

Consultative Committee**CC/97/INF/4****Ninety-Seventh Session
Geneva, October 29, 2020****Original: English
Date: October 25, 2020****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***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***PURPOSE**

1. The purpose of this document is to report on developments 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.

Table of Contents

PURPOSE.....	1
INTRODUCTION	2
I. SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS WHICH HAVE INITIATED THE PROCEDURE FOR ACCEDING TO THE UPOV CONVENTION.....	2
II. SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS WHICH HAVE BEEN IN CONTACT WITH THE OFFICE OF THE UNION FOR ASSISTANCE IN THE DEVELOPMENT OF LAWS BASED ON THE UPOV CONVENTION	4
ANNEX I Situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention	
ANNEX II Situation concerning those States and intergovernmental organizations which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention	

INTRODUCTION

2. The background to this document is provided in document CC/86/8 "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", paragraphs 1 to 3.

I. SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS WHICH HAVE INITIATED THE PROCEDURE FOR ACCEDING TO THE UPOV CONVENTION

3. Any State or intergovernmental organization wishing to become a member of UPOV needs to obtain a positive advice of the Council of UPOV on the conformity of its laws with the provisions of the UPOV Convention prior to depositing its instrument of accession (relevant decisions of the Council are reproduced in Annex I).¹

4. Annex I to this document provides a summary of the situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention. The highlighted text below and in Annex I identifies developments since the date of publication of document CC/96/INF/4 (October 17, 2019) to the date of publication of this document in October 2020. The request from a State or Intergovernmental Organization, addressed to the Secretary-General, for the advice of the Council in respect of the conformity of its law with the provisions of the UPOV Convention is the basis on which a State or Intergovernmental Organization is classified in Annex I.²

States (20)

Afghanistan, Armenia, Brunei Darussalam, Ghana, Guatemala, Honduras, India, Iran (Islamic Republic of), Kazakhstan, Malaysia, Mauritius, Mongolia, Myanmar, Nigeria, Philippines, Saint Vincent and the Grenadines, Tajikistan, **United Arab Emirates (new)**, Venezuela (Bolivarian Republic of) and Zimbabwe.

Organization (1)

African Regional Intellectual Property Organization (ARIPO)
(member States of ARIPO (19): Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Eswatini, Uganda, United Republic of Tanzania, Zambia, Zimbabwe)

5. In relation to States or intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention for which the laws, or draft laws, that provided the basis for a positive decision of the Council on accession to the UPOV Convention are no longer applicable, the relevant laws or draft laws would need to be submitted to the Council for examination of their conformity with the UPOV Convention. A summary table is provided below.

¹ With the exception of India and Zimbabwe, which might be permitted to deposit their instruments of accession to the 1978 Act of the UPOV Convention "provided that the depositing State had [...] acted expeditiously to complete its legislation and any UPOV formalities and to effect the deposit" (see documents C/33/18 "Report", paragraph 21(b) and C(Extr.)/25/10 "Report", paragraph 22), States and intergovernmental organizations wishing to join UPOV need to deposit their instrument of accession to the 1991 Act of the UPOV Convention.

² Article 34(3) of the 1991 Act of the UPOV Convention and Article 32(3) of the 1978 Act of the UPOV Convention. Guidance on this matter is provided in document UPOV/INF/13/2 "Guidance on how to become a member of UPOV"./

Summary table

State/Organization	Date of latest Council decision	Decision matter	Decision	Developments in status of the legislation that was the basis for the Council decision
Afghanistan	November 1, 2019	Draft Law	Positive	
ARIPO	April 11, 2014	Draft Protocol	Positive	No longer relevant
Armenia	April 2, 2004	Law	Positive	No longer relevant
Brunei Darussalam	October 26, 2017	Law	Positive	
Ghana	October 24, 2013	Draft Law	Positive	
Guatemala	October 26, 2017	Draft Law	Positive	
Honduras	April 7, 2000	Draft Law	Positive	
India	April 11, 2008	Procedure		
Islamic Republic of Iran	October 29, 2015	Law		
Kazakhstan	April 7, 2000	Law	Positive	No longer relevant
Malaysia	April 8, 2005	Law		
Mauritius	October 21, 2004	Draft Law	Positive	No longer relevant
Mongolia	November 1, 2019	Draft Law	Positive	
Myanmar	November 1, 2019	Law	Positive	
Nigeria	August 5, 2019	Draft Law	Positive	
Philippines	March 30, 2007	Law		
Saint Vincent and the Grenadines	August 5, 2019	Draft Law	Positive	
Tajikistan	October 21, 2010	Draft Law	Positive	
United Arab Emirates	July 28, 2020	Draft Law	Positive	
Venezuela (Bolivarian Republic of)	April 3, 1998	Decision Draft Regulations	Positive	
Zimbabwe	July 28, 2020	Draft Law	Positive	

II. SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS WHICH HAVE BEEN IN CONTACT WITH THE OFFICE OF THE UNION FOR ASSISTANCE IN THE DEVELOPMENT OF LAWS BASED ON THE UPOV CONVENTION

6. Annex II to this document provides information concerning the situation in those States and intergovernmental organizations which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention. **The highlighted text in Annex II identifies developments since October 18, 2019 to the date of publication of this document.**

States (23)

Algeria, Bahrain, Barbados, Cambodia, Cuba, Cyprus, El Salvador, Indonesia, Iraq, Jamaica, Lao People's Democratic Republic, Libya, Liechtenstein, **Malawi (new)**, Mozambique, Namibia, Pakistan, Saudi Arabia, Sudan, Thailand, Tonga, Turkmenistan and Zambia.

Organizations (1):

Southern African Development Community (SADC)

(member States of SADC (15): Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Eswatini, United Republic of Tanzania, Zambia, Zimbabwe).

7. The request from a State or Intergovernmental Organization, addressed to the Office of the Union, for assistance in the development of a law based on the UPOV Convention, is the basis on which a State or Intergovernmental Organization is classified in Annex II. Assistance in the development of a law includes the provision of detailed comments on laws and/or the provision of advice and information on legislative matters.

8. *The Consultative Committee is invited to note the contents of this document and its Annexes.*

[Annexes follow]

**SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL
ORGANIZATIONS WHICH HAVE INITIATED THE PROCEDURE
FOR ACCEDING TO THE UPOV CONVENTION**

AFGHANISTAN	2
AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO).....	4
ARMENIA.....	9
BRUNEI DARUSSALAM	10
GHANA	11
GUATEMALA.....	12
HONDURAS.....	14
INDIA.....	16
IRAN (ISLAMIC REPUBLIC OF)	18
KAZAKHSTAN	19
MALAYSIA	21
MAURITIUS	23
MONGOLIA.....	25
MYANMAR.....	26
NIGERIA	28
PHILIPPINES.....	29
SAINT VINCENT AND THE GRENADINES	30
TAJIKISTAN.....	31
UNITED ARAB EMIRATES	33
VENEZUELA (BOLIVARIAN REPUBLIC OF).....	34
ZIMBABWE	35

AFGHANISTAN

On March 7, 2018, the Office of the Union received a communication from Mr. Mahboob Nang, Director for Seed Certification, expressing the interest of Afghanistan to initiate the procedure for becoming a UPOV member. On April 16, 2018, the Office of the Union received a translation of the Act in English with a request for comments in relation to the 1991 Act. On September 10, 2018, the Office of the Union provided comments on the Act, identifying those provisions that did not correspond to the 1991 Act. On September 19, 2018, the Office of the Union held a conference call with Mr. Nang and explained the comments on the Act and the next steps of the procedure to become member of UPOV. On September 28, 2018, Mr. Nang confirmed the decision to submit the Act for its examination by the Council at its fifty-second ordinary session, to be held on November 2, 2018, and to continue the collaboration with the Office of the Union concerning the next steps of the procedure to become a UPOV member.

By letter dated September 27, 2018, addressed to the Secretary-General of UPOV, His Excellency Mr. Hamdullah Hamdard, Deputy Minister for Agriculture and Livestock of the Ministry of Agriculture, Irrigation and Livestock of Afghanistan, requested the examination of the "Plant Variety Protection Act" (hereinafter referred to as the "Act") for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as "1991 Act") (see document C/52/19 "Examination of the conformity of the Plant Variety Protection Act of Afghanistan with the 1991 Act of the UPOV Convention").

Council decision of 2018

November 2, 2018 ([document C/52/20](#))

The Council decided to:

- (a) take note of the analysis in [document C/52/19](#);
- (b) recommend that Afghanistan incorporate the amendments in the "Plant Variety Protection Act", as provided in document C/52/19, and recommend that, once the amendments have been incorporated in the Act, the amended Act be submitted to the Council for examination in conformity with Article 34(3) of the 1991 Act;
- (c) request the Office of the Union to offer its assistance, at the earliest opportunity, to Afghanistan in drafting the necessary amendments to the Act;
- (d) authorize the Secretary-General to inform the Government of Afghanistan of that decision.

Comments

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Afghanistan held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act and provided comments with regard to a Draft Law provided on January 6, 2019, identifying those provisions that did not comply with the Council decision of 2018.

On May 5, 2019, Mr. Nang informed the Office of the Union that the Government of Afghanistan was updating its Draft Law in accordance with the comments of the Office of the Union of January 2019, in order to comply with the Council decision of 2018. A copy of the Draft Law was provided on that occasion. On May 17, 2019, the Office of the Union provided detailed comments on the Draft Law.

On August 29, 2019, the Office of the Union received an updated version of the Draft Law. On September 11, 2019, the Office of the Union recommended certain changes to the Draft Law in accordance with the Council decision of 2018. On September 26, 2019, the Office of the Union received the updated version for the Draft Law for examination by the Council.

By letter dated September 25, 2019, addressed to the Secretary-General of UPOV, Mr. Mahboobullah Nang, Acting Deputy Minister, Ministry for Agriculture and Livestock of Afghanistan, requested the examination of the Draft Plant Variety Protection Act of Afghanistan, for conformity with the 1991 Act of the UPOV Convention (see document [C/53/12](#) "Examination of the conformity of the Draft Plant Variety Protection Act of Afghanistan with the 1991 Act of the UPOV Convention").

Council decision of 2019

November 1, 2019 ([document C/53/15](#))

The Council decided to:

(a) note the analysis in document [C/53/12](#);

(b) take a positive decision on the conformity of the "Draft Plant Variety Protection Act of Afghanistan" ("Draft Law") with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which would allow Afghanistan once the Draft Law was adopted with no changes and the Law in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Afghanistan of the above decision.

Comments

On October 25, 2019, the Office received the visit of Mr. Shoaib Timory, Deputy Permanent Representative, Permanent Mission of the Islamic Republic of Afghanistan to the United Nations Office and other international organizations in Geneva, and discussed the next steps of the procedure to become a member of UPOV.

On July 7, 2020, Mr. Asadullah Azam, Advisor to the Deputy Minister for Agriculture and Livestock of the Ministry of Agriculture, Irrigation and Livestock of Afghanistan (MAIL), informed the Office of the Union that the amendments to the Draft Law were under approval by the Ministry of Justice and requested information on the procedure to become a member of UPOV.

On July 10, 2020, the Office of the Union provided to Mr. Azam information on the next steps of the procedure to become member of UPOV and guidance on the elements required for the deposit of the instrument of accession.

On July 23, 2020, the Office of the Union held a conference call with Mr. Mahboobullah Nang, Deputy Minister for Agriculture and Livestock of the Ministry of Agriculture, MAIL, Ms. Najiba Ataei, Director of the Agricultural Research Institute of Afghanistan (ARIA), Mr. Samiul Haq Ayoubi, Representative from Plan and Policy Directorate, Mr. Nawab Nazeeri, Representative from ARIA and Mr. Azam, to discuss certain provisions of the Draft Plant Variety Protection Act of Afghanistan presented to the Council in 2019 and to further explain the elements required for the deposit of the instrument of accession.

On July 29, 2020, the Office of the Union received an updated version of the Draft Law with recent changes, which were not part of the decision of the UPOV Council of November 1, 2019. The Office of the Union provided comments on the changes introduced in the Draft Law and on the procedure to become a member of UPOV. On September 8, 2020, Mr. Azam confirmed that the version of the Draft Law that is under approval by the Ministry of Justice is the same one that received the positive advice of the Council in 2019.

AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

Member States of ARIPO (19): Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Eswatini, United Republic of Tanzania, Uganda, Zambia, Zimbabwe

Council decision of 2014

April 11, 2014 (document [C\(Extr.\)/31/6](#))

The Council decided to:

- (a) note the analysis in document [C\(Extr.\)/31/2](#);
- (b) note that the letters “(c)” and “(d)” of Articles 11, 12(1) and (3), 19(6), in Annex II of document C(Extr.)/31/2, should read “(a)” and “(b)” and that the word “not” should be deleted from Article 27(5) in accordance with the original text of the Draft Protocol;
- (c) take a positive decision on the conformity of the Draft ARIPO Protocol for the Protection of New Varieties of Plants with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows:
 - (i) the Contracting States to the Protocol that are not members of the Union bound by the 1991 Act, and
 - (ii) ARIPO, in relation to the territories of the Contracting States bound by the Protocol,once the Draft Protocol is adopted with no changes and the Protocol is in force, to deposit their instruments of accession to the 1991 Act; and
- (d) authorize the Secretary-General to inform ARIPO of that decision.

The “Diplomatic Conference for the adoption of the Draft Protocol for the Protection of New Varieties of Plants (Plant breeders’ rights)”, was held on July 6, 2015, in Arusha, United Republic of Tanzania. The Diplomatic Conference adopted on July 6, 2015, the “Arusha Protocol for the Protection of New Varieties of Plants within the Framework of the African Regional Intellectual Property Organization (ARIPO)” (Arusha Protocol). Gambia, Ghana, Mozambique and Sao Tome and Principe signed the Arusha Protocol. The Protocol remains open for signature until December 31, 2015.

The table below presents the changes that were introduced during the adoption procedure, which were not part of the decision of the Council of April 11, 2014.

The changes introduced to Article 4(1) and Article 37 of the Arusha Protocol, in relation to Article 1(viii) and Article 34(1) of the 1991 Act of the UPOV Convention, would mean that the positive decision of the Council would no longer be relevant. The other changes do not appear to introduce inconsistencies with the 1991 Act of the UPOV Convention. Therefore, with the exception of Article 4(1) and Article 37, States and relevant intergovernmental organizations would be able to use the other provisions of the Arusha Protocol as a basis for developing legislation in accordance with the 1991 Act of the UPOV Convention.

ARTICLE	DRAFT TEXT	ADOPTED TEXT
<p align="center">Article 1 Definitions</p> <p>“Administrative Council of Plant Variety Protection”</p>	<p align="center">Article 1 Definitions</p> <p>“Administrative Council of Plant Variety Protection” means a body consisting of Heads of Offices dealing with the administration of plant variety protection in the Contracting States of this Protocol, provided that any Contracting State may nominate any other person or persons to represent it in the Administrative Council of Plant Variety Protection whom it considers to have the relevant knowledge or experience in plant variety protection;</p>	<p align="center">Article 1 Definitions</p> <p>“Administrative Council” means the Administrative Council established by the Agreement on the creation of the African Regional Intellectual Property Organization (ARIPO);</p>
<p>“agent or representative”</p>	<p>“agent or representative” means a legally recognized and authorized representative of the breeder or the holder of the breeders’ right residing or having an office in the host country of ARIPO or in the Contracting States to this Protocol who has been so authorized through special power of attorney to act on behalf of the breeder or the holder of a breeder’s right;</p>	<p>“agent or representative” means a legally recognized and authorized representative of the breeder or the holder of the breeder’s right residing in the Contracting States to this Protocol who has been so authorized through special power of attorney to act on behalf of the breeder or the holder of a breeder’s right;</p>
<p>“annual fees”</p>	<p>“annual fees” means the fees that a breeder is required to pay to the ARIPO Office to keep a breeder’s right in force;</p>	<p><i>Definition deleted</i></p>
<p>“ARIPO”</p>	<p>“ARIPO” means the African Regional Intellectual Property Organization, established by the Agreement on the Creation of an African Regional Intellectual Property Organization (ARIPO) then known as the Industrial Property Organization for English-Speaking Africa, concluded in Lusaka (Zambia) on December 9, 1976;</p>	<p>“ARIPO” means the African Regional Intellectual Property Organization, established by the Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO) concluded in Lusaka (Zambia) on December 9, 1976;</p>
<p>“ARIPO Office”</p>	<p>“ARIPO Office” means the Office of the African Regional Intellectual Property Organization;</p>	<p>“ARIPO Office” means the Secretariat of the African Regional Intellectual Property Organization;</p>
<p>“holder of the breeder’s right”</p>	<p>“holder of the breeder’s right” means- a. a person or legal entity in whose name the breeder’s right certificate has been issued; or</p>	<p>“holder of the breeder’s right” means- a. a person in whose name the breeder’s right certificate has been issued; or</p>
<p>“person”</p>	<p><i>New definition</i></p>	<p>“person” means a natural person or legal entity;</p>
<p align="center">Article 4 Administration</p> <p>(1)</p>	<p align="center">Article 4 Administration</p> <p>(1) Breeders’ rights granted under this Protocol shall, on the basis of one application, be valid in all the Contracting States.</p>	<p align="center">Article 4 Administration</p> <p>(1) A breeder’s right granted under this Protocol shall, on the basis of one application, be protected in the designated Contracting States provided the designated Contracting State has not refused the grant.</p>

