

**Consultative Committee**

**CC/95/14**

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**DEVELOPMENTS OF RELEVANCE TO UPOV IN OTHER INTERNATIONAL FORA**

*Document prepared by the Office of the Union*

*Disclaimer: this document does not represent UPOV policies or guidance*

**EXECUTIVE SUMMARY**

1. This document reports on developments of relevance to UPOV in other international fora since the ninety-fourth session of the Consultative Committee, held in Geneva on October 25, 2017, that are not otherwise reported to the Consultative Committee or other UPOV bodies.
2. The Consultative Committee is invited to:
  - (a) consider whether the Office of the Union should assist Mr. Jacob Moscona in relation to data in the PLUTO database for research on the factors that determine the types of innovations that different countries produce and export in the agricultural sector, as set out in paragraph 13 of this document;
  - (b) note the developments of relevance to UPOV in other international fora reported in this document.
3. The structure of this document is as follows:

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## I. EAST ASIA PLANT VARIETY PROTECTION FORUM (EAPVP FORUM)

4. The background to the East Asia Plant Variety Protection Forum (EAPVP Forum) is provided in document CC/84/9 Rev. "Developments of Relevance to UPOV in Other International Fora", paragraphs 7 to 9.

5. The EAPVP Forum, at its Eleventh Annual Meeting, held in Muntinlupa, Philippines, on August 1, 2018, adopted its 10-Year Strategic Plan, as reproduced in Annex I to this document, and the Rule of Procedure of the EAPVP Forum "with condition of further comments from China and the Republic of Korea within 6 months". In the case of any proposed amendments, the documents would be circulated to all EAPVP Forum members and discussed with a view to a revision of the documents by consensus.

6. The EAPVP Forum adopted the list of the Cooperation Activities in 2018, as reproduced in Annex II to this document. In that regard, Viet Nam made a presentation on a "Pilot project for building regional harmonized PVP mechanism", as reproduced in Annex III to this document.

7. The twelfth meeting of the EAPVP Forum is planned to be held in Beijing, China, in April 2019. The Office of the Union plans to attend that meeting.

## II. DEVELOPMENTS UNDER THE AUSPICES OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

8. The fourteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (COP14) will be held in Sharm El-Sheikh, Egypt from November 17 to 29, 2018. The Office of the Union does not plan to attend that meeting.

## III. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

### OECD Schemes for the Varietal Certification or the Control of Seed Moving in International Trade (Seed Schemes)

9. At the Technical Working Group Meeting of the OECD Seed Schemes (TWG), held in Paris on January 30 to February 1, 2018, the Office of the Union made a presentation on UPOV's guidance on the use of molecular marker techniques in DUS examination and developments at the sixteenth session of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), held in La Rochelle, France, in September, 2017. The TWG agreed to propose the Annual Meeting to continue collaborating with UPOV on joint activities related to BMT. The TWG noted the invitation by the Office of the Union to the OECD Seed Schemes to attend the seventeenth session of the BMT to take place in Montevideo, Uruguay, from September 10 to 13, 2018.

10. At the *Ad Hoc* Working Group on Biochemical and Molecular Techniques of the OECD Seed Schemes, held in Paris on June 26, 2018, the Office of the Union made a presentation on UPOV guidance on the use of molecular marker techniques in DUS examination and developments at the sixteenth session of the BMT.

### Utilization of data in the PLUTO database

11. The Consultative Committee, at its ninety-fourth session, held in Geneva on October 25, 2017, approved the assistance of the Office of the Union to the OECD Trade and Agriculture Directorate in relation to data in the PLUTO database for developing a study on the seed sector and plant breeding activities.

12. The Office of the Union will provide an oral report on any developments concerning the OECD study to the Consultative Committee at its ninety-fifth session.

13. On September 2, 2018, the Office of the Union was approached by Mr. Jacob Moscona, a PhD student in economics at the Massachusetts Institute of Technology (MIT) for assistance in relation to a research project on the factors that determine the types of innovations that different countries produce and export in the agricultural sector. A copy of the research project is provided in Annex IV to this document. Mr. Moscona explained that the information contained in the UPOV Plant Variety Database (PLUTO database) would be of particular value. The Consultative Committee may wish to consider whether to invite the Office of the Union to cooperate with Mr. Moscona in order for him to be able to obtain the required data in the PLUTO database for the study, in a similar manner to the cooperation with the OECD.

14. *The Consultative Committee is invited to consider whether the Office of the Union should assist Mr. Jacob Moscona in relation to data in the PLUTO database for research on the factors that determine the types of innovations that different countries produce and export in the agricultural sector.*

#### IV. DEVELOPMENTS UNDER THE AUSPICES OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

##### Commission on Genetic Resources for Food and Agriculture (CGRFA)

15. The background to the Commission on Genetic Resources for Food and Agriculture (CGRFA) is provided in document CC/92/15 "Developments of Relevance to UPOV in Other International Fora", paragraphs 12 to 14.

