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# INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

## CONSULTATIVE COMMITTEE

### Eighty-Eighth Session Geneva, October 15, 2014

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

*Document prepared by the Office of the Union*

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

#### Purpose

1. The purpose of this document is to report on developments concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention or which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention.

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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).<sup>1</sup>

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 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.<sup>2</sup>

#### *States (16):*

Armenia, Bosnia and Herzegovina, Egypt, Ghana, Guatemala, Honduras, India, Kazakhstan, Malaysia, Mauritius, Montenegro, Philippines, Tajikistan, United Republic of Tanzania, Venezuela 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.

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<sup>1</sup> 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.

<sup>2</sup> 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
<a href="#">ARIPO</a>	April 11, 2014	Draft Protocol	Positive	
<a href="#">Armenia</a>	April 2, 2004	Law	Positive	No longer relevant
<a href="#">Bosnia and Herzegovina</a>	October 24, 2013	Law	Positive	
<a href="#">Egypt</a>	October 20, 1999	Draft Decree	Positive	No longer relevant
<a href="#">Ghana</a>	October 24, 2013	Draft Law	Positive	
<a href="#">Guatemala</a>	October 22, 2009	Draft Law	Positive	No longer relevant
<a href="#">Honduras</a>	April 7, 2000	Draft Law	Positive	
<a href="#">India</a>	April 11, 2008	Law		
<a href="#">Kazakhstan</a>	April 7, 2000	Law	Positive	
<a href="#">Malaysia</a>	April 8, 2005	Law		
<a href="#">Mauritius</a>	October 21, 2004	Draft Law	Positive	No longer relevant
<a href="#">Montenegro</a>	April 11, 2008	Draft Law	Positive	
<a href="#">Philippines</a>	March 30, 2007	Law		
<a href="#">Tajikistan</a>	October 21, 2010	Draft Law	Positive	
<a href="#">United Republic of Tanzania</a>	March 22, 2013	Law and Draft Law	Positive	
<a href="#">Venezuela</a>	April 3, 1998	Decision Draft Regulations	Positive	
<a href="#">Zimbabwe</a>	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.

*States (24):*

Algeria, Bahrain, Barbados, Brunei Darussalam, Cambodia, Cuba, Cyprus, El Salvador, Indonesia, Iran (Islamic Republic of), Iraq, Lao People's Democratic Republic, Libya, Mozambique, Myanmar, Namibia, 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.*

**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.

From October 29 to 31, 2014, in Harare, Zimbabwe, the Office of the Union plans to participate in the “Regional Workshop on the Draft ARIPO Protocol for the Protection of New Varieties of Plants”, organized by the African Regional Intellectual Property Organization (ARIPO), in cooperation with UPOV and with the financial assistance of the United States Patent and Trademark Office (USPTO).

## 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.

## BOSNIA AND HERZEGOVINA

### Council decision of 2008

October 30, 2008 (document C/42/21)

The Council decided to:

- (a) take note of the analysis in document C/42/19;
- (b) recommend that Bosnia and Herzegovina incorporate the additional provisions and amendments in the Law, as provided in document C/42/19, 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 Bosnia and Herzegovina in drafting the necessary additional provisions and amendments to the Law; and
- (d) authorize the Secretary-General to inform the Government of Bosnia and Herzegovina of that decision.

### Comments

On January 15 and 16, 2009, in Sarajevo, the Office of the Union provided assistance to the Government of Bosnia and Herzegovina in establishing the preliminary version of the Draft Law on the Protection of New Varieties of Plants based on the 1991 Act of the UPOV Convention, taking into account the recommendations of the Council of 2008.

On March 20, 2010, Mrs. Mirjana Brzica, Head, Department of seeds, seedling and protection of new varieties of plants, Administration of Bosnia and Herzegovina for Plant Health Protection, Ministry of Foreign Trade and Economic Relations, provided a copy of the "Law on Protection of New Varieties of Plants in Bosnia and Herzegovina" (the Law), passed by the Parliamentary Assembly of Bosnia and Herzegovina on February 23, 2010, with a request for comments from the Office of the Union.

