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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE**Eighty-Fifth Session
Geneva, March 22, 2013**

UPOV COMMUNICATION STRATEGY

Document prepared by the Office of the Union

INTRODUCTION

1. The Consultative Committee, at its eighty-fourth session, held in Geneva on October 31, 2012, noted the report on the plans for the establishment of a UPOV channel on YouTube and invited the Office of the Union to prepare a proposed communication strategy, which would include consideration of the possible use of social media, for consideration by the Consultative Committee at its eighty-fifth session (see document CC/84/13 "Report on the Conclusions", paragraph 29).
2. One of the main aims of the launch of the redesigned UPOV website site in 2011 was to combine an increased amount of information (e.g. PLUTO database) with greater accessibility to information (e.g. quick links on the homepage, UPOV Collection, UPOV Lex). As a first step in preparing a communication strategy, this document considers the existing UPOV materials and methods of communication for different stakeholders and proposes new materials and new methods of communication that might enable an improvement in UPOV's communications. In general, UPOV materials in this context refers to the materials that are currently freely available on the UPOV website and does not include, for example, materials that are used by the Office of the Union for specific missions (e.g. Powerpoint presentations).
3. In parallel with the matters considered in this document, UPOV is currently working with the Communications Division of the World Intellectual Property Organization (WIPO) in the development of a coherent image for UPOV publication and presentation materials, for consistency with the redesigned UPOV website.
4. As a next step, on the basis of the comments on this document by the Consultative Committee at its eighty-fifth session, it is proposed that a communication strategy consistent with available resources, be developed for consideration by the Consultative Committee at its eighty-sixth session, to be held in Geneva on October 23, 2013.

5. The structure of this document is as follows:

INTRODUCTION	1
UPOV MATERIALS	3
EXISTING UPOV MATERIALS	3
PROPOSALS FOR FURTHER DEVELOPMENT OF EXISTING UPOV MATERIALS	4
<i>UPOV, What it is, What it Does (Information leaflet)</i>	4
<i>Impact Study</i>	4
<i>Gazette and Newsletter</i>	5
PROPOSALS FOR DEVELOPMENT OF NEW UPOV MATERIALS	5
<i>Breeders and Farmers</i>	5
<i>General Public / Schools and Children</i>	5
<i>Materials for Social Media</i>	5
NEW COMMUNICATION TOOLS (SOCIAL MEDIA).....	6
SOCIAL MEDIA THAT MIGHT BE HOSTED BY UPOV	6
<i>YouTube</i>	6
<i>Facebook</i>	7
<i>Twitter</i>	7
<i>LinkedIn</i>	8
<i>Flickr</i>	8
CONTRIBUTION TO EXTERNALLY HOSTED SOCIAL MEDIA	9
<i>Wikipedia</i>	9
POSSIBLE ELEMENTS FOR A COMMUNICATION STRATEGY.....	9
ANNEX I	USE OF SOCIAL MEDIA BY INTERGOVERNMENTAL ORGANIZATIONS AND INTERNATIONAL NON GOVERNMENTAL ORGANIZATIONS WITH OBSERVER STATUS IN UPOV BODIES
ANNEX II	WIPO – WORLD INTELLECTUAL PROPERTY DAY FACEBOOK PAGE
ANNEX III	WIPO TWITTER PAGE
ANNEX IV	WIPO FLICKR PAGE
ANNEX V	WIKIPEDIA ENTRY IN ENGLISH ON UPOV

UPOV MATERIALS

Existing UPOV Materials

6. The Program and Budget for the 2012-2013 Biennium clarifies that the main focus and priority of UPOV is to support the members of the Union in the operation of their plant variety protection (PVP) systems (see document C/45/4 Rev.2, paragraph 1.4). That focus is reflected in the predominance of materials that are suited to authorities entrusted with the task of granting breeders' rights (PVP authorities) (see below). The operation by members of the Union of their plant variety protection systems includes the provision of information to their stakeholders. Whilst some of that information will be common to all UPOV members and UPOV has a role to play in providing such information, it should equally be acknowledged that PVP authorities are the primary providers of information to their stakeholders, much of which will be specific to their territory. Therefore, the UPOV communication strategy should be complementary to the strategy of the members of the Union, by providing general information that can be communicated directly to stakeholders, but also by providing materials that can be the basis for the development of customized materials at the territorial level.

7. The following table identifies the most important UPOV materials for communicating information about UPOV and the UPOV system of plant variety protection, with an indication of the audience for which the materials are suitable (++), or for which they may have some suitability (+).