ARTICLE	DRAFT TEXT	ADOPTED TEXT
CHAPTER III	CHAPTER III	CHAPTER III
	CONDITIONS FOR GRANT OF BREEDER'S RIGHT	CONDITIONS FOR GRANTING OF BREEDER'S' RIGHT
Article 7 Novelty	Article 7 Novelty	Article 7 Novelty
(3)	(3) Paragraph (2) shall apply only to applications for a breeder's right filed within one year, at the latest, after the provisions of this Protocol apply to the genera or species concerned.	(3) Paragraph (2) shall apply only to applications for a breeder's right filed within two years, at the latest, after the provisions of this Protocol apply to the genera or species concerned.
Article 11 Persons Entitled to Apply for Protection	Article 11 Persons Entitled to Apply for Protection	Article 11 Persons Entitled to Apply for Protection
(2)	(2) An application filed under paragraph (1) by a breeder who is not resident in any of the Contracting States shall be submitted only through an agent with residence in any of the Contracting States or in the host country of ARIPO.	(2) An application filed by a breeder who is not resident in any of the Contracting States shall be filed only through an agent with residence in any of the Contracting States.
Article 18 Examination for Distinctness, Uniformity and Stability	Article 18 Examination for Distinctness, Uniformity and Stability	Article 18 Examination for Distinctness, Uniformity and Stability
(1)	(1) In accordance with Article 17(1)(d), the ARIPO Office may, for the purposes of the examination and ensuring compliance with the conditions specified in Articles 8, 9 and 10– (a) arrange for the examination to be carried out by any competent institution of a Contracting State or of any member of an inter-governmental organization providing an effective system of plant variety protection; or (b) take into account the results of tests that have already been carried out from the Contracting State or any member of an inter-governmental organization providing an effective system of plant variety protection.	(1) In accordance with Article 17(1)(d), the ARIPO Office may, for the purposes of the examination and ensuring compliance with the conditions specified in Articles 8, 9 and 10– (a) arrange for the examination to be carried out by any competent institution of a Contracting State or any member of an inter-governmental organization providing an effective system of plant variety protection selected by the Administrative Council; or (b) take into account the results of tests that have already been carried out from the Contracting State or any member of an inter-governmental organization providing an effective system of plant variety protection selected by the Administrative Council.
Article 19 Granting and Rejection of a Breeder's Right	Article 19 Granting and Rejection of a Breeder's Right	Article 19 Granting and Rejection of a Breeder's Right
(2)	(2) The ARIPO Office shall in respect of each breeder's right granted– [...]	(2) Subject to Article 4(1), the ARIPO Office shall in respect of each breeder's right granted: [...]
(6)(a)	(6) The ARIPO Office shall not– (a) refuse to grant a breeder's right on the ground that protection for the same variety has not been applied for, or has been refused, in any other State or inter-governmental organization; or [...]	(6) The ARIPO Office shall not: (a) refuse to grant a breeder's right on the ground that protection for the same variety has not been applied for, or has been refused, in any other State outside the territories of the Contracting States or inter-governmental organization; or [...]

ARTICLE	DRAFT TEXT	ADOPTED TEXT
<p>Article 24 Restrictions on Exercise of Breeder's Right</p> <p>(1)</p> <p>(2)</p>	<p>Article 24 Restrictions on Exercise of Breeder's Right</p> <p>(1) Compulsory licences shall be granted to an applicant or to a Contracting State by the ARIPO Office, on application by such third party or Contracting State, but only for reasons of public interest, after consultation with the Administrative Council of Plant Variety Protection.</p> <p>(2) The ARIPO Office, when granting a compulsory licence, pursuant to paragraph (1), shall stipulate the acts covered and specify the reasonable conditions which shall include the payment of equitable remuneration to the breeder.</p>	<p>Article 24 Restrictions on Exercise of Breeder's Right</p> <p>(1) A compulsory licence shall be granted to an applicant by a Contracting State only for reasons of public interest.</p> <p>(2) The National Authority, when granting a compulsory licence, pursuant to paragraph (1), shall stipulate the acts covered and specify the reasonable conditions which shall include the payment of equitable remuneration to the breeder.</p>
<p>Article 26 Duration of Breeder's Right</p>	<p>Article 26 Duration of Breeder's Right</p> <p>A breeder's right shall be granted for a period of twenty years from the date of the grant of the breeder's right excluding trees and vines, for which a breeder's right shall be granted for a period of twenty-five years from the said date.</p>	<p>Article 26 Duration of Breeder's Right</p> <p>(1) A breeder's right shall be granted for a period of twenty years from the date of the grant of the breeder's right excluding trees and vines, for which a breeder's right shall be granted for a period of twenty-five years from the said date.</p> <p>(2) Notwithstanding sub-paragraph (1), the term of protection may be extended for an additional five years, by a notice in writing to the ARIPO Office in respect of specific genera and species.</p>
<p>Article 37 Uniform Effect of Regional Breeders' Rights</p>	<p>Article 37 Uniform Effect of Regional Breeders' Rights</p> <p>Regional breeders' rights shall have uniform effect within the territories of the Contracting States and may not be granted, transferred or terminated in respect of the above mentioned territories otherwise than on a uniform basis.</p>	<p>Article 37 Uniform Effect of Regional Breeders' Rights</p> <p>Breeders' rights shall have uniform effect within the territories of the designated Contracting States where the breeders' rights have been granted.</p>
<p>Article 38 National Plant Breeders' Rights for Plant Varieties</p>	<p>Article 38 National Plant Breeders' Rights for Plant Varieties</p> <p>This Protocol shall be without prejudice to the right of the Contracting States to grant national plant breeders rights for plant varieties, subject to the provisions of Article 39.</p>	<p>Article 38 National Plant Breeders' Rights for Plant Varieties</p> <p>This Protocol shall be without prejudice to the right of the Contracting States to grant national plant breeders rights for plant varieties.</p>
<p>Article 39 Prohibition of Cumulative Protection</p>	<p>Article 39 Prohibition of Cumulative Protection</p> <p>Where the holder of a breeder's right has been granted another breeder's right for the same variety prior to the grant of the regional plant breeder's right, such breeder shall be unable to invoke the rights conferred by such protection for the variety for as long as the regional plant breeder's right remains effective.</p>	<p>Article 39 Prohibition of Cumulative Protection</p> <p><i>Article deleted</i></p>

ARTICLE	DRAFT TEXT	ADOPTED TEXT
<p>Article 40 Entry into Force</p> <p>(3)</p>	<p>Article 41 Entry into Force</p> <p>(3) This Protocol shall come into force three months after four States have deposited their instruments of ratification or accession.</p>	<p>Article 40 Entry into Force</p> <p>(3) This Protocol shall come into force twelve months after four States have deposited their instruments of ratification or accession.</p>
<p>Article 42 Signature of the Protocol</p> <p>(1)</p>	<p>Article 43 Signature of the Protocol</p> <p>(1) This Protocol shall be signed in a single copy and shall be deposited with the Director General of ARIPO.</p>	<p>Article 42 Signature of the Protocol</p> <p>(1) This Protocol shall be signed in a single copy and shall be deposited with the Director General of ARIPO. It shall remain open for signature by Member States of the Organization and other States, members of the African Union until December 31, 2015.</p>

After the adoption of the Arusha Protocol, the ARIPO Secretariat was tasked to formulate Draft Implementing Regulations for the Protocol (Draft Regulations). The Office of the Union was invited to participate in the Expert Review Meeting for the Finalization of the Draft Regulations of the Arusha Protocol, held in Harare, Zimbabwe, from June 14 to 17, 2016 (Expert Review Meeting). A sub-committee was established and met on June 18 and 19 to implement the recommendations of the Expert Review Meeting. The final text of the Draft Regulations was reviewed by the ARIPO Technical Committee, at its meeting held in Harare, from August 17 to 19, 2016. A first set of Draft Regulations were submitted to the ARIPO Administrative Council, at its Fortieth Session to be held in Harare from December 4 to 8, 2016.

The Regulations were adopted by the ARIPO Administrative Council at its Forty-first Session, held in Lilongwe, Malawi from November 20 to 22, 2017. A copy of the Regulations is available at <http://www.aripo.org/resources/laws-protocols/member-states-copyright-legislation-6>.

On June 9, 2019, the Office of the Union was informed by the ARIPO Secretariat that ARIPO had received on June 7, 2019, the instrument of accession of Rwanda to the Arusha Protocol within the framework of ARIPO. This makes Rwanda the first ARIPO Member State to become party to the Protocol.

São Tomé and Príncipe deposited its instrument of ratification of the Arusha Protocol on September 29, 2020. São Tomé and Príncipe became the second ARIPO Member State to become party to the Protocol. In accordance with its Article 40(3), the Arusha Protocol will come into force twelve months after four States have deposited their instruments of ratification or accession.

ARMENIA

Council decision of 2004

April 2, 2004 (document [C\(Extr.\)/21/6](#))

The Council decided to:

(a) advise the Government of Armenia that the Law of the Republic of Armenia on the Protection of Selection Achievements (the Law), in its main provisions, incorporates the substance of the 1991 Act, and that it may deposit an instrument of accession to the 1991 Act;

(b) further advise the Government of Armenia that it may wish to amend and supplement the texts of its legislation, as recommended in document [C\(Extr.\)/21/2](#), so as to avoid recourse to the general principle in Article 2 of the Law.

Comments

Between December 2008, and January 2009, the Office of the Union was in contact with Mr. Avetis Hovhannisyanyan, Permanent Representative to the World Trade Organization concerning the steps required for becoming a member of the Union.

During the Regional Training on Plant Variety Protection under the UPOV Convention for Certain Countries in the Eurasian Region which took place from June 9 to 11, 2009, in Chisinau, Republic of Moldova, the Office of the Union was informed that the Government of Armenia was drafting a new Law. The representatives of the Armenian Intellectual Property Agency and the Ministry of Agriculture were provided with a draft of document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention."

On June 24, 2010, the Permanent Mission of Armenia to the United Nations Office at Geneva and other International Organizations in Switzerland requested the Office of the Union to comment on the Draft Law of the Republic of Armenia on the Protection of New Varieties of Plants (Draft Law).

During a meeting on June 24, 2010, between Ms. Satenik Abgarian, Deputy Permanent Representative and the Office of the Union, Ms. Abgarian reported that the Law that provided the basis for the positive decision of the Council of 2004 on accession to the UPOV Convention, was no longer relevant. On July 22, 2010, the Office of the Union provided comments on the Draft Law of 2010 and informed the relevant authorities that the Draft Law, or the adopted law, once modified on the basis of document UPOV/INF/6/1, would need to be submitted to the Council for examination of its conformity with the UPOV Convention.

BRUNEI DARUSSALAM

Since December 2011, the Office of the Union has provided assistance to the Government of Brunei Darussalam in the development of legislation in accordance with the 1991 Act. On August 9, 2012, the Office of the Union received from Ms. Shahrinah Yusof Khan, Deputy Registrar, Brunei Darussalam Intellectual Property Office (BruiPO), a copy of the "Draft Plant Varieties Protection Order" (Order is equivalent to a Law) with a request for comments. The comments of the Office of the Union were provided on September 27, 2012. During consultation meetings held in Geneva on October 5 and 9, 2012 and in Brunei Darussalam on July 2, 2013 and on February 25, 2017, further assistance was provided on the procedure to become a UPOV member. On February 25, 2017, the Office of the Union was informed that the Law of 2015 had been amended on January 30, 2016, and that the Rules on Plant Variety Protection had been approved. On that occasion, Ms. Yusof Khan expressed the intention of the Government of Brunei Darussalam to request the examination of the Law by the Council in 2017.

By letter dated March 20, 2017, addressed to the Secretary-General of UPOV, Ms. Yusof Khan, requested the examination of the Plant Varieties Protection Order of April 13, 2015, as amended on January 30, 2016, for conformity with the 1991 Act of the UPOV Convention (see document C/51/17 "Examination of the conformity of the Plant Varieties Protection Order 2015 of Brunei Darussalam with the 1991 Act of the UPOV Convention").

Council decision of 2017

October 26, 2017 (document [C/51/22](#))

The Council decided to:

- (a) note the analysis in document [C/51/17](#);
- (b) take a positive decision on the conformity of the Plant Varieties Protection Order of Brunei Darussalam with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Brunei Darussalam to deposit its instrument of accession to the 1991 Act; and
- (c) authorize the Secretary-General to inform the Government of Brunei Darussalam of the above decision.

Comments

On October 2, 2018, the Office of the Union received a courtesy visit from Ms. Shahrinah Yusof Khan, Deputy Register of the Intellectual Property Office of Brunei Darussalam. Ms. Yusof Khan expressed the intention of the Government of Brunei Darussalam to complete the procedure of accession to the 1991 Act of the UPOV Convention by April 2019.

At the Twelfth Annual Meeting of the EAPVP Forum, held on April 24, 2019, in Beijing, China, Brunei Darussalam presented its Individual Implementation Strategy (hereinafter referred as "IIS") including a road map expressing the interest of Brunei Darussalam to become a member of the Union in the next three years.

On October 14, 2019, Ms. Yusof Khan, informed the Office of the Union that the Intellectual Property Office of Brunei Darussalam (BruiPO) has been transferred to the Attorney General's Chambers (AGC) by command of His Majesty with effect from April 29, 2019, and is no longer under the Ministry of Energy, Manpower and Industry (MEMI).

On May 4, 2020, Ms. Nurulain Binti Mohd Jaafar, Assistant Executive Officer, BruiPO, requested information from the Office of the Union on the latest situation of Brunei Darussalam in relation to the procedure to become a member of UPOV and the pending elements to complete the deposit requirements for the accession of Brunei Darussalam to the UPOV Convention. On May 5, 2020, the Office of the Union provided guidance to Ms. Jaafar on the elements required for the deposit of the instrument of accession.

On May 21, 2020, the Office of the Union held a Conference call with Ms. Nur Al-Ain Binti Dr Hj Abdullah, Deputy Senior Counsel, Ministry of Energy, Manpower and Industry (MEMI), Energy & Industry Department, Prime Minister's Office (EIDPMO) and Ms. Jaafar, to provide explanations on relevant provisions of the 1991 Act of the UPOV Convention and on the procedure for becoming a UPOV member.

GHANA

Council decision of 2012

November 1, 2012 (document [C/46/19](#))

The Council decided to:

(a) note the analysis in document [C/46/14](#) and the following changes proposed by the Delegation of Ghana in the Plant Breeders' Bill of Ghana (Draft Law):

- (i) the deletion of the word "conclusively" in Section 15(2);
- (ii) the replacement of the words "Plant Breeders Advisory Committee" by "Plant Breeders Technical Committee" in Section 30; and
- (iii) the deletion of the word "seed" in Section 43(g);

(b) take a positive decision on the conformity of Draft Law with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Ghana, once the Draft Law is modified as recommended in paragraphs 10, 18 and 24 of document [C/46/14](#), and in subparagraph (a) above, with no additional changes, and the Draft Law is adopted and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Ghana of that decision.

On September 4, 2013, the Office of the Union received a letter from Her Excellency Mrs. Marietta Brew Appiah-Opong, Attorney General and Minister of Justice of Ghana reporting that, during the first reading of the Draft Law by the Parliament of Ghana in June 2013, additional changes, which were not part of the decision of the Council of November 1, 2012, had been introduced. She also reported that the second reading by the Parliament was expected to take place in October 2013. (See document [C/47/18](#) "Developments concerning the Plant Breeders' Bill of Ghana" and items 4 of the draft revised agendas of the Consultative Committee and the Council (documents [CC/88/1 Rev.](#) and [C/47/1 Rev.](#), respectively).

Council decision of 2013

October 24, 2013 (document [C/47/20](#))

The Council decided to:

(a) note the information provided by the Delegation of Ghana that the text of Section 10 of the Bill provided in document [C/47/18](#), Annex II, had been modified as follows: "Where the application is by an applicant who is a successor-in-title, the applicant shall support the ~~applicant~~ application with the proof of the successor's title";

(b) note that the Plant Breeders' Bill of Ghana, which was presented to the Parliament incorporated the changes in the decision of the Council of November 1, 2012 (see document [C/46/19](#) "Report", paragraph 12, and paragraph 2 of document [C/47/18](#));

(c) agree that the additional changes presented in the Annex II to document [C/47/18](#), including the change in the above paragraph (a), do not affect the substantive provisions of the 1991 Act of the UPOV Convention, and

(d) confirm the decision on conformity of November 1, 2012.

On August 5, 2016, Ms. Grace Issahaque, Chief State Attorney, Registrar-General's Department, Ministry of Justice of Ghana, informed the Office of the Union that the Plant Breeders' Bill was still at the consideration stage in the Parliament.