On May 28, 2010, the Office of the Union provided comments on the Law and noted that the majority of the recommendations in the decision of the Council of 2008 had been incorporated in the Law. Nevertheless, it was noted that, for correspondence with the UPOV Convention, certain modifications of, and verifications with, the original of the Law were necessary. The Office of the Union informed Mrs. Brzica that the Draft Law or the adopted law, once modified on the basis of the comments of May 28, 2010, would need to be submitted to the Council for examination of its conformity with the UPOV Convention.

On September 2, 2011, the Office of the Union was informed by Mrs. Mirjana Brzica that the Administration of Bosnia and Herzegovina for Plant Health Protection had started the preparation of a consolidated text taking into account the modifications of, and verifications with, the original of the Law which were proposed by the Office of the Union on May 28, 2010.

On April 24, 2012, Mrs. Mirjana Brzica requested comments of the Office of the Union on the individual proposed amendments to the Law and the consolidated text taking into account the modifications of, and verifications with, the original of the Law which were proposed by the Office of the Union on May 28, 2010. The Office of the Union provided comments on July 19, 2012, and on August 8, 2012.

By letter dated June 27, 2013, addressed to the Secretary-General of UPOV, Mr. Uzunović Zeid, Deputy Director of the Administration of Bosnia and Herzegovina for Plant Health Protection, Ministry of Foreign Trade and Economic Relations, requested the examination of the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina of February 23, 2010, as amended on April 16, 2013 (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/47/13 "Examination of the conformity of the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina with the 1991 Act of the UPOV Convention" and items 3 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 analysis in document C/47/17;
- (b) note the information provided by the Delegation of Bosnia and Herzegovina that the English translation of the Law required verification and that the following corrections would be made to the translation in accordance with the original text of the Law:
  - (i) to delete the text in Article 2(1)(f), which was already contained in Article 21(7);
  - (ii) to delete the words "a small" in Article 22(2);
  - (iii) to correct the translation in Article 11(6) to reflect that a procedure for granting a breeder's right can start also by filing an application outside of Bosnia and Herzegovina;
  - (iv) to correct the translation in Article 11(7) in accordance with the terms used for the national treatment provision in Article 5;
- (c) take a positive decision on the conformity of the Law for the Protection of New Varieties of Plants of Bosnia and Herzegovina with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Bosnia and Herzegovina to deposit its instrument of accession to the 1991 Act; and
- (d) authorize the Secretary-General to inform the Government of Bosnia and Herzegovina of the above decision.

On May 7, 2014, Ms. Snežana Akulović, Director Adviser, Ministry of Foreign Trade and Economic Relations of the Government of Bosnia and Herzegovina transmitted to the Office of the Union a copy of the verified translation of the Law for the Protection of New Varieties of Plants, which incorporated the corrections provided in the decision of the Council of October 24, 2013.



## 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.

## 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.

## 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. The text contained the adopted version of the draft law for which there was a positive decision of the Council of 2009 on accession to the UPOV Convention. The text of the Law also contained an article on a subject matter not related to plant variety protection and a process to correct that error was initiated before the Congress. At the request of Mr. Salazar, on August 28, 2014, the Office of the Union provided comments on the Law in relation to the decision of the Council of 2009. On September 5, 2014, Mr. Salazar notified the Office of the Union that, on September 4, 2014, the Congress had repealed the Law.

## 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.

## 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, Nicaragua<sup>3</sup>, 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.

<sup>3</sup> 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.

## 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."

## 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).



## 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.

## MONTENEGRO

### Council decision of 2001

April 6, 2001 (document C(Extr.)/18/4)

The Council decided to:

(a) advise the Government of Yugoslavia (Serbia and Montenegro) that the Law on Protecting Agricultural and Forest Plant Cultivars (the Law) does not incorporate some important provisions of the Convention;

(b) request the Office of the Union to offer its assistance to the Government of Yugoslavia in drafting the necessary amendments to the Law, and the preparation of a more satisfactory translation into one or more of the official languages of UPOV;

(c) further advise the Government of Yugoslavia that, upon the adoption of the necessary amendments to the satisfaction of the Office of the Union and the making of implementing regulations, it may deposit an instrument of accession to the Convention.