8. In the case of plant variety protection (PVP) authorities, this refers to authorities of both UPOV members and of States and organizations that are not UPOV members. In the case of PVP authorities and observer organizations, the "suitability" refers to the suitability for PVP authorities and organizations as such, but also to the use of the materials for communicating information to their stakeholders (see paragraph 6). For example, staff of PVP authorities are likely to find the content of the Introduction to UPOV rather basic, but might find it useful to provide a link to that "microsite" to explain the UPOV system of plant variety protection to some of their stakeholders.

	Audience							
	PVP Authorities	Policy makers	Observer organizations	Breeders/ Research institutes / Seed industry	Farmers	Higher education	Schools / children	General public
(a) Introduction to UPOV (microsite)	++	++	++	++	++	++	++	++
(b) Videos (e.g. Ashiro Rindo story)	++	++	++	++	++	++	++	++
(c) "Publications"								
(i) UPOV, What it is, What it Does (Information leaflet) (437)	+	++	+	+	+	+	+	+
(ii) Impact Study, PDF	++	++	++	++	++	++	++	++
(iii) Declaration from the Second World Seed Conference (http://www.upov.int/about/en/pdf/wsc_leaflet_outcome.pdf)	++	++	++	++	++	++	++	++
(iv) Proceedings of the Second World Seed Conference (http://www.upov.int/about/en/pdf/354_seed_conf.pdf)	++	++	++	++	+	++	+	+
(v) Trilogy (Seminars and Symposium held in 2011 and 2012: see document CC/84/13 "Report on the Conclusions", paragraph 32)	++	++	++	++	++	++	+	+
(d) Gazette and Newsletter (http://www.upov.int/news/en/gazette_newsletter.html)	++		++	+				
(e) Seminars & Symposia	++	++	++	+	+			
(f) Articles								
(i) General press	++	++	++	+	+			++
(ii) Specialist press	++	++	++	++	++			
(g) UPOV Collection	++	+	++	+	+	++		
(h) Distance Learning Course	++	++	++	++		++		
(i) UPOV Lex	++	++	++	++		++		
(j) Plant Variety Database (PLUTO)	++	+	++	++	+	++	+	+
(k) GENIE Database	++	+	++	++	+	++		
(l) UPOV Posters	++	++	+	+	+	+	+	+

Proposals for Further Development of Existing UPOV Materials

9. It is proposed that the following UPOV materials, with suitable modifications, could be developed for a broader audience.

UPOV, What it is, What it Does (Information leaflet)

10. The Information leaflet would be edited into different versions (e.g. two pages or four pages) to provide a short introduction to UPOV for the different audiences identified in the table above.

Impact Study

11. The UPOV Report on the Impact of Plant Variety Protection (Impact Study) was published in 2005, on the basis of a study that started in 2001, and could be revised to reflect important developments in UPOV since that time. In addition, the inclusion of a leaflet summarizing the key elements of the report could be produced for a broader audience, similar to the approach used for the leaflet "Declaration from the Second World Seed Conference" (http://www.upov.int/about/en/pdf/wsc_leaflet_outcome.pdf).

Gazette and Newsletter

12. In recent years, the Gazette and Newsletter has focused on legislative related developments with little or no content that might be considered to be general news. The publication of a newsletter with information on recent developments in UPOV (e.g. membership, adoption of documents (explaining key elements), meetings, Jurisprudence etc.) might be of interest for members of the Union and observers. However, such a publication would require a regular and significant input from the Office of the Union and consideration would need to be given to whether the benefit would justify the resource required.

Proposals for Development of New UPOV Materials

Breeders and Farmers

13. As explained in paragraph 6 of this document, it is proposed that the UPOV communication strategy should be complementary to the strategy of the members of the Union, by providing general information that can be communicated directly to stakeholders, but also by providing materials that can be the basis for the development of customized materials by members of the Union. In that regard, the UPOV Collection contains a wealth of information aimed at members of the Union and observers, but which is unlikely to be suitable for stakeholders without extensive knowledge of UPOV. For example, the materials in the UPOV Collection (e.g. Information Documents, Explanatory Notes) are not drafted for breeders and farmers, but such materials might be the basis for the development of material that is suitable for breeders and farmers in a way that complements information provided by the authorities of members of the Union and observer organizations. If such material was developed, it would be useful to ensure that breeders and farmers visiting the UPOV website would be able to find that information easily, for example by the creation of a link to a “breeders” or “farmers” page.

General Public / Schools and Children

14. As indicated by the table above, UPOV has relatively little material specifically aimed at the general public and even less for schools and children. Development of such materials could be based on existing material, but would require substantial reworking to be suitable for a young audience. The development of such materials could be made in conjunction with UPOV’s involvement in the EXPO 2015 (see document CC/85/9 “Developments of Relevance to UPOV in Other International Fora”). Although it would not be the highest priority, there could be long-term benefits for UPOV in developing a study-pack for schools.

