of understanding of the UPOV system by stakeholders would be to improve awareness of the ways in which plant variety protection can be used for their benefit. In addition, the effectiveness of plant variety protection relies on the respect and understanding of the rights of breeders by all stakeholders.

12. Presenting information from the perspective of different stakeholders could be an important means of improving the level of understanding of the UPOV system by stakeholders. For, example the UPOV Collection contains a wealth of information, but which is unlikely to be suitable for stakeholders without extensive knowledge of UPOV and without knowledge of where to find the relevant material. However, such materials might be the basis for the development of material that is suitable for breeders and farmers in a way that complements information provided by the authorities of members of the Union and observer organizations. If such material was developed, it would be useful to ensure that breeders and farmers visiting the UPOV website would be able to find that information easily, for example by the creation of a link to a “breeders” or “farmers” page.

13. On that basis, it could be helpful to develop features of the UPOV website that are focused from the perspective of different types of stakeholders, such as:

- Breeders: e.g. private breeders, public breeders, farmer-breeders
- Seed producers / plant propagators
- Farmers: e.g. commercial farmers, small-holder farmers, farmer cooperatives
- Processors, wholesalers and retailers
- Policy-makers
- General public

14. In order to provide information that is focused on the needs of particular groups of stakeholders, “UPOV events and presentations” in this context would include workshops and meetings on themes identified by stakeholders. Such events might be organized by UPOV, by the stakeholders or by other parties in which UPOV’s participation would help to fulfill the objectives.

Communication methods

15. UPOV currently uses the following methods of communication:

- UPOV website
- UPOV sessions
- UPOV activities (hosted by governments)
- UPOV training courses (e.g. distance-learning courses, training trainers)
- UPOV seminars and symposia
- UPOV workshops
- Participation in meetings, workshops
- Press

16. The aim of the redesigned UPOV website, launch in November 2011, was to improve the availability of information on UPOV to a range of users. The UPOV website is the most widely accessible communication means for UPOV and should continue to be a core element of the communication strategy, with other methods (e.g. social media – see below) serving to increase awareness of the information on the UPOV website and to enhance the features of the website. For example, the Consultative Committee, at its eighty-fourth session, held in Geneva on October 31, 2012, approved the use of:

- (i) web conferencing by UPOV bodies, as considered appropriate by the UPOV body concerned, to facilitate participation by members of the Union and observers in accordance with the existing procedures;
- (ii) web conferencing by the Office of the Union to facilitate participation by invited participants to its meetings, as considered appropriate by the Office of the Union; and
- (iii) webcasting of sessions of UPOV bodies for viewing by members of the Union and observers in accordance with the existing procedures, as considered appropriate by the UPOV body concerned.

17. At present, UPOV is not yet using social media. However, at its eighty-second session, the Consultative Committee approved the establishment of a UPOV channel on YouTube for hosting of UPOV videos. The Consultative Committee, at its eighty-third session, noted that the establishment of a UPOV channel on YouTube for hosting of UPOV videos would be arranged in conjunction with the development of a coherent image for UPOV publication and presentation materials, for consistency with the redesigned UPOV website.

18. With regard to other social media:

Facebook: the requirement for the Facebook page to be updated on a regular basis would mean that considerable resources would be required. Facebook might be considered to be suitable for a special event of widespread interest.

Twitter: on the basis of UPOV being a non-active Twitterer, maintenance requirements could be reasonable and Twitter could be a useful tool to increase awareness of topical information available on the UPOV website.

LinkedIn: at present, the features of LinkedIn do not appear to provide major benefits towards UPOV's communication strategy.

Flickr: Flickr may provide a useful service for sharing photographs and videos of UPOV events, either openly to all or to a restricted group of users. In order to use Flickr to share photographs and videos, it would be necessary to seek the permission of all relevant persons.

Wikipedia: Wikipedia has become the largest and most popular general reference work on the Internet. Therefore, ensuring the accuracy of information concerning UPOV on the Wikipedia page will be an important means of communicating information about UPOV. However, it is recognized that there will be certain content on the Wikipedia UPOV page that may be a matter of opinion and for which the Office of the Union would not be in a position to intervene, unless so instructed by the members of the Union.

