



C/48/18

ORIGINAL: English

DATE: August 31, 2014

# INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

## COUNCIL

### Forty-Eighth Ordinary Session Geneva, October 16, 2014

#### DEVELOPMENTS ON THE PLANT BREEDERS' RIGHTS ACT FOR ZANZIBAR

*Document prepared by the Office of the Union*

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

1. The purpose of this document is to invite the Council to consider developments concerning the Plant Breeders' Rights Act of Zanzibar (the Law) in relation to its decision of March 22, 2013.

2. The Council, at its thirtieth extraordinary session, held in Geneva on March 22, 2013, decided to:

“(a) note the analysis in documents C(Extr.)/30/4 Rev. and C(Extr.)/30/4 Add.;

“(b) subject to the incorporation in the Plant Breeders' Rights Bill for Zanzibar of the modifications recommended in paragraphs 26, 28, 30 and 35 of document C(Extr.)/30/4 Rev., and with no additional changes, take a positive decision on the conformity of the Plant Breeders' Rights Bill for Zanzibar with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants;

“(c) note that the Draft Law of Plant Breeders' Rights for Mainland Tanzania was adopted on November 5, 2012, and that the adoption of the Draft Law for Zanzibar is necessary for breeders' rights to cover the whole territory of the United Republic of Tanzania;

“(d) note that the Plant Breeders' Rights Act for Mainland Tanzania, which was adopted on November 5, 2012, and published in the Gazette of the United Republic of Tanzania on March 1, 2013, had incorporated the changes presented in revision mode in the recommendations of the Council in its decision of November 1, 2012 (see document C/46/18 “Report on the decisions”, paragraph 15);

“(e) agree that the additional changes in the Plant Breeders' Rights Act for Mainland Tanzania, as presented in the Annex to document C(Extr.)/30/4 Add., did not affect the substantive provisions of the 1991 Act of the UPOV Convention, and confirm the decision on conformity of November 1, 2012;

“(f) inform the Government of the United Republic of Tanzania that, subject to the modifications recommended by the Council, at its thirtieth extraordinary session, held in Geneva on March 22, 2013 (see paragraph (b) above), being incorporated in the Plant Breeders' Rights Bill for Zanzibar and the adoption of the Bill with no additional changes,

the instrument of accession of the United Republic of Tanzania may be deposited; and

“(g) authorize the Secretary-General to inform the Government of the United Republic of Tanzania of that decision.”

(see document C(Extr.)/30/8 “Report”, paragraph 13).

3. On August 18, 2014, the Secretary-General received a letter from Her Excellency Mrs. Sophia E. Kaduma, Permanent Secretary, Ministry of Agriculture, Food Security and Cooperatives of

the United Republic of Tanzania, reporting that, on January 22, 2014, the Zanzibar House of Representatives had adopted the Zanzibar Plant Breeders' Rights Act, 2014, and that, during the adoption procedure, additional changes had been introduced, which were not part of the decision of the UPOV Council of March 22, 2013. The letter is reproduced in Annex I to this document.

4. The Law incorporates the changes contained in the decision of the Council of March 22, 2013 (see paragraph 2, above). The additional changes that were introduced during the adoption procedure, which were not part of the decision of the Council of March 22, 2013, are presented in revision mode in Annex II to this document (in English only). The full text of the Law is provided at [http://www.upov.int/meetings/en/details.jsp?meeting\\_id=33384](http://www.upov.int/meetings/en/details.jsp?meeting_id=33384).

5. In the opinion of the Office of the Union the additional changes, which were not part of the decision of the Council of March 22, 2013, do not concern the substantive provisions of the 1991 Act of the UPOV Convention.

6. *The Council is invited to:*

(a) *note that the Plant Breeders' Rights Act of Zanzibar, which was adopted by the Zanzibar House of Representatives, incorporates the changes in the decision of the Council of March 22, 2013 (see document C(Extr.)/30/8 "Report", paragraph 13, and paragraph 2, above);*

(b) *agree that the additional changes, as presented in the Annex II to this document, do not concern the substantive provisions of the 1991 Act of the UPOV Convention, and, subject to that agreement,*

(c) *confirm the decision on conformity of March 22, 2013 and inform the Government of the United Republic of Tanzania that the instrument of accession of the United Republic of Tanzania may be deposited.*

[Annexes follow]

**THE UNITED REPUBLIC OF TANZANIA  
MINISTRY OF AGRICULTURE FOOD SECURITY AND COOPERATIVES**

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**In reply Please quote:**

Ref. No. CAF 287/698/01//9

11<sup>th</sup> August 2014

Mr. Francis Gurry  
 Secretary-General  
 International Union for the  
 Protection of New Varieties of  
 Plants (UPOV)  
 34, chemin des Colombettes  
**SWITZERLAND**

**Re: REQUEST FOR CONFIRMATION OF THE DECISION OF THE UPOV  
 COUNCIL ON CONFORMITY OF ZANZIBAR PBR ACT 2014**

Please make reference to the above heading.