GUATEMALA

Council decisions of 2006 and 2009

October 19, 2006 (document [C/40/19 Rev.](#))

The Council decided to:

- (a) take note of the information given in document [C/40/15](#), as modified by the Council;
- (b) take a positive decision, subject to the inclusion in Article 16(2) of the Draft Law of “within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder” after “using”, on the conformity of the Draft Law for the Protection of New Varieties of Plants (the Draft Law) with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, in accordance with Article 34(3) of that Act, which allows the Republic of Guatemala to deposit its instrument of accession once the Draft Law is enacted and in force; and
- (c) authorize the Secretary-General to inform the Government of Guatemala of that decision.

Comments

On March 26, 2009, the Office of the Union was informed that the Draft Law which provided the basis for the positive decision of the Council of 2006 on accession to the UPOV Convention, was no longer relevant and that a different Draft Law (Draft Law of 2009) was being prepared by the Government.

At the request of the Government of Guatemala, on May 5, 2009, the Office of the Union provided comments on the Draft Law of 2009 and informed the relevant authorities that the Draft Law of 2009 or the adopted law would need to be submitted to the Council for examination of its conformity with the UPOV Convention.

October 22, 2009 (document [C/43/17](#))

The Council decided to:

- (a) take note of the analysis in document [C/43/15](#) and the information provided by the Delegation of Guatemala that it intends to delete the second sentence of paragraph 4 of Article 43 of the Draft Law No. 4013 on the Protection of New Varieties of Plants of 2009 (Draft Law) “[t]his obligation shall also apply to varieties covered by the breeder’s right under Article 15 of this Law”;
- (b) subject to the introduction in the Draft Law of the changes identified in document C/4315 concerning the correction of cross references and the deletion of “[t]his obligation shall also apply to varieties covered by the breeder’s right under Article 15 of this Law” in paragraph 4 of Article 43 of the Draft Law, take a positive decision on the conformity of the Draft Law No. 4013 on the Protection of New Varieties of Plants of 2009 of Guatemala with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows that, once the changes recommended in document C/43/15 concerning the correction of cross references and the deletion of “[t]his obligation shall also apply to varieties covered by the breeder’s right under Article 15 of this Law” in paragraph 4 of Article 43 of the Draft Law, have been introduced in the Draft Law and the Draft Law is adopted and the Law in force, Guatemala may deposit its instrument of accession to the 1991 Act; and
- (c) authorize the Secretary-General to inform the Government of Guatemala of that decision.

Comments

On July 15, 2014, the Office of the Union received from Mr. Jorge Eduardo Salazar, Director, Ministry of Agriculture, Livestock and Food, a copy of the Plant Variety Protection Law of Guatemala of June 24, 2014, which was scheduled to enter into force on September 26, 2014. On September 5, 2014, Mr. Salazar notified the Office of the Union that, on September 4, 2014, the Congress had repealed the Law.

On April 28, 2017, Mr. Acevedo requested the assistance of the Office of the Union in the procedure of accession of Guatemala to the UPOV Convention and in the provision of comments on the Draft Law of 2017 for the Protection of New Varieties of Plants.

On July 31, 2017, the Office of the Union provided comments on the Draft Law of 2017 and on August 4, 2017, participated in a meeting in Guatemala, to explain relevant provisions of the UPOV Convention. On August 29, 2017, the Office of the Union received an updated Draft Law incorporating the comments provided by the Office of the Union and the conclusions at the meeting in Guatemala.

By letter dated September 8, 2017, addressed to the Secretary-General of UPOV, Mr. Byron Omar Acevedo Cordón, Vice-Minister, Ministry of Agriculture of Guatemala, requested the examination of the Draft Law of Guatemala for the Protection of New Varieties of Plants, for conformity with the 1991 Act of the UPOV Convention (see document C/51/20 "Examination of the conformity of the Draft Law for the Protection of New Varieties of Plants of Guatemala with the 1991 Act of the UPOV Convention").

Council decision of 2017

October 26, 2017 (document [C/51/22](#))

The Council decided to:

- (a) note the analysis in document [C/51/20](#);
- (b) take a positive decision on the conformity of the "Draft Law for the Protection of New Varieties of Plants" ("Draft Law") with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Guatemala 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
- (c) authorize the Secretary-General to inform the Government of Guatemala of the above decision.

HONDURAS

Council decision of 2000

April 7, 2000 (document [C\(Extr.\)/17/6](#))

The Council decided on the basis of the recommendation of the Consultative Committee and of the conclusions drawn by the Office of the Union in paragraphs 41 and 42 of document [C\(Extr.\)/17/5](#),

(a) to take a positive decision on the conformity of the Bill of Honduras on the Protection of New Plant Varieties (the Bill) with the provisions of the Convention, subject to its amendment as mentioned in paragraph 41 of document C(Extr.)/17/5;

(b) to request the Office of the Union to offer its assistance to the Government of Honduras in respect of the amendments to be made to the Bill;

(c) to further advise the Government of Honduras that

(i) after consultation with the Office of the Union as to whether its proposed amendments to the Bill are adequate, and

(ii) after adoption of the Bill with the incorporation of such amendments but without other substantial changes, and after making implementing regulations,

it may deposit an instrument of accession to the 1991 Act of the UPOV Convention.

Comments

The Permanent Mission contacted the Office of the Union on April 11, 2006, to deposit the instrument of accession, but the Bill on the Protection of New Plant Varieties has not yet been adopted. The deposit can only take effect once the Bill is adopted.

On August 18, 2010, the Office of the Union received a copy of a letter of August 6, 2010, signed by Mr. Camilo Bendeck Perez, Director General of Intellectual Property, addressed to the World Intellectual Property Organization, requesting assistance from the Office of the Union in the legislative process. The requested assistance was to provide explanations to the members of the Agricultural Commission of the National Congress.

On February 23 and 24, 2011, in Tegucigalpa, Honduras, the Office of the Union held consultations with members of the Agricultural Commission of the National Congress and officials from the Government of Honduras on the Bill, which was examined by the Council in 2000, and the procedure to become a member of UPOV. The consultations were coordinated by Mr. Carlos Almendares, Chief, Seed Certification Department, National Secretary of Agriculture.

On July 4, 2012, Mr. Almendares transmitted to the Office of the Union the Decree no. 21-2012 "Law on Protection of New Plant Varieties" (Law 2012) which entered into force on May 23, 2012. The Office of the Union confirmed that the Law of 2012 was the adopted version of the draft law for which there was a positive decision of the Council in 2000 on accession to the UPOV Convention. On July 19, 2012, the Office of the Union provided guidance to the Permanent Mission of Honduras and Mr. Almendares on the elements required for the deposit of the instrument of accession.

At the fringes of the "Train the Trainers" training course, organized by the United States Patent and Trademark Office (USPTO) and UPOV, which was held in Geneva, from September 16 to 20, 2013, the Office of the Union was informed by Ms. Evelyn Mass, Head, Seed Certification Laboratory, National Service of Agricultural Health, Secretary of Agriculture and Livestock of Honduras, that a decree to regulate the Law of 2012 had been prepared, as well as the list of genera and species to which the Law of 2012 would apply.

On July 21, 2017, Mr. Almendares requested the Office of the Union to send a letter to H.E. Mr. Jacobo Paz, Minister for Agriculture explaining the current situation of Honduras in relation to the procedure to become a member of UPOV and the pending elements to complete the deposit requirements for the accession of Honduras to the UPOV Convention. The letter and relevant information were sent to H.E. Mr. Paz on August 11, 2017.

On January 17, 2018, the Office of the Union contacted Mr. Almendares to offer further assistance on the procedure to become a member of UPOV. Mr. Almendares replied to the Office of the Union that the financial aspects concerning the contribution to UPOV need to be addressed in order to finalize the procedure to become a member of UPOV.

INDIA

Council decision of 1999

October 20, 1999 (document [C/33/18](#))

The Council decided to authorize the Secretary-General, after consultation with the President of the Council, to accept instruments of accession to the 1978 Act by India, Nicaragua³, and Zimbabwe provided that the depositing State had, in the opinion of the Secretary-General after consultation with the President of the Council, acted expeditiously to complete its legislation and any UPOV formalities and to effect the deposit.

[See below on this subject the Council decision of April 11, 2008]

Consultative Committee [preliminary examination of 2002 and 2004]

October 23, 2002 (document [CC/64/8](#))

The Consultative Committee concluded that further clarification of the requested items in paragraphs 12, 14, 16, 19, 23, 31, 33, 37, 40, 43, 46, 48, 50, 57, 59, 62, 64, 66, 69, 70, 72, 75, 76, 80 and 83 of document [CC/64/2](#) concerning the Protection of Plant Varieties and Farmers' Rights Act of India (the Law) and its implementing regulations was required. This clarification and a review of any laws pertaining to these clarifications was required before the Council of UPOV would be able to decide if India provides the legal basis for the protection of new plant varieties in line with the 1978 Act; and pending such clarification:

(a) the Consultative Committee requested the Office of the Union to continue to provide legal and technical assistance to the Government of India in the development of the UPOV system of plant variety protection;

(b) the Consultative Committee considered those aspects of the Law, identified in Annex I to document [CC/64/2](#), which, although not in direct conflict with the Articles of the 1978 Act, nevertheless might undermine the effectiveness of the plant variety protection system provided by the Law.

April 2, 2004 (document [CC/67/8](#))

The Consultative Committee noted the contents of document [CC/67/6](#) and its Annexes and

(a) proposed that a substantive analysis of the clarifications provided by the Government of India be prepared by the Office of the Union for consideration by the Consultative Committee at its sixty-eighth session in October 2004;

(b) requested the Office of the Union to inform the Government of India accordingly.

October 20, 2004 (document [CC/68/9](#))

The Consultative Committee noted the contents of document [CC/68/2](#) and its Annexes and considered the clarifications concerning the Law provided by the Government of India and the analysis contained in document [CC/68/2](#) and decided to continue its preliminary examination of the Law of India. It was agreed that the Office of the Union should seek clarification of the issues raised with the Government of India and should report to the Consultative Committee at its seventieth session to be held in October 2005.

³ Nicaragua acceded to the 1978 Act on September 6, 2001.

Council decision of 2008

April 11, 2008 (document [C\(Extr.\)/25/10](#))

With respect to any future opinion on whether India and Zimbabwe have acted expeditiously to complete their legislation and any UPOV formalities and to effect the deposit, the Council decided, based on the recommendation of the Consultative Committee, that the opinion on whether that condition had been fulfilled should be the responsibility of the Consultative Committee.

Comments

A meeting took place on November 12, 2008, in New Delhi, with Mr. G.C. Pati, Additional Secretary, Department of Agriculture and Cooperation, Ministry of Agriculture of India, wherein developments since June 2002 were reviewed and those sections of the Law of India, which appear to be difficult to be reconciled with the 1978 Act, were discussed. Mr. Pati confirmed India's intention to accede to the 1978 Act.

The Office of the Union indicated to Mr. G.C. Pati that no opinion had been expressed by the Consultative Committee as to whether India had "acted expeditiously to complete its legislation and to effect the deposit".

At the fringes of the third session of the Governing Body (GB 3) of the International Treaty on Plant Genetic Resources for Food and Agriculture, which was held in Tunis, Tunisia, from June 1 to 5, 2009, an informal exchange took place with Mrs. Upma Chaudry, Joint Secretary (Seeds), Department of Agriculture and Cooperation, Ministry of Agriculture of India, in which she confirmed India's intention to accede to the 1978 Act on the basis of the Law of India of 2001.

No reply on the request for clarification of certain issues concerning the Law of India has been received so far.

IRAN (ISLAMIC REPUBLIC OF)

Council decisions of 2015

March 27, 2015 (document [C\(Extr.\)/32/10](#))

At the request of the Seed and Plant Certification and Registration Institute (SPCRI) of the Islamic Republic of Iran, the Council agreed to defer consideration of item 5 of the revised draft agenda of its thirty-second extraordinary session to its forty-ninth ordinary session to be held in October 2015.

October 29, 2015 (document [C/49/19](#))

The Council decided to:

- (a) take note of the analysis in document [C\(Extr.\)/32/8](#);
- (b) recommend that the Islamic Republic of Iran incorporate the additional provisions and amendments in the "Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003", as provided in document C(Extr.)/32/8, and recommend that once the additional provisions and amendments have been incorporated in the Law, the amended Law should be submitted to the Council for examination in conformity with Article 34(3) of the 1991 Act;
- (c) request the Office of the Union to offer its assistance, at the earliest opportunity, to the Government of the Islamic Republic of Iran in drafting the necessary additional provisions and amendments to the Law; and
- (d) authorize the Secretary-General to inform the Government of the Islamic Republic of Iran of that decision.

Comments

On August 13, 2016, Mr. Farhad Kheiri, Director, Plant Variety Protection and Registration Department, Seed and Plant Certification and Registration Institute (SPCRI) of the Islamic Republic of Iran, informed the Office of the Union that the text of the 1991 Act of the UPOV Convention has been approved by the Government and submitted to the Parliament for ratification. He noted that, when the text of the UPOV Convention is placed in the Parliament agenda, it would provide an opportunity to amend the "Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003."

On November 6 and 7, 2017, in Tehran, Islamic Republic of Iran, the Office of the Union participated in a legal consultation, with relevant government officials of SPCRI, and in a "Seminar on the Plant Variety Protection System - challenges and opportunities of acceding to the UPOV Convention". At the fringes of the above events, the Office of the Union met with His Excellency Mr. Abbas Kashavarz, Deputy Minister for Crop Production, Ministry of Agriculture and explained the recommended amendments to the Law provided in the decision of the Council of 2015.

On July 25, 2019, in Geneva, the Office of the Union received a courtesy visit from Mr. Reza Dehghani, Counsellor, Permanent Mission of the Islamic Republic of Iran, and explained the procedure to become a member of UPOV.

KAZAKHSTAN

Council decision of 2000

April 7, 2000 (document [C\(Extr.\)/17/6](#))

The Council decided, on the basis of the recommendation of the Consultative Committee and on the basis of the conclusions drawn by the Office of the Union in paragraphs 28 and 29 of document [C\(Extr.\)/17/4](#),

(a) to advise the Government of Kazakhstan that the Law on the Protection of Selection Achievements (the Law), after adoption of suitable regulations, provides the basis for a system of protection conforming with the Convention, and that it may deposit an instrument of accession to the Convention after making such regulations;

(b) to further advise the Government of Kazakhstan that it may wish to correct the (possible) deviations and inconsistencies at the earliest opportunity;

(c) to request the Office of the Union to offer its assistance to the Government of Kazakhstan for the drafting of any regulations and the preparation of translations into one or more of the official languages of UPOV.

Comments

On March 14, 2008, in Almaty, the Office of the Union held a consultation meeting with Kazakh officials, organized by the Committee on Intellectual Property Rights of the Ministry of Justice of Kazakhstan where steps required for Kazakhstan's accession to the UPOV Convention were considered.

On November 28, 2008, at the request of the Government of Kazakhstan, the Office of the Union provided comments on the Law of the Republic of Kazakhstan on the Protection of Selection Achievements of 1999 (the Law) in relation to the UPOV Convention.

No reply to the comments provided on November 28, 2008 concerning the Law was received.

During the Regional Training on Plant Variety Protection under the UPOV Convention for Certain Countries in the Eurasian Region which took place from June 9 to 11, 2009, in Chisinau, Republic of Moldova, the representatives of the Committee for Intellectual Property Rights and the National Institute of Intellectual Property of Kazakhstan were provided with a draft of document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention."

On May 6, 2015, the Permanent Mission of Kazakhstan to the United Nations Office and other International Organizations at Geneva requested a certified copy of the 1991 Act of the UPOV Convention. On May 13, 2015, the Office of the Union transmitted to the Permanent Mission the certified copy of the 1991 Act in English with a copy of document UPOV/INF/13/1 "Guidance on how to become a member of UPOV".

On September 8, 2015, the Permanent Mission of Kazakhstan requested certified copies of the 1991 Act in French and German. On September 17, 2015, the Office of the Union transmitted to the Permanent Mission the certified copies of the 1991 Act in French and German.

On April 8, 2016, the Permanent Mission of Kazakhstan transmitted to the Office of the Union a letter from H.E. Mr. Kairat Aituganov, Vice-Minister of Agriculture, requesting detailed comments on the Law of July 13, 1999, as last amended in 2015 (the Law), in relation to the 1991 Act of the UPOV Convention. The Office of the Union informed the Permanent Mission that the Law of 1999 that provided the basis for a positive decision of the Council on accession to the UPOV Convention was no longer applicable for the procedure to become a UPOV member and the relevant law or draft law would need to be submitted to the Council for examination of its conformity with the UPOV Convention. The preliminary comments on the Law were transmitted to the Permanent Mission on May 24, 2017.

On May 31, 2017, the Office of the Union participated in a seminar on plant variety protection organized by the Ministry of Agriculture of Kazakhstan and the Embassy of France, and on June 1 and 2, 2017, in a legal consultation meeting with officials from the Government of Kazakhstan, concerning the suggested amendments to the Law of the Republic of Kazakhstan on the Protection of Selection Achievements of July 13, 1999, as last amended in 2015 (the Law). Participants at the legal consultation concluded that there was a need to arrange for a verification of the English translation of the Law in order for the Office of the Union to prepare an updated version of the comments on the Law. The verified translation of the Law was requested on June 15, 2017, and received on July 27, 2017.

