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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE**Eighty-Ninth Session
Geneva, March 27, 2015**

REPORT ON THE CONCLUSIONS

*adopted by the Consultative Committee**Disclaimer: this document does not represent UPOV policies or guidance*Opening of the session

1. The Consultative Committee held its eighty-ninth session in Geneva on March 27, 2015.
2. The session was opened and chaired by Ms. Kitisri Sukhapinda (United States of America), President of the Council, who welcomed the participants.
3. The list of participants is reproduced in the Annex to this document.
4. The Chair confirmed that the report of the eighty-eighth session of the Consultative Committee, held in Geneva on October 15, 2014 (document CC/88/17), had been adopted by correspondence and was available on the UPOV website.

Adoption of the agenda

5. The Consultative Committee adopted the revised draft agenda, as presented in document CC/89/1 Rev.
6. At the request of the Seed and Plant Certification and Registration Institute (SPCRI) of the Islamic Republic of Iran, the Consultative Committee agreed to defer consideration of item 5 of the revised draft agenda of its eighty-ninth session to its ninetieth session, to be held in October 2015.

Extension of the appointment of the Vice Secretary-General

7. The Consultative Committee considered document C(Extr.)/32/2.
8. The Consultative Committee recommended to the Council to extend the appointment of the Vice Secretary-General from December 1, 2015, until November 30, 2018.

Preliminary examination of the conformity of the “Draft provisions of Book Four ‘Plant Varieties’ of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights” of Egypt with the 1991 Act of the UPOV Convention

9. The Consultative Committee considered document C(Extr.)/32/3.
10. The Consultative Committee recommended to the Council to:
 - (a) note the analysis in document C(Extr.)/32/3;
 - (b) note the information provided by the Delegation of Egypt that the English translation of the Draft Law required verification and that the following corrections would be made to the translation in accordance with the original text of the Draft Law:
 - (i) to add the words “of this Article” at the end of Article 192(7); and
 - (ii) to add the paragraph number “(4)” before the sentence “The Minister of Agriculture shall issue a decision establishing the rules and procedures for examination and settlement of the appeal.” in Article 202;
 - (c) take a positive decision on the conformity of the “Draft provisions of Book Four ‘Plant Variety Protection’ of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights” (“Draft Law”) of Egypt with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Egypt once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and
 - (d) authorize the Secretary-General to inform the Government of Egypt of that decision.

Documents proposed for adoption by the Council

11. The Consultative Committee considered documents C(Extr.)/32/4, UPOV/INF/15/3 Draft 2 and UPOV/INF-EXN/7 Draft 1.

UPOV/INF/4/4: Financial Regulations and Rules of UPOV (Revision)

12. 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/4/4), on the basis of the amendments to document UPOV/INF/4/3, as presented in the Annex to document C(Extr.)/32/4.

UPOV/INF/15/3: Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation (Revision)

13. The Consultative Committee recommended to the Council to adopt the revision of document UPOV/INF/15 “Guidance for Members of UPOV on Ongoing Obligations and Related Notifications and on the Provision of Information to Facilitate Cooperation” (document UPOV/INF/15/3), on the basis of document UPOV/INF/15/3 Draft 2 “Guidance for members of UPOV”; subject to the following changes:

“52. In relation to electronic and paper publications, including searchable databases, the completeness and correctness of the information is of particular importance. In particular, it is important to include information concerning applications for and grants of breeders’ rights, and proposed and approved denominations.”

“62. The UPOV Convention provides for a right of priority of 12 months, based upon an earlier application for the protection of the same variety with another UPOV member, whereby, when priority is claimed, a subsequent application is treated as if it were filed on the filing date of the first application. The right of priority has effects for the examination of the novelty and distinctness conditions and proposed denominations (see online distance learning course DL-205 “Plant Breeders’ Rights under the UPOV Convention”, Module 4: “Applying for a Plant Breeder’s Right”, and document UPOV/EXN/PRI “Explanatory notes on the right of priority under the UPOV Convention” available at: http://www.upov.int/explanatory_notes/en/.”

UPOV/INF-EXN/7: List of UPOV/INF-EXN Documents and Latest Issue Dates

14. 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/7) on the basis of document UPOV/INF-EXN/7 Draft 1.

Internal Audit and Reports of the WIPO Independent Advisory Oversight Committee

15. The Consultative Committee considered document CC/89/2.

16. The Consultative Committee noted that, on the basis of the risk assessment of UPOV, there had been no internal audit of UPOV in 2014 and that the annual work plan of the WIPO Internal Oversight Division (IOD) for 2015 did not include an internal audit of UPOV.

17. The Consultative Committee noted that the Secretary-General had not been made aware of the need for any investigations in UPOV in 2014.

18. The Consultative Committee noted the information contained in the IAOC quarterly reports for 2014 (documents WO/IAOC/32/2, WO/IAOC/33/2, WO/IAOC/34/2 and WO/IAOC/35/2), and in the IAOC Annual Report 2013-2014 (document WO/GA/46/1).

19. The Consultative Committee agreed to invite the WIPO Internal Oversight Division (IOD) to give a presentation on its work at the ninetieth session and to consider plans for an internal audit of UPOV in 2016-2017.

Financing of long-term employee benefits

20. The Consultative Committee considered document CC/89/3.

21. The Consultative Committee noted the developments reported in document CC/89/3 and that any new developments with regard to the working group of the UN CEB Finance and Budget Network would be reported to the Consultative Committee at its ninetieth session, to be held in October 2015.

Special project fund

22. The Consultative Committee considered document CC/89/4.

23. The Consultative Committee expressed its approval of the review of the UPOV training and assistance strategy.

24. The Consultative Committee approved the planned use of the Special Project Fund for training purposes in the context of the UPOV training and assistance strategy presented in document CC/89/4.

