

Consultative Committee

CC/94/13

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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

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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.

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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 identifies new developments.** 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 (16)

Armenia, Brunei Darussalam (new), Egypt, Ghana, Guatemala, Honduras, India, Iran (Islamic Republic of), Kazakhstan, Malaysia, Mauritius, Myanmar (new), Philippines, Tajikistan, 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, Swaziland, 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/13/1 "Guidance on how to become a member of UPOV".

Summary table

State/Organization	Date of latest Council decision	Legislation	Decision	Developments in status of the legislation that was the basis for the Council decision
ARIPO	April 11, 2014	Draft Protocol	Positive	No longer relevant
Armenia	April 2, 2004	Law	Positive	No longer relevant
Egypt	March 27, 2015	Draft Law	Positive	
Ghana	October 24, 2013	Draft Law	Positive	
Guatemala	October 22, 2009	Draft Law	Positive	No longer relevant
Honduras	April 7, 2000	Draft Law	Positive	
India	April 11, 2008	Law		
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
Philippines	March 30, 2007	Law		
Tajikistan	October 21, 2010	Draft Law	Positive	
Venezuela (Bolivarian Republic of)	April 3, 1998	Decision Draft Regulations	Positive	
Zimbabwe	April 11, 2008	Law	Positive	No longer relevant

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 identifies new developments.**

States (25):

Algeria, Bahrain, Barbados, Cambodia, Cuba, Cyprus, El Salvador, Indonesia, Iraq, Jamaica, Lao People's Democratic Republic, Libya, Liechtenstein, Mozambique, Namibia, Nigeria (new), Pakistan, Saudi Arabia, Sudan, Thailand, Tonga, Turkmenistan, United Arab Emirates 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, Swaziland, 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**

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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, Swaziland, 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>Definition deleted</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>New definition</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 CONDITIONS FOR GRANT OF BREEDER'S RIGHT	CHAPTER III CONDITIONS FOR GRANTING OF BREEDER'S' RIGHT
Article 7 Novelty (3)	Article 7 Novelty (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.	Article 7 Novelty (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 (2)	Article 11 Persons Entitled to Apply for Protection (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.	Article 11 Persons Entitled to Apply for Protection (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 (1)	Article 18 Examination for Distinctness, Uniformity and Stability (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.	Article 18 Examination for Distinctness, Uniformity and Stability (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 (2) (6)(a)	Article 19 Granting and Rejection of a Breeder's Right (2) The ARIPO Office shall in respect of each breeder's right granted– [...] (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 [...]	Article 19 Granting and Rejection of a Breeder's Right (2) Subject to Article 4(1), the ARIPO Office shall in respect of each breeder's right granted: [...] (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 Draft Regulations are to be considered by the ARIPO Administrative Council at its Forty-first Session, which will be held in Lilongwe, Malawi from November 20 to 22, 2017.

ARMENIA

Council decision of 2004

April 2, 2004 (document C(Extr.)/21/5)

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 Hovhannisyan, 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. Yusof Khan, 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. Shahrinah Yusof Khan, Deputy Registrar, Brunei Darussalam Intellectual Property Office (BruIPO), requested the examination of the Plant Varieties Protection Order of April 13, 2015, as amended on January 30, 2016 (hereinafter referred to as the "Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act") (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").

EGYPT

Council decision of 1999

October 20, 1999 (document C/33/18)

The Council decided to:

- (a) advise the Government of Egypt that the Draft Ministerial Decree on the Protection of Plant Varieties (Draft Decree) when supplemented by provisions designed to satisfy the matters referred to in paragraphs 12 and 22 of document C/33/16 provides a basis for a law conforming with the 1991 Act;
- (b) request the Office of the Union to offer its assistance to the Government of Egypt in respect of the minor additional provisions that are necessary to achieve conformity;
- (c) further advise the Government of Egypt that after the making of a Decree based upon the Draft Decree and incorporating the suggestions set out in paragraphs 12 and 22 of document C/33/16, it may deposit an instrument of accession to the 1991 Act.

Comments

The Office of the Union has been notified of the adoption of Law No. 82 of 2002 on the Protection of Intellectual Property Rights (Law of 2002), which contains Book IV "Plant Varieties". Therefore, the Draft Decree submitted to the Council in 1999 is no longer relevant.

The Law of 2002, or any possible amendments to it, will need to be submitted to the Council for examination. On April 25, 2005, the Government of Egypt was notified accordingly.

The Office of the Union has been informed by the Government of Egypt that amendments to the Law on the Protection of Intellectual Property Rights are under consideration and a draft revised Book IV has been prepared for that purpose.

Following the establishment of a Committee responsible for finalizing the amendments to Book IV, a consultation between the Committee and the Office of the Union on proposed changes to the draft revised Book IV took place from March 8 to 10, 2009, in Cairo. On March 16, 2009, a version of draft revised Book IV, incorporating the changes agreed during the Consultation, was sent by the Office of the Union to Mr. Saad Nassar, Advisor to the Minister for Agriculture and Land Reclamation.

