

Consultative Committee**CC/98/16****Ninety-Eighth Session
Geneva, October 28, 2021****Original:** English
Date: October 28, 2021**REPORT***adopted by the Consultative Committee**Disclaimer: this document does not represent UPOV policies or guidance*Opening of the session

1. The Consultative Committee held its ninety-eighth session via electronic means on October 28 and 29, 2021. The list of participants is reproduced in the Annex to this document.
2. The session was opened and chaired by Mr. Marien Valstar (Netherlands), President of the Council, who welcomed the participants and the Secretary-General, Mr. Daren Tang.
3. Mr. Daren Tang, Secretary-General, welcomed the participants to the second virtual meeting of the Consultative Committee and thanked the members of the Union for their cooperation and support in the approach taken for the UPOV sessions in 2021, namely virtual meetings combined with consideration of documents by correspondence.
4. The Vice Secretary-General reported that Ms. Nadia Gianoli had started working at UPOV under an agency contract, since September 1, 2021, to provide cover for the maternity leave of Ms. Urska Cerv.

Adoption of the agenda

5. The Consultative Committee adopted the revised draft agenda, as presented in document CC/98/1 Rev. 2 with the inclusion of document CC/98/15 Add. under item 9.

Outcome of the consideration of documents by correspondence

6. The Consultative Committee considered documents CC/98/15 and CC/98/15 Add..
7. The Consultative Committee noted the approval of the Consultative Committee by correspondence on September 21, 2021, of the decisions contained in the following documents (see document CC/98/15, paragraph 66):

Extension of the appointment of the Vice Secretary-General and procedure for the appointment of a new Vice Secretary-General (document CC/98/14)

Adoption of documents (document C/55/3 Rev.)

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| UPOV/INF/6: | Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision) (Annex to document C/55/3 Rev.) |
| UPOV/INF/16: | Exchangeable Software (Revision) (document UPOV/INF/16/10 Draft 2) |
| UPOV/INF/17: | Guidelines for DNA Profiling: Molecular Marker Selection and Database Construction ("BMT Guidelines") (Revision) (document UPOV/INF/17/2 Draft 6) |
| UPOV/INF/22: | Software and Equipment Used by Members of the Union (Revision) (document UPOV/INF/22/8 Draft 2) |
| UPOV/INF/23: | UPOV Code System (document UPOV/INF/23/1 Draft 3) |

- UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)
(document UPOV/INF-EXN/15 Draft 1)
- TGP/5: Experience and Cooperation in DUS Testing, Section 2: UPOV Model Form for
the Application for Plant Breeders' Rights (Revision)
(document TGP/5: Section 2/4 Draft 1)
- TGP/0: List of TGP documents and latest issue dates (Revision)
(document TGP/0/13 Draft 1)

UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention
(document C/55/11)

- UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention
(document UPOV/EXN/DEN/1 Draft 6)

Financial statements for 2020 (document C/55/5)

Draft Program and Budget for the 2022-2023 Biennium (document C/55/4)

Reporting on UPOV PRISMA financing (document CC/98/3)

Possible use of the Chinese language in UPOV (document CC/98/8)

Policy on translation (document CC/98/9)

8. The Consultative Committee noted the comments received in response to Circular E-21/124 of August 23, 2021, on the following documents that had not resulted in a revision of documents that were part of the procedure for approval by correspondence and were presented for information of the Consultative Committee (see document CC/98/15, paragraph 67):

Draft Program and Budget for the 2022-2023 Biennium (document C/55/4)

Reporting on UPOV PRISMA financing (document CC/98/3)

Possible use of the Chinese language in UPOV (document CC/98/8)

9. The Consultative Committee noted that the responses received to Circular E-21/124 of August 23, 2021, also included comments on documents C/55/6 "Report of the External Auditor" and CC/98/5 "Communication strategy", which were not part of the procedure for approval by correspondence, and would be considered at the session of the Consultative Committee, under the relevant agenda items.