16. The CGRFA, at its Sixteenth Regular Session, requested the Secretariat of the CGRFA to make available the revised draft report on "The State of the World's Biodiversity for Food and Agriculture" for review by the members and observers.

17. On June 1, 2018, the Office of the Union submitted comments on the revised draft report on UPOV membership matters and on the definition of "variety" in the 1991 Act of the UPOV Convention, as follows:

Chapter	From page (start)	From line (start)	To page (end)	To line (end)	Comment
1	12	Footnote 19	12	Footnote 19	Please add the following wording to the footnote 19 as:  "19 Definition is based on wording from the 1991 Act of the UPOV Convention (UPOV, 1991).  <u>Article 1 (vi) of the 1991 Act of the UPOV Convention provides as follows:</u>  <u>"'variety' means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be</u>  <u>- defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,</u>  <u>- distinguished from any other plant grouping by the expression of at least one of the said characteristics and</u>  <u>- considered as a unit with regard to its suitability for being propagated unchanged."</u>
7	58	1817	58	1820	Please amend as follows:  "At the time (2010), <del>68</del> 67 countries and the European Union were members of the International Union for the Protection of New Varieties of Plants (UPOV). As of October 2017, 73 countries, (plus the African Intellectual Property Organization and the European Union) were UPOV members (UPOV, 2017)." <sup>116</sup>
7	58	Footnote 116	58	Footnote 116	Please amend as follows:  <del>"In addition, the African Intellectual Property Organization became a UPOV member in 2014."</del>

##### *Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (ITWG-PGRFA)*

18. The Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (ITWG-PGRFA) held its ninth session in Rome, Italy, from July 25 to 27, 2018. At its ninth session, the ITWG-PGRFA considered the revised "Draft Voluntary Guidelines for the Conservation and Sustainable Use of Farmers' Varieties and Landraces" (draft guidelines) (see document CGRFA/WG-PGR-9/18/Inf.4), which are available on the FAO website as follows: <http://www.fao.org/3/CA0436EN/ca0436en.pdf>.

19. The draft guidelines listed interventions and activities supporting on-farm management in Table 5. Among the interventions and activities listed in Table 5, “Plant variety protection systems adapted to farmer varieties” was included in the general category “modifications to seed certification systems” (see document CGRFA/WG-PGR-9/18/Inf.4, page 51).

20. The ITWG-PGRFA agreed to invite CGRFA Members and observers to submit written comments on the draft guidelines to the FAO Secretariat (email: [ITWG-PGRFA@fao.org](mailto:ITWG-PGRFA@fao.org)) by September 30, 2018, and requested the FAO Secretariat to revise the draft guidelines in the light of the comments received, for endorsement by the CGRFA at its next session (see document CGRFA/WG-PGR-9/18 “Draft Report”, paragraph 12).

21. On August 30, 2018, the Office of the Union issued UPOV Circular E-18/103 to designated persons in the Consultative Committee in order to report on the invitation for comments by CGRFA on the revised draft guidelines.

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

22. Matters concerning interrelations with the ITPGRFA are considered under agenda item “Interrelation with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)” (see documents CC/95/10 and CC/95/10 Add.).

### V. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

#### WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

23. The background to the IGC is provided in document CC/84/9 Rev. “Developments of Relevance to UPOV in other International Fora”, paragraphs 44 to 51.

24. In relation to the mandate of the IGC, document WO/GA/50/8 “Report on the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)” of September 13, 2018, available at [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=411230](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=411230) (see paragraph 2), provides as follows:

“2. The IGC’s mandate for the 2018/2019 biennium, which was set out in document WO/GA/49/21, provides as follows:

‘Bearing in mind the Development Agenda recommendations, affirming the importance of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Committee), noting the different nature of these issues and acknowledging the progress made, the WIPO General Assembly agrees that the mandate of the Committee be renewed, without prejudice to the work pursued in other fora, as follows:

‘(a) The Committee will, during the next budgetary biennium 2018/2019, continue to expedite its work, with the objective of reaching an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

‘(b) The Committee’s work in the 2018/2019 biennium will build on the existing work carried out by the Committee, including text-based negotiations, with a primary focus on narrowing existing gaps and reaching a common understanding on core issues, including definitions, beneficiaries, subject matter, objectives, scope of protection, and what TK/TCEs subject matter is entitled to protection at an international level, including consideration of exceptions and limitations and the relationship with the public domain.

‘(c) The Committee will follow, as set out in the table below, a work program based on sound working methods for the 2018/2019 biennium, including an evidence-based approach as set out in paragraph (d). This work program will make provision for 6 sessions of the Committee in 2018/2019, including thematic, cross-cutting and stocktaking sessions. The Committee may establish ad hoc expert group(s) to address a specific legal, policy or technical issue. The results of the work of such group(s) will be submitted to the Committee for consideration.