Materials for Social Media

15. As indicated in paragraph 2 of this document, the materials identified above are generally available on the UPOV website. One of the aims of the use of social media would be to increase the use of the UPOV website. However, consideration would also need to be given to the development of new material that would be suitable for other forms of media. The following section considers communication tools that are not currently used by UPOV (“New communication tools”) and, where appropriate, the type of material that might be needed in addition to the existing UPOV materials.

NEW COMMUNICATION TOOLS (SOCIAL MEDIA)

16. Social media are online platforms that enable the user to interact with a community of people. This includes blogs/microblogs, document/music/photo/video sharing platforms, fora, information aggregators, social news sites, social networking sites, virtual worlds, wikis, etc. Common examples included Blogger, Facebook, Flickr, Google+, LinkedIn, MySpace, Pinterest, Tumblr, Twitter, Wikipedia and YouTube.

17. The UPOV website was visited 152,271 times in 2012 (74,318 unique visitors). One of the main advantages of social media is that it would reach a large, new audience, which would be alerted to the information on the UPOV website. In addition, as explained, in paragraph 15, social media can also be a powerful means of transmitting information directly to users. In that regard, the Communications Division of WIPO has confirmed that it would provide the necessary support to UPOV for the maintenance of such social media tools within the services offered to UPOV under the WIPO/UPOV Agreement.

Social media that might be hosted by UPOV

18. Annex I to this document provides information on the social media on the websites of the intergovernmental organizations and international non-governmental organizations with observer status in UPOV bodies.

19. The following sections provide a short overview of communication tools that might be considered by UPOV as a part of its communication strategy in terms of:

- Explanation, content control and viewer access
- Maintenance requirements
- Cost for host and viewer
- Relevance for UPOV

YouTube

Explanation, content control and viewer access

20. YouTube is a video-sharing website, created in February 2005, on which users can upload, view and share videos. Most of the content on YouTube has been uploaded by individuals, although media corporations and other organizations offer some of their material via the site, as part of the YouTube partnership program. Unregistered users can watch videos, while registered users can upload an unlimited number of videos*. The host can choose whether to enable viewers to add comments.

Maintenance requirements

21. The host adds or removes videos as considered appropriate. If the host enables comments, there would be a requirement to monitor the content of those comments as considered appropriate by the host.

Cost for host and viewer

22. There is no charge for establishing a channel on YouTube. Access is unlimited and free for users.

Relevance for UPOV

23. YouTube reaches a very large and broad audience.

24. At its eighty-second session, the Consultative Committee approved the establishment of a UPOV channel on YouTube for hosting of UPOV videos (see document CC/82/14 "Report on the Conclusions", paragraph 38). The Consultative Committee, at its eighty-third session, noted that the establishment of a UPOV channel on YouTube for hosting of UPOV videos would be arranged in conjunction with the development of a coherent image for UPOV publication and presentation materials, for consistency with the redesigned UPOV website (see CC/83/7 "Report on the Conclusions", paragraph 24 (e)).

25. Videos of the Ashiro Rindo story and videos of interviews included in the "Introduction to UPOV" will be made available on UPOV YouTube channel. Further videos recorded by the Office of the Union (e.g.

* Explanations reproduced from Wikipedia, The Free Encyclopedia: <http://en.wikipedia.org>

messages by the Secretary-General (see <http://www.youtube.com/watch?v=9j7THKBGyvM&feature=relmfu>), interviews with speakers at UPOV events) will be added as appropriate.

26. In order to minimize maintenance requirements, UPOV will not enable viewers to add comments on its YouTube channel.

Facebook

Explanation, content control and viewer access

27. Facebook is a social networking service launched in February 2004. As of September 2012, Facebook had over one billion active users, more than half of them using Facebook on a mobile device. Users must register before using the site, after which they may create a personal profile, add other users as friends, and exchange messages, including automatic notifications when they update their profile. Additionally, users may join common-interest user groups, organized by workplace, school or college, or other characteristics, and categorize their friends into lists such as "People From Work" or "Close Friends".

28. Users can communicate with friends and other users through private or public messages and a chat feature. Access to pages can be restricted to the known community, or made publicly visible.