On December 29, 2009, Mr. Salah Moawed, Under-Secretary of the Ministry of Agriculture, Head, Central Administration for Seed Testing and Certification (CASC), Ministry of Agriculture and Land Reclamation, requested comments on the version of the draft revised Book IV of December 21, 2009.

On January 15, 2010, the Office of the Union provided comments on the draft revised Book IV. The Office of the Union noted that the version of the draft revised Book IV of December 21, 2009 contained the essential provisions of the UPOV Convention, subject to certain drafting changes which were in the comments of the Office of the Union.

On September 1, 2010 the Office was informed that the draft revised Book IV had been approved by the Cabinet and would be submitted to the Egyptian People's Assembly in Spring 2011.

On January 29, 2013, Mr. Salah Moawed, requested comments on the version of Draft Book IV "Plant Varieties" dated January 2013. On March 18, 2013, the Office of the Union provided comments on the 2013 version of Draft Book IV.

On August 19, and on September 18, 2014, the Office of the Union received communications from CASC concerning a consolidated table reflecting the provisions of the Law of 2002 and amendments to Book IV proposed by CASC. On September 19, 2014, the Office of the Union informed CASC that, subject to the incorporation of certain further amendments in accordance with the comments of the Office of the Union of 2013, the proposed amendments would provide the essential provisions of the UPOV Convention.

Council decision of 2015

March 27, 2015 (document C(Extr.)/32/9)

The Council decided to:

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

On July 1, 2015, the Office of the Union was informed by Mr. Samy Hamed El Deib Sallam, Head, Technical Secretary of Variety Registration Committee, Central Administration for Seed Certification (CASC), that the President of Egypt issued Law No. 26 of 2015 amending the provisions of Book Four “Plant Variety Protection” of Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights and that the Law No. 26 was published in the Official Gazette on June 22, 2015.

Mr. Sallam transmitted to the Office of the Union, on July 1, 2015, the English translation of the revised Book Four of Law No. 26. The Office of the Union noted that there had been an increase of the sanction fees in cases of infringement in Article 201 from 5000 pounds to 10000 pounds.

On May 9, 2017, the Office of the Union received another English translation of Book Four, as revised in 2015, and the original version in Arabic. In order to clarify discrepancies between the two English translations, and in consultation with the Government of Egypt, the Office of the Union arranged for a verified English translation in relation to the original version in Arabic. The verification of the translation confirmed that only a few amendments of Book 4 will be necessary in order to implement the decision of the Council and to complete the deposit requirements for the accession of Egypt to the UPOV Convention.

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)

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/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, 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, (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act") (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").

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.

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(Extr.)/32/10

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.

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."

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. The comments on the Law using the verified translation and reflecting the conclusions at the Legal Consultation in Astana are under preparation.

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.

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.

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 (hereinafter referred to as the "1991 Act") (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").

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.

TAJKISTAN

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.

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. He also requested information on financial matters. On April 29, 2014, the Office of Union explained the procedure to become a UPOV member and provided information on financial matters.

[Annex II follows]

**SITUATION CONCERNING THOSE STATES AND INTERGOVERNMENTAL ORGANIZATIONS
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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).

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.

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.

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 Cambodia: 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 Chantravuth 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. The Office of the Union is currently preparing comments on the English translation of the Law of 2007 in relation to the 1991 Act of the UPOV Convention.

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.

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.

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.

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 Lao PDR 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. The detailed comments on the Draft Law of 2017 are under preparation.

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.

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.

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".

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.

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.

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."

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 Wongsa, 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.

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.

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 Conservation Affair, 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). After an initial overview, the Office of the Union informed Mr. Makkawi that a number of provisions of the Law of 2009 did not correspond to the provisions of the UPOV Convention and therefore the Law of 2009 would need to be revised in order to provide the basis for a positive advice of the Council of UPOV. The Office of the Union offered to provide detailed comments on the Law of 2009 in order to identify those provisions that would need to be revised in order to incorporate in the Law the essential provisions of the UPOV Convention.

On August 13, 18 and 25, 2015, the Office of the Union provided information to Mr. Habib H. Alaboudi, Assistant Expert, Agricultural and Animal Affairs, Ministry of Environment and Water, on the procedure to become a UPOV member and offered to provide detailed comments on the Law.

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, Undersecretary at the Ministry of Environment and Water, enclosing the detailed comments of the Office of the Union on the Law in relation to the 1991 Act of the UPOV Convention.

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.

From December 15 to 17, 2015, also in Dubai, the Office of the Union participated in a “Workshop on the International Treaty on Plant Genetic Resources for Food and Agriculture and preparation for the accession to the International Convention for the Protection of New Varieties of Plants”, organized by the Ministry of Environment and Water of the United Arab Emirates, in collaboration with the ITPGRFA, UPOV, the International Center for Agricultural Research in the Dry Areas (ICARDA) and International Center for Biosaline Agriculture (ICBA).

On December 18, 2015, the Office of the Union sent detailed comments to Mr. H. Alaboudi on the Law.

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. The Office of the Union is currently preparing detailed comments on the Act of 2007.

[End of Annex II and of document]