‘(d) The Committee will use all WIPO working documents, including WIPO/GRTKF/IC/34/4, WIPO/GRTKF/IC/34/5 and WIPO/GRTKF/IC/34/8, as well as any other contributions of member states, such as conducting/updating studies covering, inter alia, examples of national experiences, including domestic legislation, impact assessments, databases, and examples of protectable subject matter and subject matter that is not intended to be protected; and outputs of any expert group(s) established by the Committee and

related activities conducted under Program 4. The Secretariat is requested to update the 2008 gap analyses on the existing protection regimes related to TK and TCEs. The Secretariat is also requested to produce a report(s) compiling and updating studies, proposals and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GR and associated TK, with a view to identify any gaps. However, studies or additional activities are not to delay progress or establish any preconditions for the negotiations.

'(e) In 2018, the Committee is requested to provide to the General Assembly a factual report along with the most recent texts available of its work up to that time with recommendations, and in 2019, submit to the General Assembly the results of its work in accordance with the objective reflected in paragraph (a). The General Assembly in 2019 will take stock of progress made, and based on the maturity of the texts, including levels of agreement on objectives, scope and nature of the instrument(s), decide on whether to convene a diplomatic conference and/or continue negotiations.

'(f) The General Assembly requests the International Bureau to continue to assist the Committee by providing Member States with necessary expertise and funding, in the most efficient manner, of the participation of experts from developing countries and LDCs, taking into account the usual formula for the IGC.

Indicative Dates	Activity
February/March 2018	(IGC 35) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Duration 5 days.
May/June 2018	(IGC 36) Undertake negotiations on GRs with a focus on addressing unresolved issues and considering options for a draft legal instrument Expert group(s) Duration 5/6 days.
September 2018	(IGC 37) Undertake negotiations on TK/TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Possible recommendations as mentioned in paragraph (e) Duration 5 days.
October 2018	WIPO General Assembly Factual report and consider recommendations.
November/December 2018	(IGC 38) Undertake negotiations on TK/TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Expert group(s) Duration 5/6 days.
March/April 2019	(IGC 39) Undertake negotiations on TK/TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Duration 5 days.
June/July 2019	(IGC 40) Undertake negotiations on TK/TCEs with a focus on addressing unresolved and cross-cutting issues and considering options for a draft legal instrument(s) Expert group(s) Stocktaking on GRs/TK/TCEs and making a recommendation Duration 5/6 days.
October 2019	WIPO General Assembly will take stock of the progress made, consider the text(s) and make the necessary decision(s)."

25. The General Assembly of WIPO, at its Fiftieth (27<sup>th</sup> Extraordinary) Session, held in Geneva from September 24 to October 2, 2018, was invited to consider, under agenda item 19, a report on the work of the IGC (see document WO/GA/50/8 "Report on the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)" available at [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=47814](http://www.wipo.int/meetings/en/details.jsp?meeting_id=47814)).

## VI. WORLD TRADE ORGANIZATION (WTO)

### Council for TRIPS (Trade-Related Aspects of Intellectual Property Rights)

26. The background to this item is provided in documents CC/84/9 Rev. and CC/85/9 both entitled "Developments of relevance to UPOV in other international fora", paragraphs 58 to 60 and paragraphs 30 and 31, respectively.

*Meeting of the Council for TRIPS of June 5, 2018*

27. The Council for TRIPS met on June 5, 2018.

28. The Council for TRIPS elected H.E. Ambassador Mr. Walter Werner (Germany) as Chairperson. The minutes of the meeting are contained in document IP/C/M/89 of June 19, 2018. The statements made during the meeting are provided in an addendum to document IP/C/M/89 (document IP/C/M/89/Add.1 of September 13, 2018). Both documents will be made available on the WTO website at: <http://docsonline.wto.org/?language=1>.

29. The Council for TRIPS dealt with the agenda items “Review of the Provisions of Article 27.3(b)”, “Relationship between the TRIPS Agreement and the Convention on Biological Diversity” and “Protection of Traditional Knowledge and Folklore” simultaneously. The Council for TRIPS did not receive any new submissions in relation to these agenda items.

30. The Chair of the TRIPS Council recalled that, since previous meetings, WTO Members had remained divided both on the substantive and procedural issues. Therefore, no progress had been made. He encouraged WTO Members to engage in bilateral discussions to make progress on these issues.