Preparation of the draft program and budget of the Union for the 2016-2017 biennium

25. The Consultative Committee considered document CC/89/5.

26. The Consultative Committee noted the estimated income and expenditure for 2014, and the comments in relation to anticipated income and expenditure for the 2014-2015 Biennium, as set out in Annex I of document CC/89/5, in relation to its consideration of the preparation of the Draft Program and Budget of the Union for the 2016-2017 Biennium.

27. The Consultative Committee agreed that the structure and contents presented in the Annex to document CC/89/5, should be the basis for the preparation of the Draft Program and Budget of the Union for the 2016-2017 Biennium, subject to a review of the income from interest.

International system of cooperation

28. The Consultative Committee considered document CC/89/6.

29. The Consultative Committee concluded that more time was needed to discuss the issues raised by a possible international system of cooperation and agreed that the matter should be considered further at its ninetieth session. In order to facilitate its considerations, the Consultative Committee agreed that the Office of the Union should produce a document with more information about the need for an international system, providing a business analysis and cost estimate based on the scheme provided in document CC/89/6, Annex I.

Access to UPOV documents and publication of information

30. The Consultative Committee considered document CC/89/7.

31. The Consultative Committee noted the information on historic documents that had been uploaded on the UPOV website.

32. The Consultative Committee noted that information concerning consultants that had been used by UPOV in 2014 would be presented to the Consultative Committee at its ninetieth session, in October 2015, on the same basis as in the Annex to document CC/87/3 "Access to UPOV documents and publication of information".

33. The Consultative Committee agreed to consider proposals in relation to a policy on documents, including communications provided by observers, at its ninetieth session.

Communication strategy

34. The Consultative Committee considered document CC/89/8.

35. The Consultative Committee noted that:

(i) stakeholder-focused features would be introduced on the UPOV website during 2015;

(ii) conclusions of the Technical Committee on the draft FAQ concerning information on the situation in UPOV with regard to the use of molecular techniques for a wider audience, including the public in general, would be reported to the Consultative Committee for consideration at its ninety-first session, to be held in March 2016;

(iii) the Office of the Union would seek 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, in 2015 or 2016;

(iv) a report on the use of e-workshops would be made to the Consultative Committee at its ninetieth session and to the Council at its forty-ninth ordinary session;

(v) the introduction of a UPOV channel on YouTube would be arranged after the introduction of a new UPOV logo;

(vi) the results of the communication strategy would be reported as a part of the annual report of the Secretary-General and performance report for the biennium.

36. The Consultative Committee recommended to the Council to revise the answer to the FAQ "Can I obtain protection for more than one country from a single application?", as follows:

"In order to obtain protection the breeder needs to file an application with the authority of each UPOV member where protection is sought. The European Union operates a ~~(supranational) community~~ plant variety breeders' rights system which covers the territory of its 28 member States. The African Intellectual Property Organization operates a plant breeders' rights system which covers the territory of its 17 member States. Contact details of the authorities responsible for the granting of breeders' rights are provided at http://www.upov.int/members/en/pvp_offices.html."

37. The Consultative Committee expressed its approval of the new UPOV logo, presented to the Consultative Committee at its eighty-ninth session. The Consultative Committee noted that the new UPOV logo was planned to be introduced in January 2016.

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

38. The Consultative Committee considered documents CC/89/9 and CC/89/9 Add.

39. The Consultative Committee noted the developments concerning possible areas of interrelations among the international instruments of the ITPGRFA, WIPO and UPOV.

Developments of relevance to UPOV in other international fora

40. The Consultative Committee considered document CC/89/10.

41. The Consultative Committee noted the developments of relevance to UPOV in other international fora reported in document CC/89/10.

Preparation of the calendar of meetings

42. The Consultative Committee considered document C(Extr.)/32/6.

43. The Consultative Committee noted the conclusions of the CAJ to hold its seventy-second session on October 26 and 27, 2015, and not to convene a session of the Administrative and Legal Committee Advisory Group (CAJ-AG) on October 30, 2015.

44. On the above basis, the Consultative Committee recommended to the Council to revise the Calendar of Meetings in 2015, in order to remove the references to the CAJ-AG, and to include the information that the forty-fourth session of the Technical Working Party for Agricultural Crops (TWA) would be held in Obihiro, Japan, from July 6 to 10, 2015.

45. The Consultative Committee agreed to consider matters on the schedule of the UPOV sessions under the item "Preparation of the calendar of meetings", at its ninetieth session.

Draft press release

46. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in document C(Extr.)/32/7.

Program for the ninetieth session

47. The following program was agreed for the ninetieth session of the Consultative Committee:

1. Opening of the session
2. Adoption of the agenda
3. Preliminary examination of the conformity of the "Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003" of the Islamic Republic of Iran with the 1991 Act of the UPOV Convention
4. 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
5. Documents proposed for adoption by the Council

6. Preliminary examination of the draft program and budget of the Union for the 2016-2017 biennium
7. Financial statements for 2014
8. Arrears in contributions as of September 30, 2015
9. Financing of long-term employee benefits
10. Special project fund
11. Presentation by the WIPO Internal Oversight Division
12. Observers in UPOV bodies
13. UPOV documents and publication of information
14. UPOV training and assistance strategy
15. Communication strategy
16. Electronic application form project
17. International system of cooperation
18. Interrelation with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)
19. Plant variety protection statistics
20. Situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention or which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention
21. Reports from new members of the Union
22. Developments of relevance to UPOV in other international fora
23. Preparation of the calendar of meetings
24. Draft press release
25. Program for the ninety-first session
26. Adoption of the report on the conclusions (if time permits)
27. Closing of the session

48. This report was adopted by the Consultative Committee at the close of its session, on March 27, 2015.

[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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