10. The Consultative Committee noted that the comments received concerning documents C/55/6 "Report of the External Auditor" and CC/98/5 "Communication strategy" were presented in document CC/98/15 for information of the Consultative Committee (see document CC/98/15, paragraph 68).

11. The Consultative Committee noted that document CC/98/15 Add. "Addendum to Outcome of the consideration of documents by correspondence" would be considered under agenda item 9 "Report of the External Auditor".

Extension of the appointment of the Vice Secretary-General and procedure for the appointment of a new Vice Secretary-General

12. The Consultative Committee noted that document CC/98/14 had been considered by correspondence.

13. The Consultative Committee noted that the decision in document CC/98/14 had been taken by the Consultative Committee, as provided in document CC/98/15, paragraph 66.

14. The Consultative Committee noted the report from the Office of the Union that the Council, in the procedure by correspondence, had extended, on September 21, 2021, the appointment of the Vice Secretary-General from December 1, 2022, until October 22, 2023, and had approved the procedure and timetable for the appointment of the new Vice Secretary-General (see document C/55/12 "Outcome of consideration of documents by correspondence", paragraphs 14, 15 and 32).

15. In accordance with the approved procedure and timetable for the appointment of the new Vice Secretary-General, the Consultative Committee agreed that:

- (a) a circular with proposals for the composition of the *Ad hoc* Sub-Committee would be issued in early 2022 for approval sufficiently in advance of the ninety-ninth session of the Consultative Committee; and
- (b) the first meeting of the *Ad hoc* Sub-Committee would be held immediately before the ninety-ninth session of the Consultative Committee, to be held on October 27, 2022, to make recommendations on the applications received for the post of Vice Secretary-General and the topic for a presentation to be made by the candidates selected for interview.

Preliminary examination of the conformity of the New Plant Varieties (Rights of Breeders) Bill, 2021, of Jamaica with the 1991 Act of the UPOV Convention

16. The Consultative Committee considered document C/55/15.

17. The Delegation of Jamaica thanked the Consultative Committee for the preliminary examination of the New Plant Varieties (Rights of Breeders) Bill, 2021, of Jamaica.

18. The Consultative Committee recommended to the Council to:

- (a) note the analysis in document C/55/15;
- (b) take a positive decision on the conformity of the New Plant Varieties (Rights of Breeders) Bill, 2021, of Jamaica ("Draft Law") with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Jamaica 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 Jamaica of the above decision.

Documents proposed for adoption by the Council

19. The Consultative Committee noted that documents C/55/3 Rev. and C/55/11 had been considered by correspondence.

20. The Consultative Committee noted that the decisions in documents C/55/3 Rev. and C/55/11 had been taken and the following documents had been approved by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

Information Materials

Document UPOV/INF/6:	Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision) (Annex to document C/55/3 Rev.)
Document UPOV/INF/16:	Exchangeable Software (Revision) (document UPOV/INF/16/10 Draft 2)
Document UPOV/INF/17:	Guidelines for DNA Profiling: Molecular Marker Selection and Database Construction ("BMT Guidelines") (Revision) (document UPOV/INF/17/2 Draft 6)
Document UPOV/INF/22:	Software and Equipment Used by Members of the Union (Revision) (document UPOV/INF/22/8 Draft 2)
Document UPOV/INF/23:	UPOV Code System (document UPOV/INF/23/1 Draft 3)
Document UPOV/INF-EXN:	List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/15 Draft 1)

Explanatory Notes

Document UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention (document UPOV/EXN/DEN/1 Draft 6)

TGP Documents

Document TGP/5: Experience and Cooperation in DUS Testing, Section 2: UPOV Model Form for the Application for Plant Breeders' Rights (Revision)
(document TGP/5: Section 2/4 Draft 1)

Document TGP/0: List of TGP documents and latest issue dates (Revision)
(document TGP/0/13 Draft 1)

21. The Consultative Committee noted the report from the Office of the Union that the information materials, explanatory notes and TGP documents above had been adopted by the Council on September 21, 2021, in the procedure by correspondence (see document C/55/12 "Outcome of consideration of documents by correspondence", paragraph 32).