31. The Council for TRIPS took note of the statements made and agreed to revert to the matters at its next meeting.

32. The Chair of the Council for TRIPS recalled that the review of Article 27.3 (b) was an integral part of the TRIPS Agreement. However, information on important developments that many WTO Members had seen in this area over the last decade had not been provided to the Council for TRIPS. Since 2003, there had been no responses or updates to the Illustrative List of Questions on Article 27.3(b), and no notifications of domestic mechanisms to protect genetic resources and traditional knowledge. WTO Members were encouraged to check whether they had information that ought to be shared in the WTO, and to submit notifications in a timely manner.

*Future meetings*

33. The next meeting of the Council for TRIPS, which the Office of the Union plans to attend, is scheduled to take place on November 8 and 9, 2018. The meeting will have a special focus on technical cooperation. The Council for TRIPS agreed to invite WTO members and intergovernmental organization observers to the Council for TRIPS, including UPOV, to provide information on their technical cooperation activities relevant to the TRIPS Agreement (see WTO/AIR/IP/19 of July 5, 2018).

34. As in previous years, the Office of the Union intends to prepare a contribution with relevant extracts from documents C/52/2 “Annual report of the Secretary-General for 2017” and C/52/3 “Report on activities during the first nine months of 2018”. The document containing the submission of UPOV, which will be entitled “Technical cooperation activities: information from other intergovernmental organizations – International Union for the Protection of New Varieties of Plants”, will be made available at the following address of the WTO website: <http://docsonline.wto.org/?language=1>.

VII. UNITED NATIONS

Resolution of the Human Rights Council of the United Nations on the Rights of Peasants and Other People Working in Rural Areas

35. The Human Rights Council of the United Nations, held its thirty-ninth session in Geneva from September 10 to 28, 2018. The Human Rights Council by its Resolution 36/22 requested the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas to submit an annual report on progress made to the Council. The Human Rights Council considered the report of the working group on its fifth session, held from 9 to 13 April 2018 (A/HRC/39/67).

36. Articles 1, 19 and 28 of the Draft Declaration on the Rights of Peasants and Other People Working in Rural Areas, which was annexed to the Draft Resolution provides as follows (see document A/HRC/39/L.16 of September 26, 2018, available at <http://undocs.org/en/A/HRC/39/L.16>):

*"Article 1*

"1. For the purposes of the present Declaration, a peasant is any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.

"2. The present Declaration applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.

"3. The present Declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities, and the landless, engaged in the above-mentioned activities.

"4. The present Declaration further applies to hired workers, including all migrant workers regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises.

[...]

*"Article 19*

"1. Peasants and other people working in rural areas have the right to seeds, in accordance with article 28 of the present Declaration, including:

(a) The right to the protection of traditional knowledge relevant to plant genetic resources for food and agriculture;

(b) The right to equitably participate in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture;

(c) The right to participate in the making of decisions on matters relating to the conservation and sustainable use of plant genetic resources for food and agriculture;

(d) The right to save, use, exchange and sell their farm-saved seed or propagating material.

2. Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge.

3. States shall take measures to respect, protect and fulfil the right to seeds of peasants and other people working in rural areas.

4. States shall ensure that seeds of sufficient quality and quantity are available to peasants at the most suitable time for planting, and at an affordable price.

5. States shall recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, and to decide on the crops and species that they wish to grow.

6. States shall take appropriate measures to support peasant seed systems, and promote the use of peasant seeds and agrobiodiversity.

7. States shall take appropriate measures to ensure that agricultural research and development integrates the needs of peasants and other people working in rural areas, and to ensure their active participation in the definition of priorities and the undertaking of research and development, taking into account their experience, and increase investment in research and the development of orphan crops and seeds that respond to the needs of peasants and other people working in rural areas.

8. States shall ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants and other people working in rural areas.

[...]

*“Article 28*

1. Nothing in the present Declaration may be construed as diminishing, impairing or nullifying the rights that peasants and other people working in rural areas and indigenous peoples currently have or may acquire in the future.

2. The human rights and fundamental freedoms of all, without discrimination of any kind, shall be respected in the exercise of the rights enunciated in the present Declaration. The exercise of the rights set forth in the present Declaration shall be subject only to such limitations as are determined by law and that are compliant with international human rights obligations. Any such limitations shall be non-discriminatory and necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others, and for meeting the just and most compelling requirements of a democratic society.”

37. On September 28, 2018, the Human Rights Council adopted a “Resolution on the Rights of Peasants and Other People Working in Rural Areas”. At the time of publication of this document, the text of the adopted Resolution was not available. The General Assembly of the United Nations at its forthcoming 73<sup>rd</sup> session (Autumn/Winter 2018) will be invited to adopt the Declaration.

#### VIII. WORLD SEED PARTNERSHIP (WSP)

38. At its ninety-fourth session, held in Geneva on October 25 and 26, 2017, the Consultative Committee considered document CC/94/15 “Developments of relevance to UPOV in other international fora” and received an oral report from the Office of the Union on recent developments in relation to the World Seed Partnership (WSP) (see document CC/94/18 “Report on the Conclusions”, paragraph 92).