On November 8, 2017, the Permanent Mission of Kazakhstan transmitted to the Office of the Union a letter from His Excellency Mr. Yerlan Nysanbayev, Vice-Minister of Agriculture, requesting detailed comments on the Law of July 13, 1999, as last amended in 2015 (the Law), in relation to the 1991 Act of the UPOV Convention, information on the financial contributions to UPOV and a certified copy of the 1991 Act of the UPOV Convention in Russian. On December 22, 2017, the Office of the Union sent a Note Verbale to the Permanent Mission of Kazakhstan in Geneva accompanying a letter addressed to H. E. Mr. Nysanbayev, Vice-Minister of Agriculture, enclosing the verified translation of the Law, a certified copy of the 1991 Act in English, pending preparation of the official version in Russian, and a copy of document UPOV/INF/13/2 "Guidance on how to become a member of UPOV".

The comments on the Law using the verified translation and reflecting the conclusions at the legal consultation in Astana will be discussed with the Delegation of Kazakhstan attending the UPOV sessions in 2018. Matters concerning the terminology used in relation to plant varieties and animal breeds need further consultation before the comments of the Office of the Union are transmitted to H. E. Mr. Nysanbayev.

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Kazakhstan held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act and the comments provided by the Office of the Union on November 5, 2018, concerning the suggested amendments to the Law of the Republic of Kazakhstan on the Protection of Selection Achievements of July 13, 1999, as last amended in 2015. During the bilateral meetings a table with amendments to the Law was provided to the Office of the Union.

On February 25, 2019, Ms. Gulferuz Seitpenbetova, Specialist, State Commission for Variety Testing of Crops, Ministry of Agriculture, provided to the Office of the Union a Draft Law developed by the Working Group. On March 12, 2019, the Office of the Union provided comments on the Draft Law of February 25, 2019.

On March 14, 2019, in Astana, Kazakhstan, the Office of the Union attended a Workshop on the benefits of UPOV membership and the procedure to become a UPOV member, organized by the Ministry of Agriculture and the Ministry of Justice of Kazakhstan, in coordination with UPOV. On March 15 and 16, 2019, the Office of the Union held a legal consultation in Astana, with the Working Group responsible for preparing amendments to the "Law of the Republic of Kazakhstan on the Protection of Selection Achievements of July 13, 1999", as last amended in 2015, to discuss proposed amendments to the Law in relation to the essential provisions of the 1991 Act of the UPOV Convention and to assist the Government of Kazakhstan on the next steps of the procedure to become a UPOV member.

On May 30, 2019, the Office of the Union received, from Ms. Seitpenbetova, a revised Draft Law with a request for comments, in order to assist the Working Group, during its meeting of June 10, 2019. The comments of the Office of the Union were provided on June 7, 2019.

On March 3, 2020, the Office of the Union received an updated Draft Law including proposed amendments of the Ministry of Agriculture and the Ministry of Justice, from Ms. Seitpenbetova with a request for comments. Detailed comments on the Draft Law dated March 3, 2020, in relation to the 1991 Act of the UPOV Convention, are under preparation by the Office of the Union and will be provided in November.

MALAYSIA

Council decision of 2005

April 8, 2005 (document [C\(Extr.\)/22/3](#))

The Council decided to:

- (a) take note of the information given in document [C\(Extr.\)/22/2](#);
- (b) take note of the preliminary examination of the Consultative Committee on the conformity of the Protection of New Plant Varieties Act 2004 of Malaysia (the Act) with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants. It noted that the Act still required some additional provisions and amendments, as provided in document C(Extr.)/22/2, in order to fully conform with the 1991 Act; the Act would be re-submitted to the Consultative Committee once the additional provisions and amendments had been incorporated;
- (c) request the Office of the Union to offer its assistance to the Government of Malaysia in drafting the necessary additional provisions and amendments to the Act; and
- (d) authorize the Secretary-General to inform the Government of Malaysia accordingly.

Comments

Concerning the decision of the Council on April 8, 2005, on the Act of 2004, the Office of the Union has offered its assistance to the Government of Malaysia in drafting the necessary additional provisions and amendments to the Act.

In that context, the Delegation of Malaysia informed the Office of the Union, on March 29, 2007, that the implementing regulations concerning the Act were under preparation. The Delegation further added that the Act could only be amended once it had been put into effect.

At an APSA Workshop on November 9, 2008, in Hyderabad, India, Mrs. Norma Othman, Director, Crop Quality Control Division, Department of Agriculture of Malaysia, reported that the Act had entered into force on January 1, 2007, and that the Protection of New Plant Varieties Regulations had been published on October 20, 2008.

At the Fourth East Asian Plant Variety Protection Forum (EAPVP Forum) held in Makassar, Indonesia from May 24 to 26, 2011, a proposal was made by the Delegation of Malaysia to "set a consultation session to harmonize PVP legislation between UPOV's and ASEAN countries laws". In response to that proposal, the Office of the Union hosted a "Workshop on Plant Variety Protection Law" (Law Workshop) in association with the EAPVP Forum in Geneva, from December 5 to 9, 2011. The Law Workshop included an explanation of UPOV's guidance materials on the development of legislation based on the UPOV Convention, in parallel with consultation meetings on legislative matters with individual countries. The following countries participated in the Workshop: Brunei Darussalam, Cambodia, Malaysia, Philippines, Lao People's Democratic Republic, Thailand, and Viet Nam.

The consultations with the Delegation of Malaysia were focused on the plans to amend the Act of 2004. The Delegation was provided with translations of the 1991 Act and of document UPOV/INF/6 "Guidance for the Preparation of Laws Based on the 1991 Act of the UPOV Convention" in Malay.

On February 27, 2014, in Putrajaya, Malaysia, the Office of the Union provided lectures at a High-Level Awareness Raising Session on the Internationally Harmonized Plant Variety Protection System for the Malaysian Plant Variety Board Members and key officials from the Ministry of Agriculture and Agro-Based Industry (MOA) and the Ministry of Plantation Industries and Commodities (MPIC).

On October 2, 2015, Ms. Sri Ikarostika Rahayu Bte Muhammad Ghazi, Principal Assistant Director, Registration of Plant Variety Protection Section, Crop Quality Control Division, Department of Agriculture of Malaysia, requested the assistance of the Office of the Union in drafting the necessary additional provisions and amendments to the Act of 2004.

On January 11, 2016, the Office of the Union provided detailed comments to Ms. Sri Ikarostika Rahayu concerning the proposed amendments to the Act of 2004.

On January 13 and 14, 2016, in Putrajaya, Malaysia, the Office of the Union participated in a legal consultation to provide information on the 1991 Act of the UPOV Convention to relevant officials of the Department of Agriculture and the Core Team responsible for preparing the amendments to Act of 2004.

On December 18 and 19, 2017, the Office of the Union hosted a “Workshop on drafting legislation in accordance with the 1991 Act of the UPOV Convention” (Workshop on PVP Law). The Workshop on PVP Law provided the opportunity to have a meeting with the representative from Malaysia, Ms. Azidah Asbhy Buyong, Assistant Director in the Crop Quality Control Division in the Ministry of Agriculture and Fisheries (Minsitry), Department of Agriculture, in order to discuss the proposed amendments to the Act of 2004.

On January 8, 2018, the Office of the Union provided preliminary comments to Ms. Buyong, concerning the proposed amendments to the Act of 2004, in order to assist the Drafting Group for its meeting on January 9, 2018, with the Legal Counsel of the Ministry.

On July 26, 2018, the Office received from Ms. Buyong, a new version of the proposed amendments to the Act of 2004. On August 11, 2018, the Office provided additional comments to Ms. Buyong, for consideration at a legal consultation in Malaysia planned for August 2018.

On August 16 and 17, 2018, the Office of the Union participated in the legal consultation in Bangi Selangor, near Putrajaya, Malaysia, with relevant Malaysian authorities to provide assistance with the process of amending the Act 2004 of Malaysia in accordance with the 1991 Act of the UPOV Convention.

On January 25, 2019, the Office of the Union received a file with proposed amendments to the Act 2004 of Malaysia. From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Malaysia held in conjunction with the “Workshop on drafting legislation in accordance with the UPOV Convention” (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the file with proposed amendments to the Act 2004 of Malaysia received on January 25, 2019.

At the Twelfth Annual Meeting of the EAPVP Forum, held on April 24, 2019, in Beijing, China, Malaysia presented its Individual Implementation Strategy (hereinafter referred as “IIS”) including a road map expressing the intention to implement the decision of the Government of Malaysia to amend the current Act 2004 of Malaysia in accordance with 1991 Act of the UPOV Convention.

On July 16, 2020, the Office of the Union held a conference call with Ms. Sri Ikarostika Rahayu, interim Director of Crop Quality Control Division, to explain the procedure to become a member of UPOV and Ms. Sri Ikarostika Rahayu provided information on the developments in Malaysia in relation to the process of amending the Act. She reported that it is anticipated that the Draft Act will be tabled in Parliament in 2021. A legal consultation with the Office of the Union is tentatively scheduled for April/May 2021.

MAURITIUS

Council decision of 2004

October 21, 2004 (document [C/38/16](#))

The Council decided to:

- (a) take note of the information given in document [C/38/13](#);
- (b) take a positive decision on the conformity of the Plant Breeder's Right Bill (the Bill) of the Republic of Mauritius with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, in accordance with Article 34(3) of that Act, which allows the Republic of Mauritius to deposit its instrument of accession once the Bill is enacted and in force;
- (c) authorize the Secretary-General to inform the Government of Mauritius of that decision.

Comments

A new Bill (Bill of 2005), different from the Bill considered in document C/38/13, which includes provisions that do not appear to correspond to the 1991 Act, was sent to the Office of the Union for comments on January 4, 2006, with a request for assistance in the final drafting of the Bill of 2005.

The Office of the Union is awaiting a reply to a letter of January 11, 2006, which provided comments on the Bill of 2005 and requested information on whether the Government of Mauritius was in a position to review those provisions that did not correspond to the 1991 Act, before agreeing to provide local drafting consultations.

On June 26, 2009, the Office of the Union met with Mrs. Tanya Prayag-Gujadhur, Second Secretary of the Permanent Mission of Mauritius in Geneva to discuss the procedure to become a member of the Union.

The Permanent Mission of Mauritius addressed a request to the World Intellectual Property Organization (WIPO) on December 7, 2009, modified on December 21, 2009, for comments on the Draft Law of Industrial Property of 2009 (Draft Law of 2009), which was intended to bring the Intellectual Property Legislation of the Republic of Mauritius in conformity with international obligations (Draft Law of 2009). The Office of the Union received, via WIPO, a copy of those communications with a request to submit comments directly to the Permanent Mission on Part VIII of the Draft Law of 2009 entitled "Plant Variety Rights Protection".

As a result of a WIPO expert mission to Mauritius in June 2010, the Office of the Union was informed by WIPO that the Draft Law of 2009 was no longer relevant and that the Government of Mauritius had expressed its wish that WIPO prepare the basis for a new Draft Law, with the exception of relevant Part for "Protection of New Varieties of Plants", which it requested to be prepared by the Office of the Union. The Office of the Union prepared a Draft Part "Protection of New Varieties of Plants" using document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention" and transmitted it to the Permanent Mission on October 25, 2010.

On January 19 and 20, 2011, at WIPO/UPOV headquarters, the Office of the Union participated in a working session between WIPO and Mauritius government officials on the draft industrial property and copyright laws of Mauritius. The Draft Part "Protection of New Varieties of Plants" of the draft industrial property law was not discussed because the government officials which participated did not represent the views of the Ministry of Agriculture. The Office of the Union made a presentation on the UPOV system of plant variety protection.

From March 5 to 7, 2014, in Port Louis, Mauritius, the Office of the Union attended a Workshop on the TRIPS Agreement and IP-Related Matters, organized by the World Trade Organization (WTO), where it made a presentation on plant variety protection. The Office of the Union participated in legal consultations concerning Part V "Plant Variety Protection" of the Draft Industrial Property Act (Draft Law) with relevant officials from the Ministry of Foreign Affairs, Regional Integration and International Trade, the Ministry of Agro-Industry and Food Security, the Attorney-General's Office and the Mauritius Sugarcane Industry Research Institute (MSIRI). The Office of the Union explained the procedure of becoming a member of UPOV. At the request of Ms. Magalie Lambert-Henry, State Counsel, Attorney-General's Office, the Office of the Union provided comments on May 5 and on August 27, 2014, on Part V "Plant Variety Protection" of the Draft Law. Comments of the Office of the Union with proposed amendments to the PVP Chapter of the 2016 Bill were sent on April 10, 2017 to Mr. Ranjive Beergaunot, Ag. Controller, Industrial Property Office, Ministry of Foreign Affairs, Regional Integration and International Trade.

On October 11, 2019, the Permanent Mission of Mauritius contacted the Office of the Union and reported that the Industrial Property Act of Mauritius, had been approved by the National Assembly on July 30, 2019.

MONGOLIA

On December 15, 2017, the Office of the Union received a Note Verbale from the Permanent Mission of Mongolia with a letter from His Excellency Mr. Batzorig Batjargal, Minister for Food, Agriculture and Light Industry of Mongolia. The letter referred to the establishment of a working group to develop a draft Law on Seed and Plant Varieties and requested assistance of the Office of the Union in the legislative and UPOV membership procedures.

On March 5 2018, the Office of the Union transmitted to the Permanent Mission a reply addressed to H. E. Mr. Batjargal, with a copy of document UPOV/INF/13 "Guidance on how to become a member of UPOV" and document UPOV/INF/6 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention" in order to assist in the development of legislation in accordance with the 1991 Act.

On August 7, 2018, the Office of the Union was informed that the reply from the Office of the Union had not reached the relevant authorities. On August 9, 2018, the reply was sent again to H. E. Mr. Batjargal.

By letter of September 4, 2018, H. E. Mr. Batjargal invited an expert from the Office of the Union to meet with the Working Group responsible of the development of the plant variety protection legislation. By letter of October 5, 2018, the Secretary-General informed H. E. Mr. Batjargal that an expert from the Office of the Union would meet with the Working Group responsible for drafting the Law in Ulaanbaatar, Mongolia, on November 5 and 6, 2018. On September 13, 2018, the Office of the Union received the English translation of the Draft Law on Seed and Plant Varieties.

On November 5 and 6, 2018, in Ulaanbaatar, Mongolia, the Office of the Union participated in a legal consultation to assist the Working Group and provided comments in relation to the Draft Law of September 13, 2018. On January 4, 2019, the Office of the Union received an updated version of the Draft Law, with a request for comments.

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Mongolia held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law of January 4, 2019.

On May 1, 2019, the Office of the Union received a new version of the Draft Law. On May 31, 2019, the Office of the Union held a conference call with members of the Working Group in order to discuss relevant provisions of the Draft law of May 1, 2019, in relation to the options of the 1991 Act and the next steps of the procedure to become a member of the Union.

On September 24, 2019, the Office of the Union received confirmation that the May 1, 2019, version of the Draft Law had incorporated the comments agreed during the conference call.

By letter, dated September 5, 2019, received on September 26, 2019, addressed to the Secretary-General of UPOV, His Excellency Mr. Ulaan Chultem, Minister for Food, Agriculture and Light Industry of Mongolia, requested the examination of the relevant parts of the Draft Law of Mongolia on Crop Seed and Variety, for conformity with the 1991 Act of the UPOV Convention (see document C/53/11 "Examination of the conformity of the Draft Law of Mongolia on Crop Seed and Variety with the 1991 Act of the UPOV Convention").

Council decision of 2019

November 1, 2019 ([document C/53/15](#))

The Council decided to:

- (a) take note of the analysis in document [C/53/11](#);
- (b) take a positive decision on the conformity of the relevant parts of the Draft Law of Mongolia on Crop Seed and Variety ("Draft Law") with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which would allow Mongolia once the relevant parts of the Draft Law were adopted with no changes and the Law in force, to deposit its instrument of accession to the 1991 Act; and
- (c) authorize the Secretary-General to inform the Government of Mongolia of the above decision.

MYANMAR

Since December 2012, the Office of the Union has provided assistance to the Government of Myanmar in the development of legislation in accordance with the 1991 Act. On January 5, 2013, Ms. Khin San Wai, Director, Biotechnology, Plant Genetic Resources and Plant Protection Division, Department of Agricultural Research, Ministry of Agriculture and Irrigation, requested comments on a former Draft Law. On March 15, 2013, and on December 20, 2013, the Office of the Union sent comments on different versions of the former Draft Law.

On June 28 and 29, 2016, in Geneva, during a legal consultation with a delegation from Myanmar the Office of the Union was informed of the adoption of the Plant Variety Protection Law on January, 20, 2016 (Law No.15, 2016). The Law No.15, 2016 contained several provisions of the 1991 Act. However, other provisions of the 1991 Act were missing or did not appear to correspond to the 1991 Act.