Financial statements for 2020

22. The Consultative Committee noted that document C/55/5 had been considered by correspondence.

23. The Consultative Committee noted that the decision in document C/55/5 had been taken by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

24. The Consultative Committee noted the report from the Office of the Union that the decision in document C/55/5 had been adopted by the Council on September 21, 2021, in the procedure by correspondence (see document C/55/12 "Outcome of consideration of documents by correspondence", paragraph 66).

Performance Report for 2020

25. The Consultative Committee considered document C/55/2.

26. The Consultative Committee noted the UPOV Performance Report 2020.

Report of the External Auditor

27. The Consultative Committee considered documents C/55/6, CC/98/15 and CC/98/15 Add. and noted the information contained in the Report of the External Auditor.

28. The Consultative Committee noted the responses received to Circular E-21/124 of August 23, 2021, included comments on document C/55/6 "Report of the External Auditor", which was not part of the procedure for approval by correspondence. The Consultative Committee noted that the comments and the reply provided by the Office of the Union were presented in paragraphs 42 and 43 of document CC/98/15 for information of the Consultative Committee (see paragraph 68 of document CC/98/15), as reproduced below:

"Comments from the European Union

'The EU and its Member States take note of the report of the External Auditor and ask the UPOV Office to follow the two recommendations as regards to after-service health insurance and consultation of staff in relation to costs and benefits of alignment with WIPO Staff Regulations and Rules UN common system.'

“Comments from Switzerland

'We have the following comments on the External Auditor's report (document C/55/6):

“Under point 5, it is mentioned that the employee benefits liability for health insurance has increased by CHF 1 million to a total of CHF 3 million. The amount seems to us to be exorbitant given the size of the Organization. We would like to request more detailed information on the subject. In particular, we would like to know whether the adjustment was a one-off or rather that such increases are likely to be a regular occurrence in the coming years.

'The financial situation of UPOV could take a significant turn for the worse in the absence of measures to make savings or increase the employees' share of the cost of the insurance. Recommendations to that effect have been made in the Report. However, in our view, concrete solutions for implementation are lacking.'

“43. The Office of the Union invited the European Union and Switzerland to make its comments at the Consultative Committee session and explained that the Controller would make an intervention on this point at the session.”

29. The Consultative Committee noted the information provided by the Controller in relation to agenda item 9 “Report of the External Auditor (document C/55/6)” (see paragraph 10 of document CC/98/15 Add.) and decided to include an item “Financing of long-term employee benefits” in the agenda for its ninety-ninth session, to provide a report on the WIPO Asset and Liability Management Study (ALM study) and other developments across the UN system with regard to measures to mitigate the growth in the after-service health insurance (ASHI) liability.

Arrears in contributions as of September 30, 2021

30. The Consultative Committee considered document C/55/9.

31. The Consultative Committee noted the status of payment of contributions as of September 30, 2021, and noted that due to recent payments, Albania, Jordan, Trinidad and Tobago and Uruguay had no arrears.

Strategic Business Plan

32. The Consultative Committee considered document CC/98/2.

33. The Consultative Committee noted that a draft Strategic Business Plan 2023-2027 would be developed for consideration by the Consultative Committee at its ninety-ninth session, to be held on October 27, 2022, as set out in paragraph 6 of document CC/98/2.

34. The Consultative Committee agreed that the draft Strategic Business Plan 2023-2027, as approved by the Consultative Committee, be proposed for adoption by the Council at its fifty-sixth session, to be held on October 28, 2022.

Draft Program and Budget for the 2022-2023 Biennium

35. The Consultative Committee noted that the decisions in document C/55/4 had been taken by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

36. The Consultative Committee noted the comments on document C/55/4 “Draft Program and Budget for the 2022-2023 Biennium”, received in response to Circular E-21/124 of August 23, 2021, that had not resulted in a revision of document C/55/4. The Consultative Committee noted that the comments and the reply provided by the Office of the Union were presented in paragraphs 46 and 47 of document CC/98/15 for the information of the Consultative Committee (see paragraph 67 of document CC/98/15), as reproduced below:

“Comments from the European Union

“46. In reply to Circular E-21/124 of August 23, 2021, the following comments on document C/55/4 were received from the European Union:

‘The EU and its Member States can consider to approve the Draft Program and Budget of the Union for the 2022-2023 Biennium with following comments:

‘We note the intention to develop new IT tools to support a better and more efficient implementation of the UPOV system.