39. Following a meeting held in Rome on July 17, 2017, with the World Farmers’ Organisation (WFO), the WSP Steering Committee was informed on September 26, 2017, that the WFO Board had accepted the invitation of the WFO Steering Committee to become an Advisory Partner in the WSP. It was agreed that this arrangement would be reviewed by WFO and by the WSP Steering Committee after one year with a view to considering whether it would be appropriate for WFO to become a full partner in the WSP.

40. On October 30, 2017, the WSP organized a side event at the Seventh Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), held in Kigali, Rwanda, from 30 October to 3 November 2017 (<http://www.fao.org/plant-treaty/seventh-governing-body/list-side-events/en/>).

41. On February 27 2018, the WSP Steering Committee met with representatives from the Bill and Melinda Gates Foundation and the Syngenta Foundation, at the fringes of the African Seed Trade Association (AFSTA) in Cairo, Egypt, to explain the scope and mission of the WSP.

42. On May 3, 2018, in Rome, the WSP Steering Committee met with the new WFO Secretary General, Ms. Arianna Giuliadori, to discuss WFO involvement in the work of the WSP.

43. On September 25, 2018, the WSP organized an event in Myanmar with the financial support of the Netherlands. The aim of the event was to show how the WSP could support the development of the seed sector in order to achieve food security and economic development, including the role of OECD, UPOV, ISTA, ISF and WFO in enabling farmers to have access to high quality seed and suitable new plant varieties.

*44. The Consultative Committee is invited to note the developments of relevance to UPOV in other international fora reported in this document.*

[Annexes follow]

**10-YEAR STRATEGIC PLAN OF THE EAPVP FORUM (2018-2027) (EAPVPF/11/03 Draft 1) as adopted  
“with condition of further comments from China and the Republic of Korea within 6 months”**

The EAPVPF Forum,

- *Recalling* the 10<sup>th</sup> EAPVP Forum annual Meeting held in Nay Pyi Taw on 11 September 2017 adopted to discuss and prepare the next 10 years plan at the 11<sup>th</sup> Forum annual Meeting.
- *Reaffirming* enhanced technical capacity of each country including the DUS examination during the past decade thanks to series of cooperation activities under the Forum. Also recognizing that DUS test stations have been newly established or strengthened in some member countries.
- *Recognizing* that the DUS test guideline for tropical plant discussed under the EAPVP activities, and was considered in the discussion in UPOV Technical Working Parties (TWPs) which have served to provide detailed practical guidance for the harmonized examination of DUS testing.
- *Considering* harmonization of the PVP systems in the region, although some positive movement/development towards becoming UPOV member in some EAPVP member countries appears, further harmonization or integrity of the PVP system in East Asian region should be considered.
- *Assessing* the result of consecutive activities of information exchanges and public awareness, further region-specific programs in East Asia region in consistent with UPOV Convention that has function to encourage non-UPOV members in EAPVP Forum to join to the UPOV membership should be encouraged.
- *Noting* different situation and concerns of each Forum member country surrounding PVP as ever discussion in the EAPVP Forum.

has adopted in its 11<sup>th</sup> EAPVP Forum annual Meeting as follows:

## 1. Common Direction

Composition of the Common direction is as follows:

- (a) **“Long-term direction”** as the Forum’s long-term direction reflecting its interests

*Establish effective PVP systems consistent with the 1991 Act of the UPOV Convention (hereinafter referred to as the “UPOV Convention”) among Forum members towards achieving all Forum members’ membership of UPOV, as a foundation for building an efficient and cooperative regional PVP mechanism which encourages the development of new plant varieties in the East Asian region in order to contribute to developing sustainable agriculture and achieving food security*

- (b) **“Objectives”** as Forum’s direct goals to be achieved over the next 10 years in Common direction

- **Objective1:**

*Strengthen national PVP system consistent with the UPOV Convention to encourage investment in plant breeding*

- **Objective2:**

*Build a regionally harmonized mechanism for application and examination procedures under the UPOV Convention, encouraging mutual acceptance of DUS test reports towards an efficient and cooperative PVP system in the region for breeders*

- (c) **“Core activities”** as prioritized activities to achieve the Objective1 and Objective2, national-specific activities and regional cooperation activities, are given, respectively, as follows:

- **National-specific activities** to achieve Objective 1, which will be implemented according to development of each Forum member’s PVP system consistent with the UPOV Convention