On August 8, 2016, the Government of Myanmar requested the provision of detailed comments on proposed amendments in relation to the Law No.15, 2016. The Office of the Union provided detailed comments on the new Draft Law on October 14, 2016 and provided further guidance during meetings in Myanmar on December 6, 2016, on January 18, 2017 and on September 12, 2017.

By letter dated September 18, 2017, addressed to the Secretary-General of UPOV, Mr. Naing Kyi Win, Director General, Department of Agricultural Research, Ministry of Agriculture, Livestock and Irrigation of Myanmar, requested the examination of the Draft Law on New Plant Variety Protection (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (see document C/51/21 "Preliminary examination of the Draft Law on New Plant Variety Protection of Myanmar with the 1991 Act of the UPOV Convention").

Council decision of 2017

October 26, 2017 (document [C/51/22](#))

The Council decided to:

- (a) note the analysis in document [C/51/21](#);
- (b) take a positive decision on the conformity of the "Draft Law on New Plant Variety Protection" ("Draft Law") with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Myanmar 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
- (c) authorize the Secretary-General to inform the Government of Myanmar of the above decision.

Comments

On January 26, 2018, Ms. Pa Pa Win, Assistant Research Officer, Head of PVP Section, Department of Agricultural Research (DAR), Ministry of Agriculture, Livestock and Irrigation (MOALI), informed the Office about the latest developments concerning the Draft Law and noted that the Draft Law was under consideration by the Union Attorney General's Office (UAGO). The Office of the Union informed Ms. Pa Pa Win, that if the Draft Law was adopted with changes, the Government of Myanmar would need to present those changes for consideration by the Council of UPOV.

On June 20, 2018, the Office of the Union received from Ms. Pa Pa Win a comparison table between the Draft Law submitted in 2017 for the examination of the Council and the Draft Law with the comments by UAGO. At the fringes of the Plant Variety Protection Course, held in Wageningen, Netherlands, on June 25, 2018, the Office of the Union held a meeting with Ms. Pa Pa Win to discuss the proposed amendments by UAGO and DAR. On September 17, 2018, the Office of the Union provided further comments on the Draft Law taking into consideration the comments by UAGO and DAR for discussion at a legal consultation planned for September 2018.

On September 25, and 26, 2018, in Nay Pyi Taw, Myanmar, the Office met with officials from the Ministry of Agriculture, Livestock and Irrigation (MoALI) involved in the procedure of amending the Law. On September 27, 2018, in Nay Pyi Taw, the Office of the Union participated in a legal consultation, with officials from Department of Agricultural Research (DAR) of MoALI and Ms. Thida San, Director and Mr. Tun Naing, Deputy Director, both from UAGO, to discuss proposed amendments to the Draft Law and the next steps in relation to the procedure to become a UPOV member.

On January 5, 2019, Ms. Win provided an updated version of the Draft Law and informed the Office of the Union that the Draft Law had passed the Cabinet and would be submitted to the Parliament.

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Myanmar held in conjunction with the “Workshop on drafting legislation in accordance with the UPOV Convention” (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law of January 5, 2019.

On August 28, 2019 and September 24, 2019, in Geneva, the Office of the Union had a conference call with Ms. Win, and staff from Department of Agricultural Research (DAR), Ministry of Agriculture, Livestock and Irrigation (MOALI), to explain the procedure to become a member of the Union.

By letter dated September 28, 2019, Mr. Naing Kyi Win, Director General, DAR, MOALI, addressed to the Secretary-General of UPOV, reported that the Parliament of Myanmar had adopted the “New Plant Variety Protection Law of Myanmar”, on September 17, 2019 and that the Law had been enacted by the President and published in the Official Gazette on September 24, 2019. Mr. Win also informed the Secretary-General that, during the parliamentary procedure, certain changes had been introduced in the Draft law of 2017, and requested the confirmation of the positive decision of 2017 by the Council of UPOV (see document C/53/14 “Developments on the New Plant Variety Protection Law of Myanmar”). The translation of the Law can be consulted at https://www.upov.int/meetings/en/details.jsp?meeting_id=50801.

Council decision of 2019

November 1, 2019 ([document C/53/15](#))

The Council decided to:

(a) note that the New Plant Variety Protection Law of Myanmar, which had been adopted by the Parliament on September 17, 2019 and published in the Official Gazette on September 24, 2019, contained changes in relation to the text of the Draft Law presented to the Council in 2017 (see document [C/51/22](#) “Report”, paragraph 17, and paragraph 2 of document [C/53/14](#));

(b) agree that the changes, as presented in document C/53/14 and its Annex II, did not affect the substantive provisions of the 1991 Act of the UPOV Convention and, subject to that agreement;

(c) reaffirm the decision on conformity of October 26, 2017, and inform the Government of Myanmar that the instrument of accession of Myanmar could be deposited.

Comments

On July 30, 2020, Ms. Win provided an English translation of the Law prepared by the Union Attorney General’s Office (UAGO). The Office of the Union confirmed that the official translation reflected the substantive provisions of the working translation that was presented to the Council on November 1, 2019. Furthermore, the Office of the Union provided additional information on the required elements for the deposit of the instrument of accession to become a UPOV member.

NIGERIA

On June 23, 2017, Mr. Phillip Olosegun Ojo, Director General, National Agricultural Seeds Council-NASC of Nigeria, requested the assistance of the Office of the Union in the development of legislation on plant variety protection and in the procedure of becoming a member of UPOV. On July 26, 2017, the Office of the Union replied to the above request by providing a text with proposed elements for a draft law on plant variety protection based on document UPOV/INF/6 "Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention".

On May 2, 2018, Mr Folarin Okelola invited the Office of the Union to participate at the "Seed Connect Africa Expo", in Abuja, Nigeria and to have a meeting to discuss the development of legislation on plant variety protection and the procedure of becoming a member of UPOV. At that occasion, the Office of the Union met with His Excellency Mr. Audu Ogbeh, Minister for Agriculture and Rural Development of Nigeria.

On September 17, 2018, H. E. Mr. Ogbeh, requested observer status at the Council, Administrative and Legal Committee (CAJ) and the Technical Committee (TC) and expressed the intention of Nigeria to become a UPOV member. A delegation from Nigeria is expected to attend the UPOV sessions in Geneva in 2018 to discuss legislative and membership matters.

From January 28 to 30, 2019, in Geneva, during the bilateral meetings with the Delegation of Nigeria at the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union provided comments on a previous version of the Draft Law, identifying those provisions that did not correspond to the 1991 Act.

On April 15, 2019, the Office of the Union participated at the "Seed Connect Conference" in Abuja, Nigeria, and in a bilateral meeting to explain the comments made by the Office of the Union in January 2019, in relation to relevant provisions of the 1991 Act. On April 16, 2019, the Office of the Union received confirmation that the updated version of the Draft Law had incorporated the comments provided by the Office of the Union and the conclusions at the meeting in Abuja.

By letter dated April 19, 2019, addressed to the Secretary-General of UPOV, His Excellency, Mr. Audu Ogbeh, Minister for Agriculture and Rural Development of Nigeria, requested the examination of the Plant Variety Protection (PVP) Bill of Nigeria, for conformity with the 1991 Act of the UPOV Convention (see document C/Analysis/2019/1 "Analysis document as a basis for the procedure for the examination by correspondence of the Plant Variety Protection Bill of Nigeria concerning its conformity with the 1991 Act of the UPOV Convention").

Council decision of 2019

August 21, 2019 (UPOV Circular E-19/129)

In accordance with UPOV Circular E-19/112 of August 5, 2019, the Council decided, by correspondence, to:

- (a) note the analysis of document [C/Analysis/2019/1](#);
- (b) take a positive decision on the conformity of the "Plant Variety Protection Bill of Nigeria" with the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Nigeria 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
- (c) authorize the Secretary-General to inform the Government of Nigeria of the above decision.

Comments

On June 25, 2020, Mr. Folarin reported to the Office of the Union progress on the legislative process concerning the adoption of the PVP Bill and that a public hearing on the Bill at the National Assembly was scheduled to take place. On June 26, 2020, the Office of the Union held a conference call with Mr. Folarin to explain the procedure to become a UPOV member.

PHILIPPINES

Council decision of 2007

March 30, 2007 (document [C\(Extr.\)/24/5](#))

The Council decided to:

- (a) take note of the information given in document [C\(Extr.\)/24/2](#);
- (b) advise the Government of the Philippines that the Philippine Plant Variety Protection Act of 2002 (the Law) incorporated the majority of the provisions of the 1991 Act, but still needed some clarifications and amendments, as provided in document C(Extr.)/24/2, in order to conform with the 1991 Act; once the above clarifications and amendments were incorporated in the Law, the Government of the Philippines was invited to request the examination of the amended law as provided in Article 34(3) of the 1991 Act;
- (c) request the Office of the Union to offer its assistance to the Government of the Philippines in drafting the necessary clarifications and amendments to the Law; and
- (d) authorize the Secretary-General to inform the Government of the Philippines of that decision.

Comments

On April 16, 2007, the Secretary-General informed the Government of the Philippines of the decision of the Council and offered the assistance of the Office of the Union in drafting the necessary clarifications and amendments to the Law.

At the "Workshop on Plant Variety Protection Law" (Law Workshop) which was held in Geneva, from December 5 to 9, 2011 (see above section concerning Malaysia) consultations took place with the Delegation of Philippines. The discussions were focused on the decision of the Council of UPOV concerning compliance with Article 15(2) of the UPOV Convention). The Delegation reported on the request of the National Plant Variety Board in October 2011 to undertake a National Survey in 2012 on the Law.

SAINT VINCENT AND THE GRENADINES

On November 17, 2018, the Office of the Union received a letter from Ms. Lekeicha Caesar-Toney, Registrar, requesting assistance in the development of plant variety protection legislation in accordance with the UPOV Convention. On January 14, 2019, the Office of the Union received from Ms. Shernell Hadaway, Crown Counsel 1, Attorney General's Chambers, Ministry of Legal Affairs, a copy of the Draft Law with a request for comments.

From January 28 to 30, 2019, in Geneva, during the bilateral meetings with the Delegation of Saint Vincent and the Grenadines at the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law of January 14, 2019. On March 12, 2019, the Office of the Union provided comments on the Draft Law.

On April 9, 2019, Ms. Hadaway provided a new version of the Draft Law. On April 16, 2019, the Office of the Union provided comments on the new version of the Draft Law and held a conference call with Ms. Caesar-Toney and Ms. Hadaway to explain its comments and the next steps of the procedure to become a member of UPOV. On that occasion, Ms. Caesar-Toney expressed the intention of the Government of Saint Vincent and the Grenadines to request the examination of the Draft Law by correspondence to the UPOV Council in 2019. On April 30, 2019, the Office of the Union received a new version of the Draft Law.

By letter dated April 30, 2019, addressed to the Secretary-General of UPOV, the Honorable Mr. Jaundy O. R. Martin, Attorney-General, requested the examination of the Plant Breeders' Protection Bill 2019 of Saint Vincent and the Grenadines, for conformity with the 1991 Act of the UPOV Convention (see document C/Analysis/2019/2 "Analysis document as a basis for the procedure for the examination by correspondence of the Plant Breeders' Protection Bill 2019 of Saint Vincent And The Grenadines concerning its conformity with the 1991 Act of the UPOV Convention").

Council decision of 2019

August 21, 2019 (UPOV Circular E-19/130)

In accordance with UPOV Circular E-19/113 of August 5, 2019, the Council decided, by correspondence, to:

- (a) note the analysis of document [C/Analysis/2019/2](#);
- (b) take a positive decision on the conformity of the "Plant Breeders' Protection Bill 2019 of Saint Vincent and the Grenadines" with the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Saint Vincent and the Grenadines 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
- (c) authorize the Secretary-General to inform the Government of Saint Vincent and the Grenadines of the above decision.

Comments

On October 1, 2019, the Office of the Union received the visit of Ms. Caesar-Toney, and discussed the procedure to become a member of UPOV.

On December 28, 2019, Ms. Caesar-Toney informed the Office of the Union that the Bill was passed on December 1, 2019, and requested information on the next steps of the procedure to become a member of UPOV. On January 12, 2020, the Office of the Union confirmed that the adopted Bill had no changes from the Draft Law examined by the Council and that the Government of Saint Vincent and the Grenadines could deposit its instrument of accession to the 1991 Act and on January 23, 2020. The Office also provided UPOV guidance and assistance materials relevant for implementing regulations.

TAJIKISTAN

Council decision of 1999

October 20, 1999 (document [C/33/18](#))

The Council decided to:

(a) advise the Government of Tajikistan that the Law on Selection Achievements of Agricultural Crops (the Law), after the adoption of suitable regulations, provided the basis for an Act conforming with the Convention, and that it may deposit an instrument of accession to the Convention after making such regulations;

(b) further advise the Government of Tajikistan that it may wish to correct the minor deviations and inconsistencies described in document [C/33/14](#) at the earliest opportunity;

(c) to request the Office of the Union to offer its assistance to the Government of Tajikistan for the drafting of any regulations and the correction of the Law.

Comments

The Office of the Union was notified of the "Amendments and additions to the Law of the Republic of Tajikistan on Selection Achievements of Agricultural Crops" of December 2, 2002.

On May 9, 2005, the Office of the Union was further notified that the Government of Tajikistan was drafting a new Law.

Comments on the Draft Law were sent by the Office of the Union on March 7, 2006.

A new request for comments on an updated draft was received on December 13, 2006. The Office of the Union commented on December 21, 2006, and was informed that the draft would soon be submitted to Parliament for adoption.

During the Regional Training on Plant Variety Protection under the UPOV Convention for Certain Countries in the Eurasian Region which took place from June 9 to 11, 2009, in Chisinau, Republic of Moldova, the representatives of the Ministry of Agriculture, including, Mrs. Shirinbonu Tursun Zade, Legal Advisor, were provided with a draft of document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention."

On April 9, 2010, the Office of the Union received a letter from Mrs. Tursun Zade informing the Office of the Union that a new Draft Law (Draft Law of 2010), based on document UPOV/INF/6/1, was under preparation and requesting information on the accession procedure to the UPOV Convention. On April 23, 2010, the Office of the Union replied on the basis of document UPOV/INF/13/1 "Guidance on how to become a member of UPOV" and suggested that Tajikistan provide a copy of the latest version of the Draft Law of 2010. On April 28, 2010, the Secretary-General received a letter from His Excellency Mr. Kasym Kasymov, Minister for Agriculture, enclosing a copy of the Draft Law of 2010 with a request for comments. The Office of the Union sent its comments on the Draft Law on May 11, 2010, and in response to requests on August 3 and 23, respectively, provided further comments, most recently on August 26, 2010.

On August 27, 2010, the Government of Tajikistan submitted the Draft Law of 2010 for the examination of the Council (see document C/44/15).

Council decision of 2010

October 21, 2010 (document [C/44/17](#))

The Council decided to:

- (a) take note of the analysis in document [C/44/15](#);
- (b) take a positive decision on the conformity of the Draft Law on Plant Variety Protection of the Republic of Tajikistan with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows the Republic of Tajikistan, once the Draft Law is adopted, with no changes, and the Law in force, to deposit its instrument of accession to the 1991 Act; and
- (c) authorize the Secretary-General to inform the Government of the Republic of Tajikistan of that decision.

On August 29, 2011, the Permanent Mission of Tajikistan to the United Nations Office and other International Organizations at Geneva requested a certified copy of the 1991 Act of the UPOV Convention.

On January 3, 2014, Mr. Hafiz Muminjanov, former delegate from Tajikistan now working at the Food and Agriculture Organization of the United Nations (FAO), informed the Office of the Union that the Law on Plant Variety Protection of Tajikistan (the Law) was adopted on December 29, 2010. On January 20, 2014, the Office of the Union received from Mr. Muminjanov an English translation of the Law and noted that additional changes had been introduced, which were not part of the decision of the UPOV Council of October 21, 2010. In the opinion of the Office of the Union the additional changes do not concern the substantive provisions of the 1991 Act of the UPOV Convention; however, the Government of Tajikistan would need to present the additional changes introduced in the Law during the adoption procedure to the UPOV Council for confirmation of the Council's decision on conformity. On September 9, 2014, Mr. Muminjanov reported that he had transmitted information concerning the procedure to become a UPOV member provided to him by the Office of the Union to the Minister of Agriculture and other senior officials on variety testing and registration of Tajikistan.

UNITED ARAB EMIRATES

On January 16, 2013, the Office of the Union received, from Mr. Mohamed Makkawi, Seed Technologist, Biodiversity and Protected Department, Water Resources and Nature and Conservation Affairs, Ministry of Environment and Water, a copy of the Arabic and English versions of the Federal Law No.(17) of 2009 on the Protection of New Varieties of Plants (Law of 2009). The Office of the Union informed Mr. Makkawi of its view that a number of provisions of the Law of 2009 did not correspond to the provisions of the 1991 Act.