‘We would like to ask UPOV to clarify the input and resources they need, also from its members. Working groups may need to be organised and more information about the timing would be welcome.’

‘Concerning communication and in particular awareness raising we suggest, as under agenda point 16 on the Communication Strategy, that the UPOV Office will support the OECD Seed Schemes Secretariat on a proposal on International Year of Seed in the next meeting of the World Seed Partnership. This would allow and give space to a communication exercise in various forms, and to raising awareness of the UPOV system and importance of plant breeding.

‘For the communication on the benefits of the UPOV system it would be highly important to have factual, preferably quantitative data. An update of the earlier impact assessment and cooperation with the members of the Union on impact assessments should be pursued. In particular, it would be beneficial to gather data in relation to plant breeding and impacts on the UN Sustainable Development Goals’

“47. The Office of the Union provided the following explanations to the European Union:

‘The resources that would be needed from the regular UPOV budget are included in the Draft Program and Budget of the Union for the 2022-2023 Biennium.

‘The e-PVP modules (see document C/55/INF/2 Developments in UPOV and accompanying video https://www.upov.int/meetings/en/details.jsp?meeting_id=60600) are already well advanced as part of the e-PVP Asia project, with relevant parts of the costs having been covered by the Japan FIT. E-PVP Asia, which is built on the e-PVP modules, will be finalized in early 2022. The modules have been developed in consultation with PVP offices, including CPVO, via an experienced ICS contract coordinator (Kees van Ettehoven). UPOV members will be able to use the e-PVP modules with minimal cost (e.g. for maintenance and cloud hosting costs). However, if a UPOV member wishes to customize the e-PVP modules, for example because they wish to have a more complex workflow and/or do not use the UPOV model application form and standard UPOV Test Guidelines Technical Questionnaires, the UPOV member would need to cover the costs involved. In the case of EAPVP Forum countries that are UPOV members, the Japan FIT may cover certain of these costs in relation to the e-PVP Asia project. In the case of other UPOV members, other sources of support might be available, for example, via EU funded programs implemented by the EUIPO.

‘UPOV is already in discussion with some UPOV members that have expressed an interest to use the e-PVP modules.

‘The proposal of the European Union to gather data in relation to plant breeding and impacts on the UN Sustainable Development Goals could be raised for consideration at the Consultative Committee session.

‘The proposal of the European Union for UPOV to support the OECD Seed Schemes proposal on International Year of Seed in the next meeting of the World Seed Partnership could be raised by the European Union at the Consultative Committee session with a view to obtaining approval by the Council.’”

UPOV Accountability Framework

37. The Consultative Committee considered document CC/98/13 and noted the information contained in the UPOV Accountability Framework.

Long-term Financial Issues of UPOV

38. The Consultative Committee considered document CC/98/4.

39. The Consultative Committee noted developments and measures that had been taken within UPOV since 2006, concerning the issues on which the Consultative Group had prepared recommendations that were

accepted by the Consultative Committee and other relevant developments on matters considered by the Consultative Group.

40. The Consultative Committee noted that measures to address the long-term financial issues of UPOV were systematically addressed in the Strategic Business Plan and the Program and Budget.

41. The Consultative Committee noted that opportunities for individual members of the Union to improve the financial situation of UPOV included, as appropriate:

- (i) joining UPOV PRISMA and:
 - offering coverage for all crops and species for which protection is available;
 - requiring all applications to be made via UPOV PRISMA;
 - providing a discounted application fee for applicants applying via UPOV PRISMA.
- (ii) increasing their number of contribution units;
- (iii) establishment of Funds-in-Trust;
- (iv) making professional personnel available to the Office of the Union at no, or minimal, cost.