- i. Develop national PVP laws and regulations, with the assistance of the Office of UPOV<sup>1</sup>*
  - ii. Establish/strengthen national administrative procedures for implementing PVP system from filing of application to granting rights*
  - iii. Capacity building for examination of applications*
  - iv. Develop DUS test guidelines*
  - v. Awareness raising on UPOV system for relevant officers, policy makers and stakeholders (better understanding of UPOV system and its benefits, etc.)*
  - vi. Strengthen private-public partnership to foster effective PVP system*
- **Regional cooperation activities to achieve Objective 2**
- i. Elaborate common test guidelines consistent with the UPOV system*
  - ii. Synthesize application form and examination procedure*
  - iii. Cooperate on trainings and exchange of experience on PVP administration, DUS examination, etc.*
  - iv. Share best practices for effective enforcement*

*The regional cooperation activities would be implemented by plural/whole of Forum members in a cooperative and effective manner*

## **2. Individual Implementing Strategy**

Each Forum member is requested to produce an Individual Implementing Strategic Plan as its national-level strategy which reflects the Common direction mentioned above in 1. The Individual Implementing Strategy includes national-specific activities taking into account each Forum member's individual circumstances. An Individual Implementing Strategy may also include regional cooperation activities. The Forum members can update its Individual Implementing Strategy on their accord periodically, and should share with the Forum member each time it happens.

The Plan includes:

- i. National goal (for next 10 years)*
- ii. Objectives (with analysis of challenges (for next 3 years)*
- iii. Planned activities (for next 3 years)*
- iv. Roadmap*

Each Individual Implementing Strategic Plans are presented in the Appendices to this document.

[Annex II follows]

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<sup>1</sup> The Forum member who wishes to implement the activities requires an official request to the Office of UPOV for advice and assistance according to the 1991 Act of the UPOV Convention.

ANNEX II

LIST OF COOPERATION ACTIVITIES IN 2018  
as adopted at the 11th EAPVP Forum Meeting, held in Muntinlupa, Philippines, on August 1, 2018

The Forum member countries proposed cooperation activities in 2018. In accordance with the Rule of Procedure for the EAPVP Forum (document EAPVPF/11/02), the cooperation activities need to be in line with the Common Direction of the 10-Year Strategic Plan of the EAPVP Forum (document EAPVPF/11/03) with a view to streamlining the Forum's cooperation activities toward further harmonization of the PVP system in the region. In this context, the 11th EAPVP Forum Meeting adopted the List of the Cooperation Activities in 2018, as follows:

1. Lao People's Democratic Republic

1-1. Activity: Workshop on Awareness of Protection of Plant Variety under UPOV convention

1-2. Expected outcome of the proposed program:

- Increasing PVP information and understanding among public and private institutions relating to Plant Variety Protection Under UPOV Convention
- Proposing clear implementing mechanism and process for carrying out existing policies relating to plant variety protection

1-3. Expected venue: Vientiane, Lao People's Democratic Republic

1-4. Expected participants: Expected target groups relating to PVP and seed include institutions for policy making, research, academic, promotion and production including public and private sector about 65 participants

2. Malaysia

2-1. Activity 1: Legal consultation on Harmonisation of the Protection of New Plant Varieties 20XX with UPOV Convention 1991

2-2. Proposed date & venue: 15-17 August, 2018 / Hotel Tenera, Bangi, Selangor

2-3. Expected participants: UPOV Legal Advisor, Ministerial Legal Advisor of the Malaysian Ministry of Agriculture and Agro Based Industry, Lead Negotiator for International Treaty: Intellectual Property Working Group – Ministry of Domestic Trade and Consumer Affairs, International Division – Ministry of Agriculture and Agro-Based Industry, International Division – Department of Agriculture, Malaysian Plant Variety Technical Committee Members, Secretariat – PVP Office

3. Myanmar

3-1. Activity: Workshop for formulating the data base for reference varieties of main crops (Rice, Maize and black gram) and Distinctness, Uniformity and Stability (DUS) Evaluation

3-2. Proposed date: 2018 December to 2019 February

3-3. Proposed venue: Department of Agricultural Research

3-4. Expected participants: PVP staffs, sub-technical committee member and Experts from EAPVP forum member country

4. Philippines

4-1. Activity: Follow-up of the international seminar on the benefits of plant variety protection under the UPOV system and technical training on Distinctness, Uniformity and Stability (DUS) Evaluation and photo documentation

4-2. Proposed date: May 1-5, 2019

4-3. Proposed venue:

Bureau of Plant Industry (BPI) Central Office -Malate, Manila, International Rice Research Institute (IRRI) - Los Baños, Laguna, Institute of Plant Breeding (IPB) -Los Baños, Laguna

4-4. Expected participants:

BPI-PVPO, BPI-CRPSD-PGR, UPLB-IPB-NPGRL, NGO's, SUC's, plant breeders, researchers

5. Viet Nam and Japan

5.1 Activity: Pilot project for building regional harmonized PVP mechanism

5.2 Proposed date:

Phase 1 (2018 – 2021)

Develop a model procedure from filing to the grant of plant breeders' right as a foundation of regional harmonized mechanism in line the UPOV Convention.

