

Consultative Committee

CC/93/4

**Ninety-Third Session
Geneva, April 6, 2017****Original:** English
Date: February 7, 2017**INTERNATIONAL SYSTEM OF COOPERATION***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 progress at the first meeting of the Working Group on a possible International System of Cooperation (WG-ISC), held in Geneva on October 27, 2016, and on the matters to be discussed by the WG-ISC at its second meeting, to be held in Geneva on April 5, 2017.

INTRODUCTION

2. 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).

3. 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.

4. 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).

5. This document constitutes the report on progress after the first meeting of the WG-ISC. 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/>).

PROGRESS AT THE FIRST MEETING OF THE WG-ISC

6. At its first meeting, held in Geneva on October 27, 2016, the WG-ISC agreed that the WG-ISC should, in the first instance, identify the needs of the PVP Offices of the members of the Union (see document UPOV/WG-ISC/1/2 "Report", paragraph 10).

7. The WG-ISC agreed that, having identified needs of PVP Offices, the next step would be to analyze the issues in document CC/92/10, paragraph 10, in relation to those needs. The document should be structured on the basis of the following elements, within which the specific needs would be presented and the issues related to those needs identified (see document UPOV/WG-ISC/1/2 "Report", paragraph 27):

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

8. The WG-ISC noted that a number of issues in document CC/92/10, paragraph 10, were already addressed in the WG-ISC terms of reference, e.g. Issue 1 (a) "to clarify that an ISC would not affect the

responsibility of the members of the Union in relation to the grant and protection of breeders' rights" was covered by the WG-ISC terms of reference, 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; [...]". On that basis, the WG-ISC agreed that the document should not include issues that were specifically addressed in the WG-ISC terms of reference. For transparency purposes, it was agreed that the issues that had been omitted would be reported in an annex to the document (see document UPOV/WG-ISC/1/2 "Report", paragraph 28).

PROGRAM FOR THE SECOND MEETING OF THE WG-ISC

9. The draft agenda for the second meeting of the WG-ISC (document UPOV/WG-ISC/2/1) is 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.

10. Document UPOV/WG-ISC/2/2, Annex I proposes 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.

11. For transparency purposes, as set out in paragraph 8 of this document, Annex II to document UPOV/WG-ISC/2/2 provides 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.

12. An report on developments at the second meeting of the WG-ISC will be made by the Vice Secretary-General at the ninety-third session of the Consultative Committee.

13. *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-third 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]