Incident Management

19. At present, UPOV does not have a specific incident management communication procedure.
20. The following procedure might be considered:

Incident management procedure

In situations where, in the opinion of the Office of the Union, after consultation with the President of the Council (where time allows), an urgent response to an important issue is considered necessary within a time period that would not allow consideration at a session of the Consultative Committee and the Council, and for which UPOV has not previously taken a position, the following approach will be followed:

- (a) In cases where at least 2 weeks are available for a response, the members of the Union will be consulted by e-mail, with at least 5 days (including non-working days) for comment. The proposed status of the response will be indicated in the e-mail (e.g. whether the response would represent the position of UPOV, dependent on agreement with the proposed response). The status of the response will be indicated in the response;
- (b) In cases where less than 2 weeks are available for a response, the Office of the Union will respond, as such, after consultation with the President of the Council (where time allows). The status of the response will be indicated in the response. The Office of the Union will inform members of the Union by e-mail of the response at the earliest opportunity and will include the matter on the agenda of the subsequent session of the Consultative Committee. In such cases, as far as possible, the Office of the Union will also inform members of the Union in advance of the need to respond to an issue without consultation, with the aim of enabling members of the Union to contribute relevant views and information.

IV. WORKPLAN

21. The following workplan reflects the gap analysis in Section III "Current Situation and Gap Analysis".
22. The workplan concerns activities that are additional to the activities that are already covered in the regular work programs and activities specified in the Program and Budget for the 2012-2013 Biennium, e.g. the development of information materials. It has been developed in accordance with the Program and Budget for the 2012-2013 Biennium, which states that the "main focus and priority for the 2012-2013 biennium is support for members of the Union in the operation of their plant variety protection systems" (see document C/45/4 Rev.2 "Program and Budget for the 2012-2013 Biennium"). In recognition of the limited resources available, the workplan has also been prioritized according to the level of resource needed for delivery and the topicality of the issues.

Communication materials

Stakeholder-focused features on UPOV website

23. In order to facilitate use of the UPOV system and to improve the level of understanding of the UPOV system, stakeholder-focused features, based on existing information, will be introduced on the UPOV website as follows:
 - Breeders (priority)
 - Seed producers / plant propagators (priority)
 - Farmers (priority)
 - Processors, wholesalers and retailers
 - Policy-makers
 - General public

General Information

24. The following materials will be developed in order to improve the understanding of the UPOV system by a broad range of stakeholders:

- (a) Answers to frequently-asked questions about the UPOV system;
- (b) A brief, illustrative explanation of the benefits of the UPOV system aimed at an audience with no previous knowledge of plant breeding or plant variety protection and/or illustrative examples of the benefits of plant variety protection (e.g. case studies such as the Ashiro Rindo video, animated stories);

The development of this explanation would be a part of UPOV's involvement in EXPO 2015

- (c) An update of the Impact Study

A plan for updating the Impact Study will be presented in 2014.

Communication methods

25. The following methods of communication will continue to be used:

- UPOV website
- UPOV sessions
- UPOV activities (hosted by governments)
- UPOV training courses (e.g. distance-learning courses, training trainers)
- UPOV seminars and symposia
- UPOV workshops
- Participation in meetings, workshops,
- Press

26. However, particular consideration will be given to the increased use of electronic workshops to increase the outreach of the Office of the Union and other speakers. Examples of new types of e-workshops would include workshops for discussion groups on selected themes.

27. All such workshops will be reported to the Consultative Committee and the Council and, as appropriate, authorization by the Council of the events will be sought in advance.

28. Social media will be used as follows:

YouTube: a UPOV channel on YouTube for hosting of UPOV videos will be arranged in conjunction with the development of a coherent image for UPOV publication and presentation materials;

Twitter: the use of Twitter to increase awareness of topical information available on the UPOV website will be investigated and pursued, if feasible within existing resources. In that regard, it is normally expected that "tweets" are sent on a frequent basis, which would be an unrealistic burden for the Office of the Union. However, the World Intellectual Property Organization (WIPO) has agreed that UPOV can use the WIPO account to "tweet" information as required;

Facebook: no plans for use at present;

LinkedIn: no plans for use at present;

Flickr: no plans for use at present;

Wikipedia: the accuracy of information concerning UPOV on the Wikipedia page will be monitored and corrections proposed as resources allow. A report of editorial changes proposed by the Office of the Union will be reported to the Consultative Committee.

V. MEASURING RESULTS

29. In recognition of the limited resources that will be used in the communication strategy workplan, only minimal resources will be used in monitoring the results. As far as technically possible and within available resources, results will be measured as follows:

- Visits to UPOV website
- Visits to stakeholder-focused features on UPOV website
- Participation in workshops

[Annex II follows]

DRAFT FREQUENTLY ASKED QUESTIONS AND ANSWERS

Note: the order of proposals seeks to group the most similar proposals together for ease of consideration and in the case of very similar proposals, texts have been combined as far as possible

New FAQs

(a) The UPOV Convention does not regulate varieties that are not protected by plant breeders' rights

Question: Does the UPOV Convention regulate varieties that are not protected by plant breeders' rights?