On September 13, 2015, H.E. Mr. Al Hammadi, Undersecretary at the Ministry of Environment and Water requested observer status in the Council and assistance on legislative matters. On December 11, 2015, the Office of the Union sent a Note Verbale to the Permanent Mission of the United Arab Emirates in Geneva accompanying a letter addressed to H.E. Mr. Al Hammadi, enclosing the detailed comments of the Office of the Union on the Law in relation to the 1991 Act.

On December 14, 2015, in Dubai, United Arab Emirates, the Office of the Union participated in legal consultations concerning the development of plant variety protection legislation and UPOV membership matters. On December 18, 2015, the Office of the Union sent comments on the Law reflecting the conclusions at the legal consultations.

On October 21, 2018, Ms. Fatima Obaid Alkalbani, Head of Agriculture Development, Ministry of Climate Change and Environment, reported on the progress of the internal process of modification of the Law and requested information on the contribution fees for joining UPOV.

On October 27, 2019, Ms. AL-Akel, International Organizations Executive, Office of the United Arab Emirates to the World Trade Organization (WTO) in Geneva provided a Draft Law to the Office of the Union with a request for comments. On December 20, 2019, the Office of the Union provided comments on the Draft Law dated October 27, 2019.

On February 27, 2020, Mr. Mohamed Ahmed Hamdan Al Dhanhani, Director of the Agriculture Development & Health Department, Ministry of Climate Change and Environment, provided a further English translation of the Draft Law and the original version in Arabic to the Office of the Union. In order to clarify any discrepancies between the two language versions, and in consultation with the Government of the United Arab Emirates, the Office of the Union arranged for a verified English translation in relation to the original version in Arabic. The verification confirmed that there were certain discrepancies between the two language versions.

On April 10, 2020, the Office of the Union received an updated version of the verified English translation of the Draft Law. On April 14 and 22, 2020, the Office of the Union provided comments on the verified English translation of the Draft Law and information on the procedure for the examination of the Draft Law by correspondence.

By letter dated April 28, 2020, addressed to the Secretary-General of UPOV, His Excellency, Sultan Abdulla AlHebsi, Assistant Under Secretary, Regions Sector, Ministry of Climate Change and Environment, requested the examination of the Draft Law on Plant Variety Protection of the United Arab Emirates (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (see document C/Analysis/2020/2 "Analysis document as a basis for the procedure for the examination by correspondence of the Draft Law on Plant Variety Protection of the United Arab Emirates concerning its conformity with the 1991 Act of the UPOV Convention").

Council decision of 2020

August 14, 2020 (UPOV Circular E 20/108)

In accordance with UPOV Circular E-20/101 of July 28, 2020, the Council decided, by correspondence, to:

- (a) note the analysis of document [C/Analysis/2020/2](#);
- (b) take a positive decision on the conformity of the "Draft Law on Plant Variety Protection of the United Arab Emirates" with the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows the United Arab Emirates 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
- (c) authorize the Secretary-General to inform the Government of the United Arab Emirates of the above decision.

VENEZUELA (BOLIVARIAN REPUBLIC OF)

Council decision of 1998

April 3, 1998 (document [C\(Extr.\)/15/7](#))

The Council decided, on the basis of the conclusions drawn by the Office of the Union in paragraphs 45 and 46 of document [C\(Extr.\)/15/6](#),

(a) to take a positive decision on the conformity of the Decision 345 of the Commission of the Cartagena Agreement "Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties" and draft Regulations of Venezuela implementing Decision 345 (the draft Regulations), with the provisions of the 1978 Act and the 1991 Act, subject to some amendments being made to the draft Regulations;

(b) to request the Office of the Union to offer its assistance to the Government of Venezuela in respect of the amendments to be made to the draft Regulations;

(c) to further advise the Government of Venezuela that

(i) after consultation with the Office of the Union as to whether the amendments to the draft Regulations were adequate, and

(ii) after adoption of the draft Regulations incorporating such amendments, but without other substantial changes,

it would be able to deposit an instrument of accession to the 1978 Act prior to April 24, 1999, or to the 1991 Act at any time.

Comments

On February 11, 2000, the Permanent Mission of Venezuela to the United Nations Office at Geneva and other International Organizations in Switzerland requested a certified copy of the 1991 Act of the UPOV Convention.

ZIMBABWE

Council decisions of 1998, 1999 and 2008

October 28, 1998 (document [C/32/16](#))

The Council:

- (i) decided that the Plant Breeders' Rights Act (the Law), after the incorporation of the substance of the changes suggested in document [C/32/12](#), will conform with the 1978 Act;
- (ii) requested the Secretary-General to advise the Government of Zimbabwe that after the incorporation into the Law of such suggested changes to the satisfaction of the Office of the Union it would be able, at any time prior to April 24, 1999, to deposit an instrument of accession to the 1978 Act.

October 20, 1999 (document [C/33/18](#))

The Council decided to authorize the Secretary-General, after consultation with the President of the Council, to accept instruments of accession to the 1978 Act by India, Nicaragua⁴, and Zimbabwe provided that the depositing State had, in the opinion of the Secretary-General after consultation with the President of the Council, acted expeditiously to complete its legislation and any UPOV formalities and to effect the deposit.

April 11, 2008 (document [C\(Extr.\)/25/10](#))

With respect to any future opinion on whether India and Zimbabwe have acted expeditiously to complete their legislation and any UPOV formalities and to effect the deposit, the Council decided, based on the recommendation of the Consultative Committee, that the opinion on whether that condition had been fulfilled should be the responsibility of the Consultative Committee.

Comments

The Office of the Union requested, on November 23, 2001, clarifications of certain issues of the Plant Breeders' Rights Amendment Act of 2001 in relation to the decision of the Council of 1998.

On February 24, 2005, the Government of Zimbabwe was requested to confirm that it wished to pursue the procedure of accession and to reply to the letter of November 23, 2001.

No reply on the request for clarification of certain issues concerning the Act of 2001 has been received so far.

At the fringes of the Regional Training Course on Plant Variety Protection under the UPOV Convention, held in Johannesburg, South Africa, from July 9 to 11, 2008, Mr. Claid Mujaju, Head, Seed Services Institute, referred to the possibility that the Plant Breeders' Rights Act of 2001 might be amended.

During the WIPO/UPOV/ARIPO Regional Seminar on Plant Varieties and Breeders' Rights, which took place in Harare from July 14 to 16, 2009, Mr. Mujaju was provided with a draft of document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention."

From March 14, 2011, to November 2, 2011, the Office of the Union was in contact with Mr. Etiwell Gubunje, PBR Officer, Seed Services, Ministry of Agriculture, for the provision of advice in relation to the development of legislation in accordance with the 1991 Act of the UPOV Convention. A consultation meeting on the Breeders' Rights Act of Zimbabwe took place on June 21, 2011, between the Office of the Union and Mr. Etiwell at the fringes of the Plant Variety Protection Course in Wageningen, the Netherlands.

⁴ Nicaragua acceded to the 1978 Act on September 6, 2001.

On July 5, 2011, the Office of the Union was contacted by the Permanent Mission of Zimbabwe to the United Nations Office at Geneva and other International Organizations in Switzerland in order to receive information on the procedure of Zimbabwe to become a UPOV member.

At the fringes of the Regional Workshop on the "ARIPO Framework on Plant Variety Protection under the UPOV Convention", which was held from July 25 to 29, 2011, in Accra, Ghana, the Office of the Union held a consultation meeting with Mr. Claid Mujaju, Head, Seed Services, on the possibility to prepare a working electronic version of the consolidated text of the Breeders' Rights Act as amended in 2001. The electronic consolidated version of the Act was received on August 26, 2011, with a request to provide comments on suggested modifications in order to incorporate the essential provisions of the 1991 Act of the UPOV Convention. On October 31, 2011, the Office of the Union transmitted its comments on the Act on the basis of document UPOV/INF/6/2 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention".

At the fringes of the Expert Review Meeting on the ARIPO Draft Legal Framework for the Protection of New Varieties of Plants which was held in Harare, Zimbabwe from June 12 to 14, 2012, following the request of Mr. Mujaju, the Office of the Union met with the Principals of the Department of Agriculture of the Government of Zimbabwe. The Principal Director confirmed that Zimbabwe was in the process of amending the Act in order to introduce the provisions of the 1991 Act of the UPOV Convention.

On April 29, 2014, Mr. Claid Mujaju, Head, Seed Services, informed the Office of the Union that the proposed amendments to the Act corresponded to the 1991 Act of the UPOV Convention and were being considered at the Cabinet level. On April 29, 2014, the Office of Union explained the procedure to become a UPOV member.

On March 23, 2018, the Office of the Union received a communication from Mr. Claid Mujaju, requesting information on financial aspects of becoming a UPOV member and introducing Mr. Tshuma, Legal Advisor, Head of the Legal Department, Ministry of Agriculture. On March 27, 2018, the Office of the Union, provided information on financial aspects, noted that the comments of the Office of the Union on the Act had been sent on October 31, 2011, and explained that the Office of the Union would need to receive the most recent version of the proposed amendments to the Act, in order to advise Mr. Tshuma on the next steps concerning the procedure to become a member of the Union.

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Zimbabwe held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law provided to the Office of the Union on December 24, 2018.

On January 21, 2020, Mr. Tshuma provided an updated version of the Draft Act to the Office of the Union and requested the provision of comments on the Draft Act in relation to the 1991 Act. On March 31, 2020, the Office of the Union provided comments on the Draft Act and explained the procedure for the examination of the Draft Act by the Council.

By letter dated April 27, 2020, addressed to the Secretary-General of UPOV, The Honorable Air Chief Marshal (Rtd) Perence Shiri, Minister for Lands, Agriculture, Water and Rural Resettlement of Zimbabwe, requested the examination of the Draft Plant Breeders Rights Act of Zimbabwe (hereinafter referred to as the "Draft Act"), for conformity with the 1991 Act of the UPOV Convention (see document C/Analysis/2020/1 "Analysis document as a basis for the procedure for the examination by correspondence of the Draft Plant Breeders Rights Act of Zimbabwe concerning its conformity with the 1991 Act of the UPOV Convention").

Council decision of 2020

August 14, 2020 (UPOV Circular E 20/107)

In accordance with UPOV Circular E-20/100 of July 28, 2020, the Council decided, by correspondence, to:

- (a) note the analysis of document [C/Analysis/2020/1](#);
- (b) take a positive decision on the conformity of the "Draft Plant Breeders Rights Act of Zimbabwe" with the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows the Zimbabwe 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
- (c) authorize the Secretary-General to inform the Government of the Zimbabwe of the above decision.

[Annex II follows]

**SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS
WHICH HAVE BEEN IN CONTACT WITH THE OFFICE OF THE UNION
FOR ASSISTANCE IN THE DEVELOPMENT OF LAWS
BASED ON THE UPOV CONVENTION**

ALGERIA.....	2
BAHRAIN	2
BARBADOS	2
CAMBODIA	3
CUBA	4
CYPRUS	4
EL SALVADOR	4
INDONESIA	4
IRAQ.....	5
JAMAICA.....	5
LAO PEOPLE'S DEMOCRATIC REPUBLIC	6
LIBYA	7
LIECHTENSTEIN.....	7
MALAWI	8
MOZAMBIQUE	8
NAMIBIA	9
PAKISTAN	9
SAUDI ARABIA.....	10
SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)	10
SUDAN.....	11
THAILAND	11
TONGA	11
TURKMENISTAN.....	12
ZAMBIA	12

ALGERIA

During the consultations that took place in Algiers, on January 19 and 20, 2010, at the request of the Permanent Mission of Algeria to the United Nations Office at Geneva and other International Organizations in Switzerland, the Office of the Union provided legal assistance to the Government of Algeria in drafting legislation on plant variety protection in accordance with the UPOV Convention. The consultations in Algiers with the representatives from the Ministries of Foreign Affairs, Agriculture, Industry, Health and Environment provided an opportunity to explain that the Law concerning Seeds and Plant Variety Protection of February 6, 2005 needed to be amended to ensure that the breeder's right should be independent of any measure to regulate the production, certification and marketing of material of varieties or the importing or exporting of such material. The administration of the Law 2005 falls under the responsibility of Ms. Nadia Hadjeres Director, Plant Protection and Technical Controls, Ministry of Agriculture and Rural Development (MARD).

On March 19, 2019, Mr. Rabah Fillali, Director, Plant Protection and Technical Controls, Ministry of Agriculture and Rural Development (MARD), requested information on the status of Algeria in relation to UPOV. On April 16, 2019, the Office of the Union explained the procedure to become a member of the Union, including the need to implement the amendments to the Law of 2005, in order to incorporate the essential provisions of the 1991 Act of the UPOV Convention.

BAHRAIN

Since June 2001, the Office of the Union has provided assistance to the Government of Bahrain with regard to different draft laws relating to plant variety protection on various occasions. The most recent comments on the "Draft Law on New Plant Varieties" (Draft Law) were sent by the Office of the Union on February 2, 2009. Several essential provisions of the 1991 Act of the UPOV Convention have not been incorporated in the Draft Law or differ from the corresponding provisions of the UPOV Convention. The most recent contact took place at the fringes of the "Sub-Regional Workshop on Geographical Indications and Plant Variety Protection for Gulf Cooperation Council (GCC) Countries", which was held in Muscat, Sultanate of Oman, from April 26 to 28, 2009. The person responsible for matters concerning the development of the Draft Law is Mrs. Lona Abdulla Al Moataz, Director of Industrial Property, Ministry of Industry and Commerce.

On October 4, 2012, the Office of the Union met in Geneva with Mrs. Al Moataz and with Ms. Leena Zainal, Head of Patents, to discuss matters on the development of legislation in accordance with the 1991 Act of the UPOV Convention and on the procedure to become a UPOV member. Documents UPOV/INF/6 in English and Arabic "Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention" and UPOV/INF/13 "Guidance on how to become a member of UPOV" were provided on that occasion.

On November 09, 2017, Mr. Mahmud Muntasser, Counsellor, Development Sector, Regional Bureau for Arab Countries, World Intellectual Property Organization (WIPO), informed the Office of the Union that the Ministry of Agriculture of Bahrain was the new authority responsible for the Draft Law. On November 13, 2017, Mr. Muntasser requested information concerning the possibility to arrange for an English translation of the Arabic version of the Draft Law in order to provide comments in relation to the 1991 Act. On November 20, 2017, the Office of the Union confirmed the possibility to arrange for the translation and explained that the competent authorities would need to send the Draft Law with a request for translation and for comments in relation to the 1991 Act of the UPOV Convention.

BARBADOS

On the occasion of the "National Seminar on Plant Variety Protection under the UPOV Convention", which was held in Bridgetown on November 8 and 9, 2004, discussions took place with the Registrar of the Corporate Affairs and Intellectual Property Office of Barbados, Mrs. Maureen Crane-Scott, on the procedure to become a member of the Union and, in that context, the need to revise those provisions of the "Protection of New Plant Varieties Act of 2001" which differed from the corresponding provisions of the UPOV Convention.

On July 23, 2015, Ms. Heather A. Clarke, Registrar/Director, Corporate Affairs and Intellectual Property Office, Barbados, requested the provision of detailed comments for the amendments of the Protection of New Plant Varieties Act of 2001 (Act of 2001) in accordance with the 1991 Act of the UPOV Convention.

On July 22, 2016, the Office of the Union provided detailed comments in relation to the Act of 2001. On October 10, 2016, in Geneva, the Office of the Union received the visit of Ms. Clarke to discuss the proposed amendments to the Act of 2001 and the procedure to become a UPOV member.

CAMBODIA

Since November 2002, the Office of the Union has provided assistance to the Government of Cambodia in the development of legislation on plant variety protection on various occasions. The last comments on the "Draft Law on the Plant Breeder's Right and Seed Management" (Draft Law) were provided at the fringes of a consultation on August 27 and 28, 2007, in Phnom Penh. On that occasion, several modifications were recommended to ensure that the breeder's right should be independent of any measure to regulate the production, certification and marketing of material of varieties or the importing or exporting of such material. On December 28, 2007, the Office of the Union was informed that it was difficult to reach agreement with the Ministry of Agriculture in relation to additional modifications of the Draft Law at that point of the legislative process. The Office of the Union was informed on September 16, 2008, by Mr. Ngeth Vibol, Director, Department of Industrial Property, Ministry of Industry, Mines and Energy (MIME), that the Draft Law had been adopted and that the comments of the Office of the Union of August 27 and 28, 2007, would be incorporated in a future revision of the Law. At that time, an English translation of the Law was not available. At the fringes of the Second World Seed Conference which was held in Rome from September 8 to 10, 2009, the Office of the Union was informed by Deputy Director General Khanrithykun So of the Ministry of Agriculture, Forestry and Fisheries that the Government of Cambodia is considering a revision of the Law.

Mr. Monthivuth Ker, Acting Director, Department of Administration, Planning, Accounting and International Cooperation, General Directorate of Agriculture (GDA) and Mr. Chantravuth Phe, Deputy Director of Industrial Property, Plant Variety Protection, Ministry of Industry, Mines Energy. The discussions were focused on available UPOV guidance for the development of implementing regulations.

On October 3, 2012, the Office of the Union met with Mr. Vibol in Geneva to review the translation of the 1991 Act of the UPOV Convention in Cambodian. Mr. Vibol considered that the translation would be very useful in a future process for amending the Law.