29. Screenshots of the WIPO World Intellectual Property Day Facebook page are provided in Annex II to this document.

Maintenance requirements

30. The page or profile should be updated with "news", comments or pictures on a regular basis.

Cost for host and viewer

31. There is no charge for establishing a Facebook page. Users must register before using the site.

Relevance for UPOV

32. Facebook has over one billion active users, mainly young users (70% are under 35 years old). However,

33. The requirement for the Facebook page to be updated on a regular basis would mean that considerable resources would be required. For example, WIPO created a Facebook page for World Intellectual Property Day, but does not maintain a WIPO Facebook page. Facebook might be considered to be suitable for a special event of widespread interest.

Twitter

Explanation, content control and viewer access

34. Twitter is an online social networking service that enables its users to send and read text-based messages of up to 140 characters, known as "tweets". It was created in March 2006 and launched that July. The service rapidly gained worldwide popularity, with over 500 million registered users as of 2012, generating over 340 million tweets daily and handling over 1.6 billion search queries per day. Since its launch, Twitter has become one of the ten most visited websites on the Internet, and has been described as "the SMS of the Internet." Unregistered users can read tweets, while registered users can post tweets through the website interface, SMS, or a range of apps for mobile devices. **Error! Bookmark not defined.**

35. Tweets are publicly visible by default, but senders can restrict message delivery to just their followers. It is possible to be an "active twitterer", i.e. discussion on new topics or matters are started by the host and followers comment or re-tweet via their own account; or it is possible to be a "non-active twitterer", i.e. information is posted but comments are not actively answered.

36. Screenshots of the WIPO Twitter page are provided in Annex III to this document.

* Explanations reproduced from Wikipedia, The Free Encyclopedia: <http://en.wikipedia.org>

Maintenance requirements

37. Active twittering requires information to be tweeted and constant monitoring and responses. Non-active twittering only requires information to be tweeted.

Cost for host and viewer

38. Registration is free.

Relevance for UPOV

39. As of 2012, Twitter had over 500 million registered users, generating over 340 million tweets daily and handling over 1.6 billion search queries per day (see above). UPOV could tweet information based on, for example, the "News & Upcoming Events" content of the UPOV website. On the basis of UPOV being a non-active Twitterer, maintenance requirements could be reasonable and predictable with the support of the Communications Division of WIPO.

LinkedIn

Explanation, content control and viewer access

40. LinkedIn Corporation is a social networking website for people in professional occupations. Founded in December 2002 and launched on May 5, 2003, it is mainly used for professional networking. As of January 2013, LinkedIn reported more than 200 million registered users in more than 200 countries and territories.

41. One purpose of the site is to allow registered users to maintain a list of contact details of people with whom they have some level of relationship, called Connections. Users can invite anyone (whether they have a LinkedIn user account or not) to become a Connection. Users may also join common-interest user groups.

Maintenance requirements

42. No maintenance is required unless a person wants to lead or launch some discussions within groups.

Cost for host and viewer

43. The basic account is free, but an upgraded profile with some additional features and options is available for a monthly fee.

Relevance for UPOV

44. At present, the features of LinkedIn may not provide major benefits towards UPOV's communication strategy.

Flickr

Explanation, content control and viewer access

45. Flickr is an image hosting and video hosting website, web services suite, and online community. In addition to being a popular website for users to share and embed personal photographs, the service is widely used by bloggers to host images that they embed in blogs and social media. Yahoo reported in June 2011 that Flickr had a total of 51 million registered members and 80 million unique visitors. In August 2011 the site reported that it was hosting more than 6 billion images and this number continues to grow steadily according to reporting sources. Photos and videos can be accessed from Flickr without the need to register an account but an account must be made in order to upload content onto the website. Registering an account also allows users to create a profile page containing photos and videos that the user has uploaded and also grants the ability to add another Flickr user as a contact. **Error! Bookmark not defined.**

46. Screenshots of the WIPO Flickr page are provided in Annex IV to this document.

* Explanations reproduced from Wikipedia, The Free Encyclopedia: <http://en.wikipedia.org>

Maintenance requirements

47. Photos need to be uploaded on the website as considered appropriate.

Cost for host and viewer

48. There is no charge for establishing a Flickr site. Users must register before using the site.

Relevance for UPOV

49. Flickr may provide a useful service for sharing photographs and videos of UPOV events, either openly to all or to a restricted group of users. In order to use Flickr to share photographs and videos, it would be necessary to seek the permission of all relevant persons.

Contribution to Externally Hosted Social Media

Wikipedia

Explanation, content control and viewer access

50. Wikipedia is a collaboratively edited, multilingual, free Internet encyclopedia supported by the non-profit Wikimedia Foundation. Its 24 million articles have been written collaboratively by volunteers around the world. Almost all of its articles can be edited by anyone with access to the site, and it has about 100,000 active contributors. It has become the largest and most popular general reference work on the Internet, ranking sixth globally among all websites on Alexa and having an estimated 365 million readers worldwide.