Reporting on UPOV PRISMA financing

42. The Consultative Committee noted that the decisions in document CC/98/3 had been taken by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

43. The Consultative Committee noted the comments on document CC/98/3 "Reporting on UPOV PRISMA financing", received in response to Circular E-21/124 of August 23, 2021, that had not resulted in a revision of document CC/98/3. The Consultative Committee noted that the comments and the reply provided by the Office of the Union were presented in paragraphs 50 and 51 of document CC/98/15 for the information of the Consultative Committee (see paragraph 67 of document CC/98/15), as reproduced below:

"Comments from the European Union"

"50. In reply to Circular E-21/124 of August 23, 2021, the following comments on document CC/98/3 were received from the European Union:

'The EU and its Member States can consider the proposals to address the recommendations in the External Auditor's Report on the 2019 UPOV Financial Statements:

- '(a) latest costs and revenues relating to UPOV PRISMA;
- '(b) funding sources other than the regular budget;
- '(c) latest and projected coverage of UPOV PRISMA (capacity);
- '(d) projected costs and revenues of UPOV PRISMA;
- '(e) anticipated funding sources other than the regular budget;
- '(f) incentives by members of the Union for the use of UPOV PRISMA; and
- '(g) a proposal for the UPOV PRISMA fee.

'We recognise all the benefits of UPOV PRISMA, however, we would like to seek clarification on the following points:

'Is the long-term prediction on the use of UPOV PRISMA presented in para 47 realistic?

'We note that a fee of 90 CHF was introduced in the beginning of 2020. How many applications were received and how many participating offices were there in 2020 and what is the crop coverage at the moment?

'We note that between the EU/CPVO and UPOV PRISMA technicalities still need to be solved to allow full participation.

'As regards the timing of the introduction of fees it should be made sure that the system works well and that applicants can make applications without being faced with technical problems. The CPVO is working with UPOV on improving some fundamental issues this year but the system needs to be improved in the years to come. The main challenge is that the CPVO has more than 200 different TQs, and CPVO needs to configure the transmission of data accordingly. This should be achieved by 2022-2023.

'Therefore, the EU and its Member States can agree to prolong the lower fee of 90 CHF per application until the end of 2023.'

"51. The Office of the Union provided the following explanations to the European Union:

'Document C/55/INF/2 "Report by the Vice Secretary-General on developments in UPOV" and accompanying video (see: https://www.upov.int/meetings/en/details.jsp?meeting_id=60600) provides an update on the number of applications via UPOV PRISMA in 2021 and the background to those developments. Since the recording of the video, the number of applications in UPOV PRISMA in 2021 has exceeded 1,800. The report that will be presented to the Consultative Committee in 2022 is intended to provide the necessary data to enable the Consultative Committee to make appropriate recommendations on UPOV PRISMA funding.

'The Office of the Union welcomes the commitment by the CPVO to enable applicants to use UPOV PRISMA to make applications to the CPVO for all genera and species in the next Biennium. The project between CPVO and UPOV is also intended to ensure that applicants will be able to re-use the data from the CPVO online application system when making PBR applications in other UPOV members via UPOV PRISMA. Those developments will greatly enhance the value of the tool for breeders.'

Communication strategy

44. The Consultative Committee considered document CC/98/5.

45. The Consultative Committee noted the developments reported in document CC/98/5.

46. The Consultative Committee agreed that the Office of the Union would send a circular to the Consultative Committee with the preliminary draft FAQ on CBD, ITPGRFA and UPOV, as presented in Annex I to document CC/98/5, and the preliminary draft FAQ with the proposed revisions presented by Norway, for comments within 30 days. It further agreed that, based on the replies to the Circular and subsequent consultations, as appropriate, the Office of the Union would prepare a new draft for consideration by the Consultative Committee by correspondence.

47. The Consultative Committee noted that the launch of the new website was planned for November 1, 2022.

48. The Consultative Committee noted that results related to the Communication Strategy, were presented in the Performance Report for 2020 (document C/55/2).