The purpose of this letter is to report on developments concerning the Zanzibar Plant Breeders' Rights law and to request the UPOV Council to consider those developments in relation to its decision of March 22, 2013.

I would like to inform you that on 22<sup>nd</sup> January, 2014 the Zanzibar House of Representatives adopted the Zanzibar Plant Breeder's Rights Act, 2014. During the adoption procedure, additional changes were introduced (see attached English version of the Act), which were not part of the decision of the UPOV Council of March 22, 2013. In our opinion, those changes do not affect the substantive provisions of the 1991 Act of the UPOV Convention.

I would be grateful if the additional changes introduced during the adoption procedure could be presented to the UPOV Council, in order to seek the UPOV Council's confirmation of its decision on conformity of March 22, 2013.

Thank you for your usual cooperation on the above matter.

Sincerely yours,

*Sophia Kaduma*.  
Sophia E. Kaduma  
**PERMANENT SECRETARY**

- cc** Permanent Secretary,  
Ministry of Agriculture and Natural Resources,  
Revolutionary Government of Zanzibar,  
**ZANZIBAR.**
  
- cc** Permanent Mission of the United Republic of Tanzania,  
Geneva,  
**SWITZERLAND.**

## ANNEX II / ANNEXE II / ANLAGE II / ANEXO II

[In English only / En anglais seulement /  
Nur auf Englisch / En Inglés solamente]

## EXTRACT FROM THE ZANZIBAR PLANT BREEDERS' RIGHTS ACT, 2014

(Changes to relevant Sections during the adoption procedure by the Zanzibar House of Representatives, on January 22, 2014, are presented in revision mode)

**ZANZIBAR PLANT BREEDERS' RIGHTS ACT, 2014**

A BILL  
for

## AN ACT TO ESTABLISH PLANT BREEDERS' RIGHTS AND OTHER MATTER RELATED THEREWITH

Short title and 1. [...]

commence-  
ment.

(2) Subject to sub section (1) of this Section, the Minister shall publish in the Gazette not more than six months since the date of assented by the president.

[...]

Interpretation. 2. [...]

"Certificate" means a certificate which approve the de[s]cription of the register as prescribed under Section 7 of this Act;

[...]

## **PART II**

### **PLANT BREEDERS' RIGHTS REGISTRY**

Establishment 3. There is hereby established within the Ministry responsible for agriculture, a unit an  
of the Office to be known as the Plant Breeders Rights Registry Office.

Registry  
Office. 4. [...]

(3) For the purpose of this section, relevant qualification shall include at least Masters First Degree from any recognized institution in the field of agricultural science, law or related field with a minimum experience of five years in the said field.

[...]

9. [...]

(2) [...]

(a) one representative senior officer with qualification in agricultural science from the Ministry, who shall be the Chairperson to the Committee;

[...]

(g) A Legal Officer from the Ministry;

[...]

[...]

Meeting  
and  
Procedure  
of the  
Committee.

11. (1) The meetings of the Committee shall be convened by the Secretary of the Committee, in consultation with the Chairperson, once in every quarter of a year.

(2) The Chairperson may convene an extra ordinary meeting when deemed necessary.

(3) Subject to subsection (1) of this section, the Secretary shall give at least seven days notice in writing to each of the members of the Committee specifying the time and place appointed for and the business proposed to be transacted at a meeting of the Committee; Provided that the extra ordinary meeting may be convened on not less than twenty-four hours' notice.

(4) Subject to the other provisions of this Section, the Committee may determine the proceeding of its meetings.

(5) To constitute a quorum at a meeting of the Committee, the number of members present shall be more than half.

(6) Each member of the Committee shall have one vote and, in the event of equality of votes, the person presiding shall have a second or casting vote.

(7) No act or proceeding of the Committee shall be invalid or called in question on the ground of any vacancy in the post of any member, or any deficiency in the proceeding of the Committee.

[...]

## PART V CONSIDERATION AND DISPOSITION OF APPLICATION

Filing date  
of application.

22. [...]

(3) The Minister shall enter into bilateral agreement with relevant Minister of Tanzania Mainland regulating the following:

(3)(a) any application filed with [the] Registrar of Plant Breeders' Rights of Mainland Tanzania shall to be recognized as an application, for the same variety, filed [with] the Registrar.

(b) a grant of breeder's right made by the Registrar of Mainland Tanzania to be recognized as the grant made by the Registrar.

(c) distribution of fees for registration of plant breeder's right.

[...]

Disposition of  
applications.

29.[...]

(7) Subject to a bilateral agreement made under Section 22(3) of this Act. Any grant of breeder's right made by the Registrar of Mainland Tanzania shall be recognized as the grant of breeder's right of the same variety made by the Registrar.

[...]

## PART IX APPEALS

Appeal's  
Board.

44.(1) The Minister shall appoint an Appeal's Board consisting of three five members in which one two member[s] shall be an experts in legal matters and two three other members shall be experts qualified in agricultural science. [...]

[End of Annex II and of document /  
Fin de l'annexe II et du document /  
Ende der Anlage II und des Dokuments /  
Fin del Anexo II y del documento]