51. The open nature of Wikipedia has led to various concerns, such as the quality of writing, the amount of vandalism and the accuracy of information.**Error! Bookmark not defined.**

52. Annex V to this document contains a copy of the Wikipedia page on UPOV, taken on January 15, 2013.

Relevance for UPOV

53. As explained above, Wikipedia has become the largest and most popular general reference work on the Internet. Therefore, ensuring the accuracy of information concerning UPOV on the Wikipedia page could be an important means of communicating information about UPOV.

54. It is recognized that there will be certain content on the Wikipedia UPOV page that may be a matter of opinion and for which the Office of the Union would not be in a position to intervene, unless so instructed by the members of the Union.

POSSIBLE ELEMENTS FOR A COMMUNICATION STRATEGY

55. On the basis of the comments of the Consultative Committee on the proposals for development of new UPOV materials, as set out in paragraphs 13 to 15 of this document, and the possible new communication tools (social media), as set out in paragraphs 20 to 54 of this document, the Office of the Union would be in a position to prepare a draft communication strategy, consistent with available resources, for consideration by the Consultative Committee at its eighty-sixth session.

* Explanations reproduced from Wikipedia, The Free Encyclopedia: <http://en.wikipedia.org>

56. *The Consultative Committee is invited to:*

(a) consider the proposals for the development of new UPOV materials, as set out in paragraphs 13 to 15 of this document;

(b) recall the approval for the establishment of a UPOV channel on YouTube, as set out in paragraphs 20 to 26 of this document;

(c) consider the proposals for the possible use of new communication tools (social media), as set out in paragraphs 27 to 54 of this document; and

(d) request the Office of the Union to prepare a draft communication strategy, consistent with available resources, for consideration by the Consultative Committee at its eighty-sixth session.

[Annexes follow]

ANNEX I

USE OF SOCIAL MEDIA BY INTERGOVERNMENTAL ORGANIZATIONS AND INTERNATIONAL
NON-GOVERNMENTAL ORGANIZATIONS WITH OBSERVER STATUS IN UPOV BODIES

	Facebook	Twitter	LinkedIn	Youtube	Flickr	Slideshare	google+	Scribd	blog
<u>Intergovernmental organizations</u>									
African Intellectual Property Organization (OAPI)									
African Regional Intellectual Property Organization (ARIPO)	X	X							
Andean Community	X	X		X	X				
Bioversity International (former International Plant Genetic Resources Institute, IPGRI)	X	X		X	X	X			
Consultative Group on International Agricultural Research (CGIAR)	X	X							
European Free Trade Association (EFTA)									
European Patent Organisation (EPO)									
Food and Agriculture Organization of the United Nations (FAO)	X	X	X	X	X	X	X		
International Seed Testing Association (ISTA)									
Organisation for Economic Co-operation and Development (OECD)	X	X		X	X				
The World Conservation Union (IUCN)									
United Nations Development Programme (UNDP)	X	X		X					
United Nations Environment Programme (UNEP)	X	X							
United Nations Industrial Development Organization (UNIDO)	X	X		X					
World Bank	X	X					X		
World Intellectual Property Organization (WIPO)	X	X		X	X			X	
World Trade Organization (WTO)	X	X		X	X				
<u>International non-governmental organizations</u>									
African Seed Trade Association (AFSTA)	X	X	X						
Asia and Pacific Seed Association (APSA)									
Association for Plant Breeding for the Benefit of Society (APBREBES)									
Association of European Horticultural Breeders (AOHE)									
Biotechnology Industry Organization (BIO)	X	X	X	X					
Committee of Agricultural Organizations in the European Union (COPA)	X	X							
Committee of National Institutes of Patent Agents (CNIPA)									
Committee of Nordic Industrial Property Agents (CONOPA)									
CropLife International	X	X		X					
European Coordination Via Campesina (ECVC)									
European Federation of Agents of Industry in Industrial Property (FEMIP)									
European Federation of Agricultural and Rural Contractors (CEETTAR)									
European Federation of Pharmaceutical Industries' Associations (EFPIA)		X		X					X
European Seed Association (ESA)	X	X	X						
General Committee for Agricultural Co-operation in the European Union (COGECA)	X	X							
International Association for the Protection of Intellectual Property (AIPPI)									
International Association of Horticultural Producers (AIPH)									
International Chamber of Commerce (ICC)	X	X	X				X		
International Commission for the Nomenclature of Cultivated Plants of the International Union for Biological Sciences (IUBS) (ICNCP)									
International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA)	X	X	X				X		
International Federation of Agricultural Producers (IFAP)									
International Federation of Industrial Property Attorneys (FICPI)									
International Seed Federation (ISF)	X	X	X	X					
Seed Association of the Americas (SAA)									
Union of European Practitioners in Industrial Property (UNION)		X	X						
Union of Industrial and Employers' Confederations of Europe (UNICE)									
	21	23	8	12	6	2	4	1	1