49. The Consultative Committee noted that the responses received to Circular E-21/124 of August 23, 2021, included comments on document CC/98/5 "Communication strategy", which was not part of the procedure for approval by correspondence. The Consultative Committee noted that the comments and the reply provided by the Office of the Union were presented in paragraphs 52 and 53 of document CC/98/15 for information of the Consultative Committee (see paragraph 68 of document CC/98/15), as reproduced below:

"Comments from the European Union

'The EU and its Member States wish to point out that in the last Annual Meeting of the OECD Seed Schemes it was decided that the Secretariat will propose an International Year of Seed at its next meeting with the World Seed Partnership. We ask that the Consultative Committee will endorse that the UPOV office will support the proposal on an International Year of Seed. This would give space to a unique communication exercise in various forms and allowing to highlight and raise awareness of the UPOV system and plant breeding in more general.'

"53. The Office of the Union explained that the proposal of the European Union for UPOV to support the OECD Seed Schemes proposal on an International Year of Seed in the next meeting of the World Seed Partnership could be raised by the European Union at the Consultative Committee session with a view to obtaining approval by the Council."

50. The Consultative Committee recommended to the Council to support the proposal of the OECD Seed Schemes for an International Year of Seed.

Training and assistance strategy

51. The Consultative Committee considered documents CC/98/6 and CC/98/6 Add..

52. The Consultative Committee noted the developments reported in paragraphs 8 to 11 of document CC/98/6.

53. The Consultative Committee noted that the Addendum to document CC/98/6 (document CC/98/6 Add.) provided information on the training and assistance activities held by virtual means from October 2020 to September 2021.

54. The Consultative Committee agreed that the updating of distance learning materials to include information on the benefits of UPOV membership be done together with recent developments in PLUTO.

55. The Consultative Committee approved the proposals for the development of an international program on plant variety protection with the aim to obtain an International Certificate on Plant Variety Protection recognized by UPOV, as set out in paragraph 13 of document CC/98/6.

Program for the use of the Russian language in UPOV

56. The Consultative Committee considered document CC/98/7.

57. The Consultative Committee noted the developments reported in document CC/98/7.

Possible use of the Chinese language in UPOV

58. The Consultative Committee noted that the decisions in document CC/98/8 had been taken by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

59. The Consultative Committee noted the comments on document CC/98/8 "Possible use of the Chinese language in UPOV", received in response to Circular E-21/124 of August 23, 2021, that had not resulted in a revision of document CC/98/8. The Consultative Committee noted that the comments and the reply provided by the Office of the Union were presented in paragraphs 57 and 58 of document CC/98/15 for information of the Consultative Committee (see paragraph 67 of document CC/98/15), as reproduced below:

"Comments from the European Union

"57. In reply to Circular E-21/124 of August 23, 2021, the following comments on document CC/98/8 were received from the European Union:

'The EU and its Member States welcome that the contribution of China has been raised to 2 units which should cover the interpretation costs, a Chinese-speaking professional will be provided with no cost, translation would be funded or provided by China and a training centre would be developed and funded by China. It is noted that income from PRISMA would be critical for sustainable resourcing of this program requiring full participation of China in UPOV PRISMA. We wish to enquire if the latter is the case now or in foreseeable future?

'The EU and its Member States can

'(a) approve the proposed program for use of the Chinese language in UPOV and proposed resourcing and

'(b) note that this proposed program should not be considered to be applicable to other additional languages without a separate analysis.

'The EU and its Member States wish to highlight that the introduction of any new language should be studied case by case to ensure that it covers costs for all activities foreseen, and in particular subject to available resources, before the UPOV can consider any additional language. We are concerned that expanding the language regime could become unmanageable for such a relatively small

organisation like UPOV. A prudent approach is also needed against the background of the current global economic uncertainty.’

“58. The Office of the Union provided the following explanations to the European Union:

‘It is a matter for China to comment on its intention with regard to participation in UPOV PRISMA.