(Proposed by the European Union/United States of America)

Answer: The UPOV system does not regulate varieties that are not covered or no longer covered by plant variety protection. Therefore many plant varieties can be replanted by a farmer without any authorization of the breeder.

UPOV does not regulate any other system of intellectual property rights governing the protection of plants/plant varieties. It is necessary to consult the legislation in each UPOV Contracting Party in order to know the situation and the answer in that UPOV member.

(Proposed by Norway)

Answer: The UPOV system does not regulate varieties that are not covered by plant variety protection, i.e. varieties that never have been protected and varieties that are no longer covered. Plant variety protection does not restrict the use of non-protected varieties or the implementation of policies and legislation related to the use of non-protected varieties. Therefore, the use, saving, exchanging and selling of such varieties are affected only, if regulated at all, by other types of seed regulation and does not need the authorization of the breeder. Some countries' seed registration rules use the DUS-criteria to evaluate which varieties are approved for marketing, but this should not be confused with plant breeders' rights, where the DUS criteria are used to define which varieties that are protectable.

(Proposed by Kenya)

Question: What is the scope of protection of Plant Breeders' Rights, also known as Plant Variety Rights?

Answer: Plant breeder's rights do not stop unauthorized exploitation of plant variety material which has not been protected within the UPOV membership area.

(b) The possibility for subsistence farmers to exchange negligible or unimportant quantities of harvested food produce against other vital goods within the local community

(Proposed by the European Union/United States of America)

Question: Is it possible for subsistence farmers to exchange negligible or unimportant quantities of harvested food produce against other vital goods within the local community?

Answer: Since the 1991 Act and 1978 Act do not specifically address or define [subsistence farming,]² it is necessary to consult the legislation of each UPOV Contracting Party for the answer to this question specific [for]³ [to]² that UPOV member.

Within the scope of the breeder's right exceptions provided under the UPOV conventions, UPOV Contracting Parties have the flexibility to consider that, where the legitimate interests of the breeders are not significantly affected, in the occasional case of remaining produce, subsistence farmers may exchange this produce against other vital goods within the local community.

(Proposed by Norway)

Question: May subsistence farmers freely use and exchange the harvested food produce when cultivating protected varieties?

(Norway also commented:

- *this question and answer covers both topics (b) and (c)*
- *this question could be a third sub-question under the question "Can a farmer replant seed of a protected variety without the authorization of the breeder?"*

Answer: In cases of remaining food produce, this produce could be exchanged within the local community without the authorization of the breeder against other vital goods. The authorization of a breeder is relevant only in cases of using the harvest as propagating material, not for other purposes such as food and feed. If the produce involved in the transaction is used as propagating material, it could still be done without the authorization of the breeder if there is no money involved in these transactions, depending on national laws, and the exchange can be seen as acts done privately or for non-commercial purposes.

It should be noted that under the UPOV system any breeder, either for example a private company or a public breeding station, decides the conditions and limitations under which he/she authorizes the exploitation of his/her protected varieties. He may, for instance, allow farmers to exchange seeds freely within their local community.

This is independent of the fact that UPOV member countries can regulate on their territory the production, certification and marketing of material of plant varieties (Art 18).

(Proposed by Kenya)

Question: Can subsistence farmers exploit protected varieties at community level?

Answer: Considering the cultural diversity of member countries, it is the prerogative of member countries to institute measures that will allow farmers to exchange foods grown from seeds of protected varieties whilst providing possible measures of compensation to breeders.

² Proposed by the United States of America

³ Proposed by the European Union

(c) Under the UPOV system, breeders decide the conditions and limitations under which they authorize the exploitation of their protected varieties. They may, for instance, allow farmers to exchange seeds freely within the local community

(Proposed by the European Union/United States of America)

Question: Under the UPOV system, breeders decide the conditions and limitations under which they authorize the exploitation of their protected varieties. Can farmers, for instance, be allowed to exchange seeds freely within the local community?

Answer: Article 14.1(a) of UPOV 1991 and article 5(1) of UPOV 1978 define the acts in respect of the propagating material for which the breeder authorization shall be required; Article 14.1(b) and respectively Article 5(2) states that the breeder may make his authorization subject to conditions and limitations.

Therefore any breeder may decide on the conditions and limitations under which he authorizes the exploitation of his/her protected variety. He may, for instance, allow the farmer to exchange seeds freely within the local community.

(Proposed by Kenya)

Question: What possibilities exist for farmers to exchange seeds of protected varieties freely within the local community?