[Annex II follows]

WIPO – WORLD INTELLECTUAL PROPERTY DAY FACEBOOK PAGE



[Annex III follows]

WIPO TWITTER PAGE

The screenshot shows the official Twitter profile of the World Intellectual Property Organization (WIPO). The profile header includes the WIPO logo, the name '@WIPO', and a bio: "The official account of the World Intellectual Property Organization (WIPO). Follow our efforts to promote the use of IP for innovation and creativity." It also lists the location as Geneva and the website as http://www.wipo.int/. The profile statistics show 114 tweets, 118 following, and 1,792 followers. The main content area displays a list of tweets, including a message for World Intellectual Property Day, a meeting announcement for genetic resources, a historical document about the BIPRI building, and a notice about PATENTSCOPE connectivity issues.

The screenshot shows a Twitter search results page for the keyword 'wipo'. The search results are displayed in a grid format with multiple columns. The top of the page shows the search bar and the search term 'wipo'. The results include various tweets from users and official accounts, many of which are retweets or replies. The tweets discuss topics such as digital lock rules, domain names, and intellectual property rights. The bottom of the page features the WIPO logo and the text "WORLD INTELLECTUAL PROPERTY ORGANIZATION".

The screenshot shows the Flickr interface for the World Intellectual Property Organization (WIPO) photostream. At the top, the Flickr logo and navigation links are visible. The main heading is "World Intellectual Property Organization (WIPO)'s photostream". Below this, there are five photo sets represented by grid thumbnails:

- People**: 6 sets
- Headquarters**: 3 sets
- Events**: 7 sets
- Exhibitions**: 8 sets
- Historical**: 3 sets

The WIPO logo is located in the bottom right corner of the page.

This screenshot shows a detailed view of a Flickr photo. The photo depicts WIPO Director General Francis Gurry speaking at a podium during an exhibition. The podium features the WIPO logo. To the left of the speaker, a display shows a portrait of Steve Jobs and a grid of patent-related images.

Photo Description:
By World Intellectual Property Organization (WIPO)
World Intellectual Property Organization + Add Contact
This photo was taken on March 29, 2012 in Nations, Geneva, GE, CH, using a Canon EOS-1D Mark IV.
58 views

Caption:
The Patents and Trademarks of Steve Jobs: Art and Technology that Changed the World
WIPO Director General Francis Gurry speaking at the inauguration of the exhibition showing the IP behind Steve Jobs' innovations on March 29, 2012 at WIPO (video).
© WIPO 2012. Photo: Emmanuel Berrod.

Tags:
WIPO • OMPI • Steve Jobs • Visionary Innovators • WIPO exhibition • exposition OMPI • Geneva • Genève • 2012 • Francis Gurry

The page includes a comment section with a text input field and a "License" section at the bottom.

WIKIPEDIA ENTRY IN ENGLISH ON UPOV

[Extract from Wikipedia entry in English on UPOV on January 15, 2013]

The **International Union for the Protection of New Varieties of Plants** or **UPOV** (**French**: *Union internationale pour la protection des obtentions végétales*) is an [intergovernmental organization](#) with [headquarters](#) in [Geneva](#), [Switzerland](#). The current Secretary-General of UPOV is [Francis Gurry](#).^[1]

UPOV was established by the International [Convention for the Protection of New Varieties of Plants](#). The Convention was adopted in [Paris](#) in 1961 and revised in 1972, 1978 and 1991. The objective of the Convention is the protection of new varieties of plants by an [intellectual property](#) right. By codifying intellectual property for plant breeders, UPOV aims to encourage the development of [new varieties](#) of plants for the benefit of society.

For [plant breeders' rights](#) to be granted, the new variety must meet four criteria under the rules established by UPOV^{[Citation needed](#)}.

1. The new plant must be novel, which means that it must not have been previously marketed in the country where rights are applied for.
2. The new plant must be distinct from other available varieties.
3. The plants must display homogeneity.
4. The trait or traits unique to the new variety must be stable so that the plant remains true to type after repeated cycles of propagation.

Protection can be obtained for a new [plant variety \(legally defined\)](#) however it has been obtained, e.g. through conventional breeding techniques or [genetic engineering](#).