‘Document CC/98/8, paragraph 7 provides that:

‘7. The proposed program below is based on circumstances related to the use of Chinese language, which includes in particular that Chinese is a working language of the World Intellectual Property Organization (WIPO). Furthermore, it is based on the existing language capacity of WIPO facilities. Therefore, this proposed program should not be considered to be applicable to other additional languages without a separate analysis.’”

60. In reply to the question by the Delegation of the European Union on the intention of China with regard to its participation in UPOV PRISMA, the Delegation of China explained that it would provide the information to the Delegation of the European Union after consultation with the relevant authorities in China.

61. The Consultative Committee agreed to retain items on the agenda of the Consultative Committee on the programs in UPOV for the Russian and Chinese languages to analyze the impact on resources and benefits of the programs and report in 2023.

Policy on translation

62. The Consultative Committee noted that document CC/98/9 had been considered by correspondence.

63. The Consultative Committee noted that the decisions in document CC/98/9 had been taken by the Consultative Committee by correspondence, as provided in document CC/98/15, paragraph 66.

New developments in members of the Union

64. The Consultative Committee considered document CC/98/10 and CC/98/10 Add..

65. The Consultative Committee agreed to invite members of the Union to present new developments at the ninety-ninth session of the Consultative Committee, as set out in paragraphs 15 and 16 of document CC/98/10.

66. The Consultative Committee noted the report on the seminar and the concluding remarks by Mr. Marien Valstar, President of the Council, reported in the addendum to document CC/98/10 (document CC/98/10 Add.).

67. The Consultative Committee noted that the proceedings and video recording of the seminar on strategies that address policies involving plant breeding and plant variety protection would be published on the UPOV website.

68. The Consultative Committee agreed to propose to the Council the organization of a seminar in 2022 to explore the role of plant breeding and plant variety protection in enabling agriculture to adapt to, and mitigate, climate change.

69. The Consultative Committee noted that the Office of the Union would send a circular inviting members of the Union and observers to the Council to propose possible topics and speakers for the Seminar.

70. The Consultative Committee noted that the information presented at the Seminar might provide useful information on the impact of the UPOV system.

Possible guidance concerning smallholder farmers in relation to private and non-commercial use

71. The Consultative Committee considered documents CC/98/11 and CC/98/15.

72. The Consultative Committee noted the comments from the European Union on document CC/98/11 “Possible guidance concerning smallholder farmers in relation to private and non-commercial use”, received in response to Circular E-21/124 of August 23, 2021, that were not of a straightforward nature (see paragraphs 64 and 65 of document CC/98/15). The Consultative Committee noted the explanation that had been provided by the Office of the Union that the proposals in paragraph 13 of document CC/98/11 would be considered by the Consultative Committee at its virtual session on October 28, 2021, in conjunction with the comments from the European Union.

73. The Consultative Committee:

(a) noted the developments since the ninety-seventh session of the Consultative Committee on possible guidance concerning smallholder farmers in relation to private and non-commercial use, reported in document CC/98/11;

(b) decided to establish a Working Group to develop guidance concerning smallholder farmers in relation to private and non-commercial use, to include drafting a revision of the “Explanatory Notes on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention” and drafting a revision of the FAQs on exceptions to the breeder's right;

(c) agreed that the terms of reference of the Working Group be approved by the Consultative Committee by correspondence;

(d) agreed that the Working Group be composed of those members of the Union and observers to the Council that reply to a Circular expressing an interest to be part to the Working Group;

(e) agreed that the first meeting of the Working Group be held on March 17, 2022, by electronic means;

(f) agreed to invite the Project Team (Euroseeds, Plantum and Oxfam), in conjunction with the Office of the Union, to prepare an analysis of the contributions in the compendium with the replies to UPOV Circular E20/246 (see Annex I of document CC/98/11) and present a report with recommendations for consideration by the Working Group at its first meeting;

(g) agreed that a copy of the compendium with the replies to UPOV Circular E 20/246 (see Annex I of document CC/98/11) be provided to the Project Team and the Working Group subject to the agreement of the observer State and observer organizations that contributed to the compendium;

(h) recommended to the Council to agree to the inclusion of an item “Revision of the ‘Explanatory Notes on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention’”, in the agenda of the seventy-ninth session of the CAJ to be held on October 26, 2022; and

(i) agreed to include an item in the agenda of the ninety-ninth session of the Consultative Committee, to be held on October 27, 2022, for a report on the work of the Working Group and recommendations, if appropriate.