On September 25, 2013, the Office of the Union met with Mr. Phe to discuss matters concerning the translations of the UPOV Convention and document UPOV/INF/6 into Khmer language and the Law of 2007 into English.

On August 25, 2017, in Phnom Penh, Cambodia, the Office of the Union had meetings with the Ministry of Industry and Handicraft and at the Department of Agriculture of the Ministry of Agriculture, Forestry and Fisheries to discuss the situation on plant variety protection in Cambodia.

On December 18 and 19, 2017, in Geneva, the Office of the Union hosted a "Workshop on drafting legislation in accordance with the 1991 Act of the UPOV Convention" (Workshop on PVP Law). The Workshop on PVP Law provided the opportunity to have a meeting with the representative from Cambodia, Mr. Vibol, Deputy Director General of Industry in charge of Industrial Property, Ministry of Industry and Handicraft and Mr. Kong Kea, Deputy Director of Rice Crop, Seed Unit of General Directorate of Agriculture, Ministry of Agriculture and Fisheries. Discussions were focused on the possible amendments to the Law of 2007.

On May 14, 2018, the Office of the Union received a new English translation of the Law of 2007 from Mr. Phe with a request for comments in relation to the 1991 Act.

On January 25, 2019, the Office of the Union provided to Mr. Ho Puthea, Deputy Director General, General Directorate of Agriculture (GDA), Ministry of Agriculture, Forestry and Fisheries (MAFF) and Mr. Phe the preliminary comments with regard to the English translation of the Law of 2007.

From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Cambodia held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to its preliminary comments provided on January 25, 2019.

On February 7, 2019, the Office of the Union provided Mr. Ho Puthea and Mr. Phe with the conclusions reached in the bilateral meetings at the Workshop for Laws on the amendments to the Law of 2007.

CUBA

From 1995 to 1999, the Office of the Union was in contact with the Industrial property Office of Cuba with respect to providing guidance on developing legislation on plant variety protection.

On September 21, 2010, the Office of the Union was informed by Mrs. América Santos Rivera, Vice-Minister, Ministry of Science, Technology and Environment, that Cuba was in the process of revising its seed legislation and consideration would be given in that context to the protection of new varieties of plants. The Office of the Union recommended the use of document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention" in the development of legislation on plant variety protection.

By letter of June 21, 2012, the Office of the Union was informed by Ms. María de los Ángeles Sánchez Torres, Director General, Cuban Office of Industrial Property (OCPI), that the Law Decree No. 291 for the Protection of Plant Varieties had been published on February 2, 2012. The Office of the Union has not seen the Law.

CYPRUS

On June 16, 2004, the Office of the Union received a copy in Greek of the "Law on the Protection of Plant Varieties (Law 21(I)/2003)" with a request for comments by the Office of the Union. On June 29, 2004, the Office of the Union, requested a translation of the Law in one of the UPOV languages. No reply to that request has been received so far.

On September 2, 2011, the Office of the Union received an inquiry from Mr. Christos Nicolaou, Department of Registrar of Companies and Official Receiver, Ministry of Commerce, Industry and Tourism, for the provision of information on the procedure to become a UPOV member. On September 22, 2011, the Office of the Union replied on the basis of document UPOV/INF/13/1 "Guidance on how to become a member of UPOV".

EL SALVADOR

On November 25 and 26, 2009, the Office of Union participated in a "Seminar on the Protection of New Varieties of Plants", in El Salvador, which primary purpose was to provide assistance in the development of legislation on plant variety protection. The Seminar was organized by the National Center of Registers (CNR), which is the national authority responsible for intellectual property, including plant breeders' rights. A proposal for a draft legislation for plant breeders' rights was presented at the Seminar; however it was clarified that the draft legislation had not been developed by the national authority and that further discussions and consultations were required.

INDONESIA

Since December 1998, the Office of the Union has provided assistance to the Government of Indonesia in the development of legislation on plant variety protection on various occasions. The last comments on the "Law No. 29 of 2000 on Plant Variety Protection" were provided on July 6, 2009. Several essential provisions of the 1991 Act of the UPOV Convention had not been incorporated in the Law or differ from the corresponding provisions of the 1991 Act of the UPOV Convention.

At the fringes of consultation meetings, which took place in Jakarta, on June 1 and 2, 2010, concerning the translation of the 1991 Act of the UPOV Convention into Indonesian, a group of experts considered relevant aspects of the revision of the Law based on the comments of the Office of the Union of July 6, 2009.

On July 20, 2010, Mrs. Ir. Hindarwati, Director, Centre for Plant Variety Protection, Ministry of Agriculture, reported that a recommendation to revise the Law had been submitted to the Minister of Agriculture.

On November 29, 2019, following a request made during the “High Level Study Visit on Plant Variety Protection and UPOV 1991”, in Angers (France), Amsterdam (Netherlands) and Brussels (Belgium), from September 23 to 27, 2019, the Office of the Union provided to Mr. Erizal Jamal, Director of the Center for Plant Variety Protection and Agriculture Permits information in relation to comments on the Law No. 29 of 2000 provided by the Office of the Union on July 6, 2009.

On February 25, 2020, Mr. Jamal, in preparation of his participation at the “Workshop on drafting legislation in accordance with the UPOV Convention” (Workshop), planned to be held at UPOV Headquarters, in Geneva, Switzerland, from March 10 to 12, 2020, informed the Office of the Union that relevant amendments to the Law No. 29 of 2000 were under discussion. Due to the COVID-19 pandemic, the Workshop was cancelled.

IRAQ

Ms. Traiza J. Ridha, Director of the Industrial Property Office of Iraq, addressed a request to the World Intellectual Property Organization (WIPO) on January 14, 2010, for comments on the Draft Law of Intellectual Property of August 12, 2009. The Office of the Union received, via WIPO on February 15, 2010, a copy of that communication with a request to submit comments on Chapter Five “Plant Varieties” directly to Ms. Traiza J. Ridha.

The Office of the Union made an initial analysis of the Draft Law and noted that while its Chapter Five contains several provisions of the 1991 Act of the UPOV Convention, other provisions are missing or, for linguistic or conceptual reasons, do not appear to correspond to the 1991 Act of the UPOV Convention.

On February 15, 2019, the Office of the Union met in Geneva with Mr. Baqir Bahir Rasheed Rasheed, Second Secretary, Permanent Mission of Iraq, and explained the procedure to become a UPOV member.

JAMAICA

On October 9, 2015, in Geneva, the Office of the Union received the visit of Ms. Lilyclaire Bellamy, Executive Director of the Jamaica Intellectual Property Office (JIPO) to discuss possible assistance for drafting legislation on plant variety protection.

On March 2, 2016, Ms. Bellamy requested the provision of detailed comments on Draft Clauses contained in the “Drafting Instructions for the Protection of the Rights of Plant breeders of New Varieties of Plants Bill” (Draft Clauses). On May 4, 2016, the Office of the Union provided detailed comments in relation to the Draft Clauses. The Draft Clauses contained several provisions that did not appear to correspond to the 1991 Act of the UPOV Convention.

On December 18 and 19, 2017, in Geneva, the Office of the Union hosted a “Workshop on drafting legislation in accordance with the 1991 Act of the UPOV Convention” (Workshop on PVP Law). The Workshop on PVP Law provided the opportunity to have a meeting with the representative from Jamaica, Ms. Valrie Mae Watson, Assistant Parliamentary Counsel, Office of the Parliamentary Counsel, Ministry of Justice, in order to discuss relevant options of the 1991 Act and the comments of the Office of the Union of 2016.

On January 15, 2018, the Office of the Union received from Ms. Watson, the Draft Law of September 4, 2017 (Draft Law of 2017), developed from the Draft Clauses with a request to incorporate the comments from the Office of the Union of 2016.

On July 6, 2018, the Office of the Union provided to Mr. Marcus Goffe, Deputy Director/Legal Counsel, Jamaica Intellectual Property Office, the Draft Law incorporating the comments of 2016.

On August 8, 2018, the Office of the Union organized a conference call with Ms. Bellamy, Mr. Goffe and Ms. Watson to discuss the comments of 2016 and to provide information on the procedure to become a member of the Union.

On January 24, 2019, the Office of the Union received a copy of the Draft Law from Ms. Watson. From January 28 to 30, 2019, in Geneva, during the bilateral meetings with the Delegation of Jamaica at the “Workshop on drafting legislation in accordance with the UPOV Convention” (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law of January 24, 2019. On March 12, 2019, the Office of the Union provided comments on the Draft Law, as agreed during the bilateral meetings.

On June 25, 2019, the Office of the Union received an updated version of the Draft Law with a request to provide comments with regard to its conformity with the 1991 Act of the UPOV Convention. On July 26, 2019, the Office of the Union provided comments on the Draft Law of June 25, 2019, together with further information on the procedure to become a member of the Union (document UPOV/INF/13/2 “Guidance on how to become a member of UPOV”).

On June 11, 2020, the Office of the Union received an updated version of the Draft Law from Ms. Bellamy with a request to provide comments with regard to its conformity with the 1991 Act of the UPOV Convention. On July 3, 2020, the Office of the Union provided comments on the Draft Law of June 25, 2019, together with an explanation on the next steps of the procedure to become a member of the Union.

On July 9, 2020, the Office of the Union organized a conference call with Mr. Goffe and Ms. Watson to discuss the comments provided on July 3, 2020, and to provide information on the procedure to become a UPOV member.

On August 27, 2020, the Office of the Union received a revised Draft Law dated August 18, 2020, from Mr. Goffe, incorporating the majority of the comments provided on July 3, 2020, with a request for comments. The Office of the Union is preparing comments on the Draft Law of August 18, 2020, to be provided in November 2020.

LAO PEOPLE’S DEMOCRATIC REPUBLIC

On February 14, and 15, 2008, at the fringes of a “National Workshop on Plant Variety Protection under the UPOV Convention” held in Vientiane, the Office of the Union held a consultation meeting with officials from the Ministry of Agriculture and Forestry, Ministry of Justice, National Assembly, Intellectual Property Application Agencies and the Department of Intellectual Property, Standard, Technology and Metrology, Science, Technology and Environment Agency, in order to assist in the development of legislation. That consultation meeting provided an opportunity to explain that the “plant variety protection” section of the Intellectual Property Law adopted on December 26, 2007 should be amended in order to incorporate the essential provisions of the 1991 Act of the UPOV Convention.

At the “Workshop on Plant Variety Protection Law” (Law Workshop) which was held in Geneva, from December 5 to 9, 2011 (see above section concerning Malaysia) consultations took place with the Delegation of the Lao People’s Democratic Republic. On that occasion, Mr. Vanthieng Phommasoulin, Senior Official, Agronomy Management Division, Department of Agriculture, reported to the Office of the Union his Government’s plans to amend the Intellectual Property Law before the end of 2012. Guidance on how to amend the Law was provided based on UPOV/INF/6/2.

By letter of September 30, 2016, Director General Keobounphanh, Department of IP (DIP), Ministry of Science and Technology, addressed a request to Director Ong of WIPO regarding assistance to analyze the IP Law of the Lao People’s Democratic Republic in relation to different treaties, including the 1991 Act of the UPOV Convention. On February 6, 2017, WIPO transmitted the request for legislative assistance on the plant variety protection (PVP) part of the Law to the Office of the Union. On May 24, 2017, the Office of the Union provided detailed comments on the PVP part of the Law to Mr. Vilay Duangthongla Department of IP (DIP). On October 11, 2017, Mr. Duangthongla, transmitted the Draft Law of 2017 with an additional request for comments.

At the “Workshop on drafting legislation in accordance with the 1991 Act of the UPOV Convention” (Workshop on PVP Laws) which was held in Geneva, from December 18 and 19, 2017, consultations took place with the Director General Keobounphanh. The discussions were focused on the amendments to the Draft Law of 2017 to incorporate the essential provisions of the 1991 Act and corresponding comments were provided on December 18, 2017.

On February 16, 2018, Director General Keobounphanh informed the Office of the Union that the editorial comments sent on December 18, 2017, had been introduced in the Law but not the substantive comments. She explained that the substantive provisions of the Law were already approved by the National Assembly on December 15, 2017, and that, in the current procedure, only editorial corrections were accepted. The Office of the Union has been in contact with Director General Keobounphanh to obtain an English translation of the Law after its promulgation in order to identify which of the substantive comments in relation to the 1991 Act have not been incorporated in the Law.

At the fringes of a Workshop on Awareness of Protection of Plant Variety under the UPOV Convention, held on December 19 and 20, 2018, in Vientiane, Lao People's Democratic Republic, the Office of the Union participated in a consultation meeting with Ms. Saybandith Sayavongkhamdy, Director of Policy and International Affairs, Department of Intellectual Property (DIP), Ministry of Science and Technology and Ms. Sida Youtrichanthachack, Deputy Director General of DIP, in order to facilitate coordination in relation to legislative and UPOV membership matters.

On January 22, 2019, Director General Keobounphanh, requested observer status at the Council, Administrative and Legal Committee (CAJ), the Technical Committee (TC) and the Technical Working Parties (TWPs) and expressed the intention of the Lao People's Democratic Republic to become a UPOV member.

During a meeting in Geneva on October 3, 2019, with Director General Keobounphanh and Ms. Youtrichanthachack, the Office of the Union received a copy of the unofficial translation of the Intellectual Property Law of 2017 of the Lao People's Democratic Republic and Director General Keobounphanh expressed the intention of the Lao People's Democratic Republic to work with the Office of the Union on the amendments to the Law in order to become a member of the Union.

LIBYA

On February 27, 2006, the World Intellectual Property Organization (WIPO) requested, on behalf of the Government of Libya, the provision of comments on the Draft Law on the Protection of New Varieties of Plants. On July 20, 2006, the Office of the Union transmitted the comments on the Draft Law and noted that several provisions of the Draft Law did not appear to correspond to the relevant provisions of the 1991 Act of the UPOV Convention.

LIECHTENSTEIN

On March 2, 2016, in Geneva, the Office of the Union received the visit of His Excellency Mr. Peter Matt, Ambassador and Permanent Representative, and Mr. Pascal Schafhauser, Deputy Permanent Representative, Permanent Mission of Liechtenstein, to discuss the possible accession of Liechtenstein to the 1991 Act of the UPOV Convention. On September 13, 2016, H.E. Mr. Matt requested the assistance of the Office of the Union in developing legislation in accordance with the 1991 Act of the UPOV Convention based on document UPOV/INF/6 "Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention".

On June 22, 2017, in Geneva, the Office of the Union received the visit of Mr. Pascal Schafhauser, Minister Counsellor, Deputy Permanent Representative, Permanent Mission of Liechtenstein in Geneva, and discussed the provision of assistance in the legislative and accession procedures.

On July 7, 2017, the Office of the Union sent to Mr. Schafhauser proposed elements for a draft law in accordance with the 1991 Act, based on document UPOV/INF/6.

On December 1, 2017, Mr. Daniel Batliner, Diplomatic Officer, Division for Economic Affairs and Development of the Office for Foreign Affairs requested the Office of the Union for further explanations of the comments sent on July 7, 2017. The Office of the Union provided explanations on February 9, 2018, and organized a meeting on March 13, 2018, to provide further information to the Government of Liechtenstein on the legislative and accession procedures.

On September 3, 2018, the Office of the Union received further information from Mr. Batliner with regard to the current draft version of the Law on the Protection of Plant Varieties of Liechtenstein (Draft Law) and on the content of the draft Agreement between Liechtenstein and Switzerland on the Protection of Plant Varieties ("Draft Agreement").

On September 20, 2018, the Office of the Union held a meeting in Geneva with Mr. Batliner and Mr. Patrick Ritter, Minister Counsellor and Deputy Permanent Representative, Permanent Mission of Liechtenstein. On that occasion, discussions took place on the procedure to become an UPOV member, the Draft Law and the Draft Agreement.

On September 24, 2018, the Office of the Union sent comments to Mr. Batliner on the Draft Law and the Draft Agreement.

On February 5, 2019, in Geneva, the Office of the Union held a conference call with Mr. Kathrin Nescher-Stützel, Diplomatic Officer, Office for Foreign Affairs of Liechtenstein, to discuss the comments of the Office of the Union, on the Draft Law and the Draft Agreement provided on September 24, 2018, and to provide further information on the procedure to become a member of the Union.

On February 18, 2019, Ms. Nescher-Stützel provided the Office of the Union the Draft Law on the Protection of Plant Varieties of Liechtenstein together with a request for comments. The comments on the Draft Law of February 18, 2019, will be discussed with Ms. Alina Brunhart, Diplomatic Officer, Office for Foreign Affairs of Liechtenstein, during a meeting in Geneva to be held on October 22, 2019.

On October 22, 2019, in Geneva, the Office of the Union received the visit of Ms. Brunhart to discuss the comments of the Office of the Union on the Draft Law and the procedure to become a member of UPOV.