Contents

- [\[hide\]](#)
- [1 Members](#)
- [2 System of protection](#)
- [3 Genetically modified plant varieties](#)
- [4 Development and public interest concerns](#)
- [5 References and notes](#)
- [6 See also](#)
- [7 External links](#)

Members

As of December 2011, the following 70 countries were members of UPOV^[2]: [Albania](#), [Argentina](#), [Australia](#), [Austria](#), [Azerbaijan](#), [Belarus](#), [Belgium](#), [Bolivia](#), [Brazil](#), [Bulgaria](#), [Canada](#), [Chile](#), the [People's Republic of China](#), [Colombia](#), [Costa Rica](#), [Croatia](#), [Czech Republic](#), [Denmark](#), [Dominican Republic](#), [Ecuador](#), [Estonia](#), [European Community](#),^[3] [Finland](#), [France](#), [Georgia](#),^[4] [Germany](#), [Hungary](#), [Iceland](#), [Ireland](#), [Israel](#), [Italy](#), [Japan](#), [Jordan](#), [Kenya](#), [Kyrgyzstan](#), [Latvia](#), [Lithuania](#), [Macedonia](#), [Mexico](#), [Moldova](#), [Morocco](#), [Netherlands](#), [New Zealand](#), [Nicaragua](#), [Norway](#), [Oman](#), [Panama](#), [Paraguay](#), [Peru](#), [Poland](#), [Portugal](#), [Republic of Korea](#), [Romania](#), [Russian Federation](#), [Singapore](#), [Slovakia](#), [Slovenia](#), [South Africa](#), [Spain](#), [Sweden](#), [Switzerland](#), [Trinidad and Tobago](#), [Tunisia](#), [Turkey](#), [Ukraine](#), [United Kingdom](#), [United States of America](#), [Uruguay](#), [Uzbekistan](#), and [Viet Nam](#).^[5]

System of protection

The Convention defines both how the organization must be governed and run, and the basic concepts of plant variety protection that must be included in the domestic laws of the members of the Union. These concepts include^[6].

- The criteria for new varieties to be protected: novelty, distinctness, uniformity, and stability.
- The process for application for a grant
- Intellectual property rights conferred to an approved breeder
- Exceptions to the rights conferred to the breeder
- Required duration of breeder's right
- Events in which a breeder's rights must be declared null and void

In order to be granted breeder's rights, the variety in question must be shown to be **new**. This means that the plant variety cannot have previously been available for more than one year in the applicant's country, or for more than four years in any other country or territory. The variety must also be **distinct**, that is, easily distinguishable through certain characteristics from any other known variety (protected or otherwise). The other two criteria, **uniformity** and **stability**, mean that individual plants of the new variety must show no more variation in the relevant characteristics than one would naturally expect to see, and that future generations of the variety through various propagation means must continue to show the relevant distinguishing characteristics.

A breeder can apply for rights for a new variety in any union member country, and can file in as many countries as desired without waiting for a result from previous applications. Protection only applies in the country in which it was granted, so there are no reciprocal protections unless otherwise agreed by the countries in question. There is a right of priority, and the application date of the first application filed in any country is the date used in determining priority.

The rights conferred to the breeder are similar to those of copyright in the United States, in that they protect both the breeder's financial interests in the variety and his recognition for achievement and labor in the breeding process. The breeder must authorize any actions taken in propagating the new variety, including selling and marketing, importing and exporting, keeping stock of, and reproducing. This means that the breeder can, for example, require a licensing fee for any company interested in reproducing his variety for sale. The breeder also has the right to name the new variety, based on certain guidelines that prevent the name from being deliberately misleading or too similar to another variety's name.

There are explicit exceptions to the rights of the breeder, known as the "breeder's exemption clause", that make it unnecessary to receive authorization for the use of a protected variety where those rights interfere in the use of the variety for a private individual's non-monetary benefit, or the use of the variety for further research. For example, the breeder's rights do not cover the use of the variety for subsistence farming, though they do cover the use of the variety for cash crop farming. Additionally, the breeder's authorization is not required to use a protected variety for experimental purposes, or for breeding other varieties, as long as the new varieties are not "essentially derivative" of the protected variety.^[6]

The Convention specifies that the breeder's right must be granted for at least 20 years from grant date, except in the case of varieties of trees or vines, in which case the duration must be at least 25 years.^[6]

Finally, there are provisions for how to negate granted breeders' rights if the rights are determined to be unfounded. That is, if it is discovered after the application has been granted that the variety is not actually novel or distinct, or if it is discovered to not be uniform or stable, the breeder's rights are nullified. In addition, if it is discovered that the person who applied for protection of the variety is not the actual breeder, the rights are nullified unless they can be transferred to the proper person. If it is discovered after a period of protection that the variety is no longer uniform and stable, the breeder's rights are canceled.