Developments of relevance to UPOV in other international fora

74. The Consultative Committee noted the developments reported in document CC/98/12.

75. The Delegation of Norway recalled that the Consultative Committee, at its ninety-seventh session, had noted that the Delegation of Norway would propose that the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) contact the Office of the Union to explore the possibilities for free access to and use of the information in the PLUTO database, including downloading information, for example by linking PLUTO to GLIS and requested an update on that matter. The Vice Secretary-General reported that he had met virtually with Mr. Kent Nnadozie, Secretary of the ITPGRFA, on November 25, 2020, to discuss that matter. He reported that he had provided information on the PLUTO database and had explained that UPOV would be willing to discuss options according to the interest of the ITPGRFA.

76. The Consultative Committee noted the developments concerning the World Seed Partnership. The Consultative Committee did not agree for the World Seed Partnership to explore possible synergies with FAO.

Matters for information:

77. The Consultative Committee noted the following documents under item 24 "Matters for information":

- (a) Internal oversight and the WIPO Independent Advisory Oversight Committee (IAOC) (document CC/98/INF/2)
- (b) Observers in UPOV bodies (document CC/98/INF/3)
- (c) 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 CC/98/INF/4)
- (d) UPOV PRISMA (document CC/98/INF/5)

Draft press release

78. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in the Annex to document C/55/14.

Program for the ninety-ninth session

79. The Consultative Committee agreed that the following changes be presented for the approval of the Council and a revised version of document C/55/8 be prepared:

Administrative and Legal Committee

CAJ/79 October 26

Working group on harvested material and unauthorized use of propagating material (WG-HRV)

WG-HRV/1 ~~(date to be decided)~~ March 15, 2022

Working group on guidance concerning smallholder farmers in relation to private and non-commercial use

WG-SHF/1 March 17, 2022

Consultative Committee

CC/99 October 27

Ad hoc Sub-Committee of the Consultative Committee (date to be decided)

Seminar to explore the role of plant breeding and plant variety protection in enabling agriculture to adapt to, and mitigate, climate change (date to be decided)

80. The following program was agreed for the ninety-ninth session of the Consultative Committee:

1. Opening of the session
2. Adoption of the agenda
3. Preliminary examination of the conformity of the legislation or proposed legislation of any State or organization having submitted a request under Article 34(3) of the 1991 Act of the UPOV Convention

4. Procedure for the appointment of a new Vice Secretary-General
5. Documents proposed for adoption by the Council
6. Financial statements for 2021
7. Performance Report for 2021
8. Report of the External Auditor
9. Arrears in contributions as of September 30, 2022
10. Strategic Business Plan
11. UPOV PRISMA financing
12. Financing of long-term employee benefits
13. Communication strategy
14. Training and assistance strategy
15. Program for the use of the Russian language in UPOV
16. Program for the use of the Chinese language in UPOV
17. New developments in members of the Union
18. Possible guidance concerning smallholder farmers in relation to private and non-commercial use
19. Developments of relevance to UPOV in other international fora
20. Matters for information*:
 - (a) Internal oversight and the WIPO Independent Advisory Oversight Committee (IAOC)
 - (b) Observers in UPOV bodies
 - (c) Situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention or which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention
21. Draft press release
22. Program for the hundredth session
23. Adoption of the report on the conclusions (if time permits)
24. Closing of the session

81. This report was adopted by the Consultative Committee at the close of its session, on October 29, 2021.

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres /
in the alphabetical order of the French names of the Members /
in alphabetischer Reihenfolge der französischen Namen der Mitglieder /
por orden alfabético de los nombres en francés de los miembros)

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