On April 21, 2020, Mr. Daniel Batliner requested assistance from the Office of the Union in relation to implementation matters concerning the Draft Law. The Office of the Union provided a reply on June 26, 2020. Ms. Esther Schindler, Head, Division for Bilateral Cooperation and Europe, explained that the reply by the Office of the Union would be provided to the concerned offices of Liechtenstein and Switzerland.

MALAWI

On January 17, 2020, Mr. Chikumbutso Namelo, Registrar General, in preparation of the participation of the Delegation of Malawi at the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop), planned to be held at UPOV Headquarters, in Geneva, Switzerland, from March 10 to 12, 2020, provided a copy of the "Plant Breeder's Rights Act No. 20 of 2018" (PBR Act) to the Office of the Union for comments in accordance with the 1991 Act of the UPOV Convention. Due to the COVID-19 pandemic, the Workshop was cancelled. The Office of the Union is currently preparing detailed comments on the PBR Act, in relation to the 1991 Act of the UPOV Convention.

MOZAMBIQUE

The Office of the Union was invited to give a presentation at the "National Seminar on the Role of the International Patent System and the Patent Cooperation Treaty (PCT) in Research" organized by the World Intellectual Property Organization (WIPO) in collaboration with the Industrial Property Institute (IPI) of Mozambique, which will take place in Maputo, from October 22 to 24, 2012. At the fringes of the National Seminar, the local organizers requested the Office of the Union to meet with a group, comprising representatives from IPI, Ministry of Agriculture, Ministry of Science and Technology, which is working on developing a framework for plant variety protection in Mozambique including eventual membership of UPOV.

NAMIBIA

At the fringes of the Regional Workshop on the ARIPO Draft Legal Framework for the Protection of New Varieties of Plants (ARIPO Workshop) and the Experts Meeting concerning the Recommendations of the Administrative Council on the ARIPO Legal Framework for the Protection of New Varieties of Plants (Experts Meeting), which were held in Lilongwe, Malawi from July 22 to 25, 2013, the Office of the Union received an electronic copy of the Bill of Namibia from Mr. Sheehamandje Ipinge, Director, Agricultural Research and Training, Ministry of Agriculture, Water and Forestry. The Office of the Union has offered its assistance in the development of the Bill for plant variety protection and noted that certain provisions of the Bill did not appear to correspond to the provisions of the 1991 Act of the UPOV Convention.

PAKISTAN

On December 14, 2009, the Office of the Union received the visit of Mr. Muhammad Ismail, Deputy Director, Intellectual Property Organisation of Pakistan and Mr. Saeed Iqbal, Seed Certification Officer, Senior Examiner (IPR), Federal Seed Certification & Registration Department, Pakistan. Discussions took place on the "Draft Plant Breeders Rights Bill of 2009" (Bill of 2009), in relation to the 1991 Act of UPOV Convention, and on the procedure to become a member of the Union. On that occasion, particular reference was made to those provisions of the Bill of 2009 that did not appear to correspond to the provisions of Article 5(2) and Article 18 of the 1991 Act of the UPOV Convention. On June 9, 2010, the Office of the Union received from the Director General of IPO-Pakistan, Mr. Syed Khalid Mehmood Bokhari, a copy of the "Draft Plant Breeders Rights Bill of 2010" (Bill of 2010). The Office of the Union had made an initial analysis of the Bill of 2010 and noted that the same provisions of the Bill of 2009 that did not appear to correspond to the provisions of Article 5(2) and Article 18 of the 1991 Act of the UPOV Convention were contained in the Bill of 2010.

On September 22, 2011, at UPOV/WIPO headquarters, the Office of the Union met with a delegation from the Intellectual Property Organization of Pakistan composed of Mr. Hameedullah Jan Afridi, Chairman, Mr. Sajjad Ahmad, Director General, and Mr. Meesaq Arif, Director, Admin/Human Resources. At the meeting it was reported that the Bill had been considered by the Provincial Departments and after consideration by the Ministry of Law would be submitted to the National Assembly. The Office of the Union explained the procedure to become a UPOV member on the basis of document UPOV/INF/13/1 "Guidance on how to become a member of UPOV" and suggested using, in the process of developing the Bill, document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention".

On June 5, 2012, Mr. Ahmad requested comments of the Office of the Union on the Plant Breeder's Rights Bill of 2010. On July 19, 2012, the Office of the Union informed Mr. Ahmad that, after an initial analysis of the Bill of 2010, certain provisions of the Bill, for instance the provisions dealing with access to genetic resources and benefit sharing, did not appear to relate to plant variety protection and, therefore, did not appear to correspond to the provisions of Article 5(2) and Article 18 of the 1991 Act of the UPOV Convention. Before proceeding with the incorporation of detailed comments in the Bill of 2010, the Office of the Union requested Mr. Ahmad's advice of the possibility to place the provisions of the Bill concerning access to genetic resources and benefit sharing, production, certification and marketing of material of varieties or the importing or exporting of such material in separate legislation or, a separate Chapter of the Bill.

On September 12, 2012, the Office of the Union met in Geneva with a Delegation from the Intellectual Property Organization of Pakistan and discussed the procedure for becoming a member of the Union and relevant matters on the development of legislation in accordance with the UPOV Convention.

On May 20, 2014, in Geneva, the Office of the Union received the visit of Mr. Aamir Hasan, new Director General, Intellectual Property Organization of Pakistan, to discuss the UPOV system of plant variety protection and the procedure to become a UPOV member.

During a bilateral meeting, at the fringes of the International Course on Plant Variety Protection, held on June 18, in Wageningen, Netherlands, the Office of the Union was informed by Ms. Zarina Iqbal, lawyer, Pakpat World Intellectual Property Protection Services, that the Plant Breeders' Act 2016 (the PBRA-2016) had been adopted and published in the Official Gazette on December 8, 2016.

SAUDI ARABIA

From July 10 to 12, 2010, in Riyadh, Saudi Arabia, the Office of the Union provided advice to the Government of Saudi Arabia for the development of legislation in accordance with the UPOV Convention in view of the country's wish to become a member of the Union. The consultations in Riyadh provided an opportunity to explain that the "Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties, and Industrial Designs of 2005" (Law of 2005) would need to be amended in order to incorporate the essential provisions of the 1991 Act of the UPOV Convention. Chapter Four of the Law of 2005 "Provisions Governing Protection of New Plant Varieties" contains only five articles with certain provisions that do not correspond to the 1991 Act of the UPOV Convention. In that context, the Office of the Union provided assistance in the drafting of a new piece of legislation based on document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention". During the consultations in Riyadh, the Office of the Union was informed that the implementation of the Law of 2005 and its future revision was under the responsibility of Dr. Khalid Al-Akeel, Director General, General Directorate of Industrial Property (GDIP).

On April 26, 2016, in Geneva, the Office of the Union received the visit of Mr. Ibrahim Al-Khamis, First Secretary, Permanent Mission of Saudi Arabia, to discuss the procedure to become a member of UPOV.

On September 29, 2016, Mr. Al-Khamis, requested, on behalf of the Government of Saudi Arabia, the possibility to organize a workshop in Riyadh in 2017 to provide information on the UPOV Convention and the procedure to become a UPOV member to the Ministry of Environment, Water and Agriculture, the Office of Plant Varieties and other stakeholders.

At the request of Mr. Alajlan, the Office of the Union planned the organization of a Workshop on the UPOV Convention and a legal consultation to provide assistance in amending the Law, to be held on November 18 and 19, 2017, in Riyadh. Mr. Alajlan requested the assistance of the Office of the Union in organizing the English translation of the Law. On October 17, 2017, the Office of the Union sent the English translation of the Law in preparation for the November events.

On October 19, 2017, Mr. Alajlan requested a postponement of the Workshop and legal consultation because the Saudi Patent Office (SPO) would no longer be part of KACST and would be part of the Saudi Intellectual Property Authority (SAIP). SAIP is expected to consolidate all IP entities in Saudi Arabia including the SPO.

On January 7, 2020, the Secretariat of the World Intellectual Property Organization (WIPO), informed the Office of the Union that Saudi Arabia was in the process of analyzing the UPOV Convention for a possible accession to the 1991 Act and requested the Office of the Union to provide a copy of the 1991 Act of the UPOV Convention in Arabic to Mr. Ahmed Almarshadi, Acting Executive Director for Strategic Partnership at the Saudi Authority for Intellectual Property (SAIP). On January 23, 2020, the Office of the Union provided to Mr. Almarshadi a copy of the 1991 Act of the UPOV Convention in Arabic with a copy in English of document UPOV/INF/13 "Guidance on how to become a member of UPOV" and document UPOV/INF/6 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention" in English and in Arabic in order to assist in the development of legislation in accordance with the 1991 Act.

SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

Member States of SADC (15): Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia, Zimbabwe

Since January 2006, the Office of the Union has, on various occasions, provided assistance to SADC with a view to developing a system of plant variety protection in accordance with the UPOV Convention for SADC and its member States. Comments on the "Draft Protocol for the Protection of New Varieties of Plants (Plant Breeders' Rights) in the Southern African Development Community (SADC) Region" (Draft Protocol) have been provided by the Office of the Union, most recently at the fringes of the "Regional Training Course on Plant Variety Protection under the UPOV Convention" which took place in Johannesburg, from July 9 to 11, 2008. On that occasion, the conclusion reflected in its Report provided that "[t]here was common agreement among the delegates of the SADC member states that the implementation of plant breeders' rights in the Region has very high priority. All measures possible must be taken to facilitate and finalize the SADC Regional PBR legislation as soon as possible."

Mr. Patrick Ngwediagi, Director General, Tanzania Official Seed Certification Institute (TOSCI), United Republic of Tanzania, informed the Office of the Union, on October 2, 2018, that the SADC Protocol had been adopted.

SUDAN

On October 22, 2003, the World Intellectual Property Organization (WIPO) requested, on behalf of the Government of Sudan, the provision of comments on the "Draft Law of 2003 on Seeds". On December 2, 2003, the Office of the Union sent its comments on the Draft Law and noted that several provisions of the 1991 Act of the UPOV Convention should be incorporated in the Draft Law.

On August 17, 2011, the Office of the Union was notified by Rabie Rizgalla, Seed Administration, Ministry of Agriculture, that the Law had been adopted. The Office of the Union has not received a copy of the Law.

THAILAND

On May 4, 2006 the Office of the Union provided comments on the "Plant Varieties Protection Act, B.E. 2542 (1999)" (Act of 1999), particular reference was made to those provisions of the Act of 1999 that did not appear to correspond to the provisions of Article 5(2) and Article 18 of the 1991 Act of the UPOV Convention. On November 11, 2009, at the fringes of the Asian Seed Congress 2009 which was held in Bangkok, the Office of the Union met with Thai officials to discuss the requirements for an effective system of plant variety protection in the context of a possible revision of the Act of 1999.

A proposal for amending the Act of 1999 was approved by the Cabinet in 2010 and submitted to the Council of State. A Committee was established to consider the proposal submitted to the Council of State and a recommendation was made in 2011 to separate matters from genetic resources from matters concerning plant variety protection. At the Workshop on PVP Laws, held in Geneva in November 2011, consultations took place with the Delegation of Thailand (Ms. Sopida Haemakom, Secretary of DOA, Ms. Chutima Ratanasatien, Senior Agricultural Scientist, and Mr. Pratchaya Wongsra, Legal Officer) on amendments to the Act of 1999.

On July 16 and 17, 2012, the Office of the Union held consultations in Bangkok with relevant officials of the Department of Agriculture and provided assistance in drafting relevant provisions for the revision of the Act of 1999.

On February 23 and 24, 2017, respectively, in Bangkok, Thailand, the Office of the Union made presentations at the "Seminar on the Benefits of the UPOV System of Plant Variety Protection for Farmers and Growers", and participated in a consultation meeting on plant variety protection matters.

On August 25, 2018, Ms. Saenudom, Director of the Plant Variety Protection Research Group, Plant Variety Protection Office, Department of Agriculture (DOA), informed the Office of the Union that the Draft Law on plant variety protection was under consideration by the DOA Legal Office.

On July 3, 2020, the Office of the Union received a letter from Ms. Auramon Supthaweethum, Director General, Department of Trade Negotiations, Ministry of Commerce, concerning the request from a Committee under the House of Representatives of Thailand to seek clarification in relation to the 1991 Act of the UPOV Convention. The Office of the Union provided a reply to the list of questions on July 15, 2020.

TONGA

On February 9, 2004, Mr. Penisimani L. Latu, Deputy Registrar, Ministry of Labour, Commerce and Industries, made a request addressed to WIPO, for assistance on the development of legislation on plant variety protection. On March 15, 2004, the Office of the Union replied by sending relevant documents and information to assist Tonga in its process of drafting of legislation.

TURKMENISTAN

Since May 2006, the Office of the Union has provided assistance to the Government of Turkmenistan in the development of legislation on plant variety protection. The most recent comments on the Draft Law of Turkmenistan on the Legal Protection of Selection Achievements were sent by the Office of the Union on February 13, 2009. Several essential provisions of the 1991 Act of the UPOV Convention have not been incorporated in the Draft Law or differ from the corresponding provisions of the UPOV Convention. The Office of the Union has recommended using, in the process of developing the Draft Law, document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention." Mr. Rustemmyrat Payzullaev, Head, Turkmen Patent Office, Ministry of Economy and Finance is responsible for the development of legislation on plant variety protection.

ZAMBIA

In March 2009, Mr. Francisco Miti, Chief Seeds Officer, Seed Control and Certification Institute, at the fringes of the Annual Congress of the African Seed Trade Association (AFSTA), in Cape Town, South Africa, transmitted a copy of the "Plant Breeder's Rights Act, 2007" (Act of 2007) to the Office of the Union with an informal request for comments. On June 8, 2010, the Office of the Union informed Mr. Miti that several essential provisions of the Act of 2007 did not appear to correspond to the relevant provisions of the 1991 Act of the UPOV Convention and recommended to use, in the process of amending the Act of 2007, document UPOV/INF/6/1 "Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention." On June 17 and 18, 2010, in Lusaka, the Office of the Union participated in a "Plant Breeder's Rights Workshop" and explained the comments of June 8, 2010.

At the fringes of the "Regional Workshop on the ARIPO Framework on Plant Variety Protection under the UPOV Convention", which was held from July 25 to 29, 2011, in Accra, Ghana, the Office of the Union held a consultation meeting with Mr. Edward D. Zulu, Chief Seeds Officer. At that meeting a discussion took place on the best approach to follow for the amendment of the Act of 2007 in order to incorporate the essential provisions of the 1991 Act of the UPOV Convention and how the Office the Union could assist in that process.

At the fringes of the Workshop "International Day of Rural Women – Investing in rural women to achieve sustainable food systems", held in Lusaka, Zambia, on October 15, 2013, the Office of the Union met with Mr. Bruce Chulu Simbunji, Principal Seeds Officer, Seed Control and Certification Institute (SCCI), Ministry of Agriculture and Livestock, to discuss the plans for amendment of the Act of 2007.

On September 28, 2017, Mr Miti requested the assistance of the Office of the Union in relation to the procedure for becoming a member of UPOV and requested the provision of comments on the Act of 2007 of Zambia in relation to the 1991 Act of the UPOV Convention. On October 2, 2017, the Office provided information on the requirements of the procedure to become a member of the UPOV.

From June 18 to 22, 2018, in Geneva, the Office of the Union hosted a "Forum on the role of UPOV in the development of Agriculture" (UPOV Forum). The UPOV Forum provided the opportunity to have a meeting with the representatives from Zambia, Mr. Nathan Phiri, Chief Seeds Officer, Seed Systems and Inspections, Seed Control and Certification Institute and Mr. Miti, in order to discuss relevant options of the 1991 Act and the preliminary comments prepared by the Office of the Union on the Act of 2007.

Reflecting the discussions in Geneva on June 2018, on August 8, 2018, the Office of the Union provided to Mr. Miti the comments of the Office of the Union on the Act of 2007 together with document UPOV/INF/13/2 "Guidance on how to become a member of UPOV".

On January 7, 2019, the Office of the Union received an updated version of the Draft Law, with a request for comments. From January 28 to 30, 2019, in Geneva, during bilateral meetings with the Delegation of Zambia held in conjunction with the "Workshop on drafting legislation in accordance with the UPOV Convention" (Workshop for Laws), the Office of the Union discussed relevant provisions of the 1991 Act with regard to the Draft Law of January 7, 2019.

On July 26, 2019, the Office of the Union provided Ms. Mudenda Mizinga Hampango-Sikwangala, Seed technologist, Plant Breeder Office, Seed Control and Certification Institute, with the conclusions reached during the bilateral meetings at the Workshop for Laws, on the Draft Law of January 7, 2019, and information on the procedure to become a member of the Union.

On January 17, 2020, Mr. Miti, in preparation of the participation of the Delegation of Zambia at the “Workshop on drafting legislation in accordance with the UPOV Convention” (Workshop), planned to be held at UPOV Headquarters, in Geneva, Switzerland, from March 10 to 12, 2020, informed the Office of the Union that the comments provided on July 26, 2019, were still under consideration in order to finalize amendments to the Draft Law on Plant Breeder’s Rights. Due to the COVID-19 pandemic, the Workshop was cancelled.

[End of Annex II and of document]