### Comments

Because Montenegro has become an independent State, separate accession procedures have started for both Montenegro and Serbia.

### Council decisions of 2007 and 2008

October 25, 2007 (document C/41/17)

The Council decided to:

(a) take note of the information given in document C/41/14;

(b) recommend that Montenegro incorporate the additional provisions and amendments in the Law on Protection of Plant Varieties of the Republic of Montenegro, as provided in document C/41/14 and replace "30 days" by "60 days" in Article 12, paragraph 3 of the Law; 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 to the Government of Montenegro in drafting the necessary additional provisions and amendments to the Law; and

(d) authorize the Secretary-General to inform the Government of Montenegro of that decision.

April 11, 2008 (document C(Extr.)/25/10)

The Council decided to:

- (a) take note of the analysis in document C(Extr.)/25/6 and the additional information provided by the Delegation of Montenegro that it intends to move Article 42(3) to Article 44 of the Draft Law;
- (b) take a positive decision on the conformity of the Draft Law on Protection of Plant Varieties of Montenegro with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows that, subject to the replacement of "90 days" by "three months" in Article 19, once the Law is adopted and in force, Montenegro may deposit its instrument of accession to the 1991 Act; and
- (c) authorize the Secretary-General to inform the Government of Montenegro of that decision.

### Comments

On April 15, 2008, the Secretary-General informed the Government of Montenegro of the decision of the Council. On April 17, 2008, the Office of the Union provided information on the requirements for the deposit of the instrument of accession.

On March 17, 2010, the Office of the Union was informed by Ms. Zorka Prljevic, Director, Phytosanitary Directorate, that the Draft Law on Protection of Plant Varieties, which provided the basis for the positive decision of the Council of 2008, had been adopted by the Parliament of Montenegro. The Law was published in the Official Gazette 48/07 and 48/08 on August 11, 2008 and entered into force on August 19, 2008 (Law of 2008). The Office of the Union has received a copy of the adopted Law of 2008 from Ms. Prljevic.

On September 28, 2011, the Permanent Mission of Montenegro to the United Nations Office at Geneva and other International Organizations in Switzerland requested information on the requirements for the deposit of the instrument of accession of Montenegro to the 1991 Act of the UPOV Convention.

On May 16, 2013, the Permanent Mission of Montenegro to the United Nations Office at Geneva and other International Organizations in Switzerland expressed its wish to deposit the instrument of accession of Montenegro to the 1991 Act of the UPOV Convention. On May 16, 2013, the Office of the Union informed the Permanent Mission that in order for the deposit of the instrument of accession of Montenegro to take effect the following additional elements should be provided: the Law of 2008; the declaration that the Law of 2008 is applicable to all genera and species and the declaration on contributions.

## 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.

**UNITED REPUBLIC OF TANZANIA**

**Council decision of 2012**

November 1, 2012 (document C/46/19)

The Council decided to:

(a) note the analysis in document C/46/15 and that the Plant Breeders' Rights Bill for Mainland Tanzania (Draft Law) would incorporate in Section 2 the text "'Ministry' means Ministry responsible for agriculture";

(b) subject to the incorporation in the Draft Law (see Annex II to document C/46/15) of the Minister's Amendments (see Annex III to document C/46/15), as set out in paragraphs 14, 16, 18, 24, 26, 28, 33, 36, 40, 42 and 43 of document C/46/15, the modifications recommended in paragraphs 22 and 34 of document C/46/15, and in subparagraph (a) above, and the following proposals agreed with the Delegation of the United Republic of Tanzania in Section 14 and Section 22(1) and (4) of the Draft Law:

'14.-(1) The variety shall be deemed to be new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the variety has not been sold or otherwise disposed of to any person by or with the consent of the breeder for purposes of exploitation of the variety

'(a) in the territory of the United Republic of Tanzania, earlier than one year before the date of filing the application;

'(b) in a territory other than that of the United Republic of Tanzania ~~in which the application has been filed-~~

'(i) earlier than four years; or

'(ii) in the case of trees or of vines, earlier than six years before the said date.'