[edit] Genetically modified plant varieties

The UPOV has been updated several times to reflect changing technology and increased understanding of how plant variety intellectual property protection must work. The last revision was in 1991, and specifically mentioned genetic engineering only insofar as it is a method of creating variation.^[7] **Under the UPOV Convention alone**, genetically modified crops and the intellectual property rights granted to them are no

different than the intellectual property rights granted for traditionally bred varieties. It is important to note that this necessarily includes the ability to use protected varieties for subsistence farming and for research.

In October 2004, two joint Symposia were held in Geneva with the [World Intellectual Property Organization](#) (WIPO). These Symposia were the WIPO-UPOV Symposium on Intellectual Property Rights in Plant Biotechnology (24 October 2003) and the WIPO-UPOV Symposium on the Co-Existence of Patents and Plant Breeders' Rights in the Promotion of Biotechnological Developments (25 October 2003). No new policy was created at either of these events, but a consensus emerged that both patents and plant-breeders' rights must combine to promote plant biotechnology.^[8]

As a policy matter, the UPOV is known to consider open and un-restricted access to the genetic resources of protected plant varieties to be important to the continued development of new varieties.^[9] This opinion is indicated in the "breeders' exemption" clause of the Convention, as described above, and was reinforced in October 2005 in a reply to a notification from the [Convention on Biological Diversity](#).

In April 2003, the Convention on Biological Diversity asked the UPOV for comment on the use of [Genetic Use Restriction Technologies](#) (also known pejoratively as 'terminator genes') as they relate to the promotion of intellectual property rights. In the summary of their response, the UPOV stated that intellectual property protection is necessary because breeders must have the ability to recoup their money and labor investment in creating new varieties, and in that light, plants with 'terminator genes' may still be accepted for protection if they meet the other criteria. However, the UPOV comment states that the Convention and its system of protection is sufficient to protect intellectual property rights, and that with proper legal protections in place, technologies like 'terminator genes' should not be necessary.^[10]

[edit] Development and public interest concerns

Whether or not UPOV negatively affects agriculture in developing countries is much debated. It is argued that UPOV's focus on patents for plant varieties hurts farmers, in that it does not allow them to use saved seed or that of protected varieties. Countries with strong farmers' rights, such as India, cannot comply to all aspects of UPOV. François Meienberg is of this opinion, and writes that the UPOV system has disadvantages, especially for developing countries, and that "at some point, protection starts to thwart development".^[11]

On the other hand, Rolf Jördens argues that plant variety protection is necessary. He believes that by joining UPOV, developing countries will have more access to new and improved varieties (better yielding, stronger resistance) instead of depending on old varieties or landraces, thus helping fight poverty and feed the growing world population.^[12]

Empirical evidence to support either point of view is lacking. However, two things are clear.

First, UPOV supports an agricultural system that is clearly export-oriented. In other word, developing countries moving towards UPOV-consistent systems tend to favour breeders who are producing for export. The example of Kenya is telling in this regard, as UPOV's own study points out, the majority of varieties are owned by foreign producers and are horticultural crops, clearly destined for export. An over-heavy dependence on agriculture for export is increasingly recognized as being unwise.^{[13][14]}

Second, given the lack of empirical evidence to support this, it would make sense to encourage debate, exchange of knowledge and research on the impacts of UPOV type plant variety protection on farming, food, human rights and other public interest objectives. However, UPOV seems to be resisting this, for instance by keeping meetings secret, not making its documents available and [refusing farmers' organisations observer status with UPOV.^[15] A recent [study by Professor Graham Dutfield^[16] exploring the role of UPOV concluded that UPOV's governance falls short in many different ways. See In addition, UPOV officials know very little about actual farming. They may know about breeding and favour breeders, but this is not the same as knowing about how small-scale farmers actually develop new varieties and produce them. In addition, UPOV systematically uses "he" "his" to refer to breeders, ignoring the role of women in many countries and many cultures in sharing knowledge and breeding new varieties. The UPOV system thus favours commercial breeders over farmers and producers, and private interests over public interests. The UN Special Rapporteur on the Right to Food, Olivier De Schutter, came to similar findings in his study of UPOV in 2009. He found that IP-related monopoly rights could cause poor farmers to become "increasingly dependent on expensive inputs" and at risk of indebtedness. Further, the system risks neglecting poor farmers' needs in favour of agribusiness needs, jeopardising traditional systems of seed-saving and exchange, and losing biodiversity to "the uniformization encouraged by the spread of commercial varieties."^[17]

[...]