The model procedure will be consisted of a unified application form, harmonized DUS test proceedings with Test Guidelines and mutual acceptance of the DUS Test results and administrative proceedings.

5.3. Proposed venue (Phase 1)

Vietnamese PVP Office and DUS Testing Agencies in Viet Nam (for food crops and some other crops)

5.4. Expected participants

5.4.1 Participating counties will be selected by Viet Nam and Japan from UPOV members of the EAPVP Forum.

5.4.2 The EAPVP member countries which have officially committed to join UPOV (Brunei Darussalam, Myanmar and Malaysia) can be selected, upon their request, to participate the Phase 1 of the pilot project as provisional participants.

5.4.3 The Progress of the project will be reported to the EAPVP Forum's Annual Meeting.

[Annex III follows]

ANNEX III

PROPOSAL OF COOPERATION ACTIVITY (REGIONAL COOPERATION ACTIVITY)

prepared by Viet Nam and Japan

[for the 11th EAPVP Forum Meeting, held in Muntinlupa, Philippines, on August 1, 2018]

Pilot project for building regional harmonized PVP mechanism

1. Background

Plant Variety Protection (PVP) system encourages breeding and introduction of new plant varieties by providing protection of the Right for Plant Breeders, and brings benefit for society.

Asian especially ASEAN where it is almost Agriculture countries with plentiful of plant genetic recourse, New Plant Varieties is significant contributing to the development of agriculture for those countries.

For the implementation of PVP in the region effectively, since East Asian Plant Variety Protection Forum (EAPVPPF) established in 2007, Viet Nam and Japan have been supporting harmonization PVP systems in the region as key Members of the International Union for the Protection of New Varieties of Plants (UPOV).

Further, building a harmonized effective regional PVP system/mechanism in the region can be one of major topics on the activities of the Forum. This can reduce the burden of the PVP authority in each country in conducting examination of PVP applications by mutual cooperation and sharing resources among UPOV members, which would demonstrates benefit to become UPOV members, and that inspires non-UPOV nations to become UPOV members. In addition, such a regional PVP system/mechanism can reduce the expenditures (time and finance) on the introduction of prominent varieties can be reduced, which gives more benefits not only for Breeders but also for consumers.

Reflecting the Common Direction of the 10-YSP with the Objective 1 and Objective 2, Viet Nam and Japan agreed to propose a Pilot project for regional cooperation activity to strengthen the harmonization regional PVP system.

2. Duration of the Program

The program proposed to implement in two phases by total 5 years as follow:

Phase 1 from 2018 to 2021 and;

Phase 2 from 2022 to 2023

3. Expected outcome of the proposed program

The Pilot Project is a Regional cooperation activity to achieve Objective 2 of the Common Direction of the 10-Year Strategic Plan, i.e.:

*Build a regionally harmonized mechanism for application and examination procedures under the UPOV Convention, encouraging mutual acceptance of DUS test reports towards an efficient and cooperative PVP system in the region for breeders.*

3.1 Phase 1 (2018 – 2021)

Develop a model procedure from filing to the grant of plant breeders' right as a foundation of regional harmonized mechanism in line the UPOV Convention.

The model procedure will be consisted of a unified application form, harmonized DUS test proceedings with Test Guidelines and mutual acceptance of the DUS Test results and administrative proceedings.

### 3.2 Phase 2 (2022 – 2023)

A regionally harmonized PVP mechanism for UPOV members of the EAPVP Forum is established together with National PVPOs.

#### 4. Proposed activities in details

##### 4.1 In the period from 2018 to 2021 (Phase 1)

4.1.1 To call participants and provisional participants of the pilot project adding to Viet Nam and Japan. Participants and provisional participants will be selected as described in 6 (mid of 2018).

4.1.2 To harmonize the administrative procedure from filing to the grant of plant breeders' right, with application form, relevant papers on the procedures, utilizing tools and documents prepared by the UPOV including UPOV Model Form, UPOV PRISMA and UPOV Test Guideline as options.

\*National application form and Test Guideline will be harmonized as much as possible.

4.1.3 To demonstrate model examination proceedings (DUS test) at selected examination centers (probably in Viet Nam) applied in plural countries. DUS test will be operated with presence of applied countries for some selected crops including rice and maize.

4.1.4 To discuss possibility to register examined varieties in applied third countries (2020)

4.1.5 To discuss possibility of utilization of a demonstrated model procedure for unification of proceedings (2020)

##### 4.2 For the period from 2022 to 2023 (Phase 2)

Establish a regionally harmonized PVP mechanism under the UPOV Convention for UPOV members of the EAPVP Forum. The crops will start from rice and maize.