Answer: Plant breeders' rights are exclusive rights granted to breeders of new varieties to exploit their varieties. Hence, unauthorized conduct of such acts of exploitation will constitute an infringement. Holders of PBR are entitled to charge farmers if they use farm-saved. Plant variety protection (PVP) under the UPOV 1991 Convention provides an exemption known as the "farm-saved seed exemption" or "farmer's privilege". This makes provision for breeders to decide the conditions and limitations under which they may authorize the exploitation of their protected varieties.

(Proposed by Norway)

see proposal by Norway under item (b)

(d) Information on the situation in UPOV with regard to the use of molecular techniques for a wider audience, including the public in general

(Proposed by the European Union/United States of America)

Question: What is the situation in UPOV with regard to the use of molecular techniques for DUS testing?

Answer: [According to today's technological advancement in plant breeding, authorities and breeders are developing molecular techniques for use in variety testing and examination.]⁴/

[Responding to today's technological advancement in plant breeding, breeders and authorities are incorporating molecular techniques in variety testing and examination.]⁵

Currently, UPOV does not accept DUS examination based solely on molecular data. This is because a limitless number of markers might be used to find differences at the genetic level that are not reflected in phenotypic characteristics.

However, UPOV has agreed that molecular markers can be used for individual DUS characteristics with a proven direct link between the marker and the characteristic in order to support decision making on DUS examination. [The molecular techniques need to have received a positive assessment by UPOV.]⁴

UPOV has also agreed that where molecular and phenotypic differences are sufficiently related, the molecular markers can be useful in the management of variety reference collection and data can be combined to select the closest existing varieties from the reference collection for comparison with candidate varieties in the DUS growing trial.

UPOV continues to develop guidelines and explanatory notes to facilitate harmonization [and]⁵ to assist authorities in this regard. [UPOV encourages its members to collaborate in this area.]⁴

(Proposed by Kenya)

Question: Is the use of biochemical and molecular techniques (BMT) useful in the DUS testing and examination process?

Answer: Biochemical and molecular techniques in DUS examination is being undertaken with the potential target being application of molecular techniques to determine differences in the genetic make-up of plant varieties, and thus its identity. Molecular investigations may also help to determine other aspects of agronomical importance such as disease resistance, pest resistance or drought tolerance. UPOV encourages member countries to collaborate in building capacity in this area.

Norway proposes "that this topic is postponed until we have reached a better understanding to what extent the use of molecular techniques can be a base"

⁴ Proposed by the European Union

⁵ Proposed by the United States of America

Modifications to existing FAQs

(Proposed by Norway)

Question: Why is plant variety protection necessary?

Answer: Successful breeding requires great skill and knowledge. In addition, large-scale breeding calls for significant investment in land, specialized equipment (for example, greenhouses, growth chambers and laboratories), and skilled, scientific manpower.

It takes a long time to develop a successful plant variety (10 to 15 years in the case of many plant species). Yet not all new plant varieties are successful and, even where the varieties show significant improvements, changes in market requirements may eliminate the possibility of a return on investment. This makes it necessary to balance the benefits with the return of the original high investment. Generally, however, plant breeding results in the availability of varieties with increased output and improved quality for the benefit of the society.

Sustained and long-term breeding efforts are only worthwhile if there is a chance to be rewarded for the investment made. To recover the costs of this research and development, the breeder may seek protection to obtain exclusive rights for the new variety.

At the same time, a new variety, once released, can often be easily reproduced by others. The original breeder is thus deprived of the fair opportunity to benefit from his or her investment. It is, therefore, critical to provide an effective system of plant variety protection, which encourages the development of new varieties of plants thereby benefiting the breeder and society at large.

- [Seminar on Plant Variety Protection and Technology Transfer: the Benefits of Public-Private Partnership](#)
- [UPOV Report on the Impact of Plant Variety Protection](#)

There might be situations where plant variety protection is not a sufficient tool to develop new plant varieties that meet the needs and demands of farmers and growers. In small markets or markets with low purchasing power, the breeder might not be able to recover the costs of research and development even when new varieties are protected. Under these circumstances, UPOV will not be able to encourage the development of new varieties of plants. In such situations, countries could consider other tools such as e.g. public funding of breeding and public-private partnerships.*

(* Norway comment: this topic is also related to the question "... doesn't that lead to a loss of diversity?" It should be addressed because the answers to questions like "Why do farmers and growers need new plant varieties?", and "Why is plant variety protection necessary?" suggests that PVP in general promote diversity. Under some circumstances, this is promising too much.)

[End of Annex II and of document]