#### 5. Proposed venue

##### Phase 1

Vietnamese PVP Office and DUS Testing Agencies in Viet Nam (for food crops and some other crops)

##### Phase 2

DUS Testing agencies of other Members for other crops (based on the ability of implementation of DUS)

#### 6. Participants

6.1 Participating countries will be selected by Viet Nam and Japan from UPOV members of the EAPVP Forum.

6.2 The EAPVP member countries which have officially committed to join UPOV (Brunei Darussalam, Myanmar and Malaysia) can be selected, upon their request, to participate the Phase 1 of the pilot project as provisional participants.

6.3 The Progress of the project will be reported to the EAPVP Forum's Annual Meeting.

#### 7. Budget:

- Viet Nam: in-kind contribution (e.g. provision of facilities for the meetings, DUS testing centers, human resource)
- Japan and/or other interested donors: Operation cost (some contribution may be covered by Japan's Funds-in-Trust to UPOV)

\*Note: Detailed will be consulted among Viet Nam, Japan, and donors.

8. Contact Point

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[Annex IV follows]

## RESEARCH PROJECT BY MR. JACOB MOSCONA

Researcher Short Biography:

Jacob Moscona is a PhD student in economics at the Massachusetts Institute of Technology (MIT) studying development economics, political economy, and the economics of innovation. He graduated from Harvard in 2016, Phi Beta Kappa, with an A.B. in Economics and a minor in Mathematics.

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References:

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Project Description:

This research project aims to better understand the factors that determine the types of innovations that different countries produce and export. For example: Why does the United States produce and export innovations that affect the production of good X while Germany produces and exports innovations that affect the production of good Y? My plan is to focus on the agricultural sector and to use the UPOV PLUTO data to measure global agricultural innovation over time. The UPOV PLUTO data are essential because they provide (to my knowledge) the only systematic data on global innovative activity by crop. While economic theory on this subject is fairly developed, there is limited empirical work that uses data to investigate this topic and so this project could be a major contribution to the field.

My proposal combines existing models of (1) innovation decisions and (2) country-level exports, in order to analyze the global distribution and movement of innovative activity. Exploring the determinants of innovation, Acemoglu (2002, 2003, 2007) builds a theoretical model that suggests that countries develop innovations that are used in conjunction with abundant factors of production; for example, countries with many skilled workers tend to produce innovations that make skilled workers (as opposed to unskilled workers) more efficient. An extensive theoretical literature, beginning with Krugman (1980), argues that countries tend to export goods for which there is high *domestic* demand. When domestic demand for a good is high in a given country, that country becomes productive at producing the good; when it opens to trade with other countries, it is relatively more productive than they are and so exports the good to other countries. This is referred to as the “home market effect.”

Agriculture is an ideal setting to evaluate the predictions of these models. First, it is relatively simple to link innovations to individual crops, and this is already done in the UPOV data. Second, a key ingredient in the models is the “factor abundance” of different goods across countries. It is relatively straightforward to measure factor abundance in agriculture (compared to other settings) because it is possible to use data on crop-specific suitability to measure the land on which it is possible or suitable to grow different crops. The “factor abundance” of wheat, for example, can be measured using data on wheat suitability and calculated as the amount of land on which the suitability data predicts that wheat will be cultivated (see Costinot & Donaldson, 2012). Grid-cell level data on crop suitability and potential yield for a broad range of crops are available from the Food and Agriculture Organization (FAO).

My goal is to analyze the impact of factor abundance on the global distribution and flow of agricultural innovation. Using the UPOV PLUTO data along with country-level data on crop-specific suitability from the FAO, I will first investigate whether crop suitability (“factor abundance”) affects crop-specific innovation. In this case, the outcome variable in the analysis will be the number of patents/variety protections for each crop in each country. Next, I will investigate whether crop suitability affects crop-specific innovations *patented/protected in other countries*. This will test the hypothesis that countries abundant in land suitable for a given crop not only produce innovations that affect the production of that crop, but also become productive

at producing those innovations and thus *export* them to other countries (related to Krugman, 1980, and the “home market effect”).

The questions I hope to answer can be summarized as: Do countries relatively abundant in land that is suitable for the production of crop X have more crop X patents/variety protections? Are countries abundant in land that is suitable for the production of crop X more likely to patent/protect crop X-specific innovations in *other* countries? In order to undertake this analysis, I would need to match patent applicants in the UPOV data to their countries of origin. In addition to being necessary for my project, this could be useful for future UPOV projects and I would obviously share the results of this analysis with UPOV.

I believe this project would contribute substantially to the existing understanding of the determinants of the distribution and flow of global innovation; the UPOV PLUTO data are essential for this analysis. I am more than happy to provide additional information and discuss anything further; please do not hesitate to contact me. Thank you very much for your consideration.

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[End of Annex IV and of document]