'22.-(1) Any breeder who has duly filed an application for the protection of a variety in one of the members of an international organization dealing with plant breeders' rights matters which Tanzania is a party shall enjoy a right of priority for a maximum period of twelve months. This period ~~which~~ shall be computed from the date of filing the first application. The day of filing date shall not be included in the ~~later application~~ latter period.

'[...]

'(4) The applicant shall, within a period of two years after the expiration of the period of priority, or a period of six months where the first application is rejected or withdrawn, be allowed to furnish to the Registrar any necessary information, document or material required in this Act for the purpose of the examination.'

and with no additional changes, take a positive decision on the conformity of the Plant Breeders' Rights Bill for Mainland Tanzania with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants;

(c) note that the adoption of the Draft Law for Mainland Tanzania and of the Draft Law for Zanzibar are necessary for breeders' rights to cover the whole territory of the United Republic of Tanzania;

(d) note that the Government of the United Republic of Tanzania has the intention to submit, at a later stage, the Draft Law or adopted Law for Zanzibar for examination by the Council;

(e) inform the Government of the United Republic of Tanzania that its instrument of accession may be deposited after positive decisions of the Council on the Laws for Mainland Tanzania and Zanzibar; and

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

### Council decision of 2013

March 22, 2013 (document C(Extr.)/30/8)

The Council 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.

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 that were not part of the decision of the UPOV Council of March 22, 2013. In the opinion of the Office of the Union the additional changes that 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. The Consultative Committee and the Council will be invited to consider this matter at their sessions on October 15 and 16, 2014, respectively (see document C/48/18 "Developments on the Plant Breeders' Rights Act for Zanzibar").



## VENEZUELA

### 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, Nicaragua<sup>4</sup>, 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

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<sup>4</sup> Nicaragua acceded to the 1978 Act on September 6, 2001.

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.

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  
WHICH HAVE BEEN IN CONTACT WITH THE OFFICE OF THE UNION  
FOR ASSISTANCE IN THE DEVELOPMENT OF LAWS  
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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 Varieties Act of 2001" which differed from the corresponding provisions of the UPOV Convention.

## **BRUNEI DARUSSALAM**

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 Brunei Darussalam: Ms. Fuziah Haji Hamdan, Assistant Director of Agriculture, Department of Agriculture and Agrifood, Ministry of Industry and Primary Resources and Ms. Alice Khan, Legal Draftsman, Attorney General's Chambers, Prime Minister's Office. The discussions were focused on the Draft Plant Variety Protection Law (Draft Law).

On August 9, 2012, the Office of the Union received from Ms. Shahrinah Yusof Khan, Deputy Registrar, Head of Patents, Patent Registry Office a revised version of the Draft Law "Draft Plant Varieties Protection Order (Order is equivalent to an Act) with a request for comments. The comments of the Office of the Union were provided on September 27, 2012, and consultation meetings were held in Geneva on October 5 and 9, 2012.

On July 2, 2013, in Bandar, Brunei Darussalam, the Office of the Union made a visit to the Brunei Intellectual Property Office (BrulPO) to meet with officials from agencies involved in the development of the Draft Law.

In 2013, the Office of the Union provided assistance to the Government of Brunei Darussalam with different versions of the Draft Law on various occasions. On September 13, 2013, the Office of the Union confirmed that the version of the Draft Law of August 25, 2013, incorporated the suggested changes discussed in previous consultations.

On April 14, 2014, Ms. Shahrinah Yusof Khan, Director General of BrulPO, informed the Office of the Union that the Government of Brunei Darussalam was finalizing the Draft Law. She noted that, once the plant variety protection system had been implemented, Brunei Darussalam would work on 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.

## **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.

## **IRAN (ISLAMIC REPUBLIC OF)**

On August 9, 2003, the Office of the Union was informed that the Parliament of the Islamic Republic of Iran had approved a proposal concerning membership of UPOV and received a request for the provision of assistance with a view to introducing a system for plant variety protection in the Islamic Republic of Iran.

Since August 13, 2003, the Office of the Union has, on various occasions, provided assistance to the Islamic Republic of Iran in the development of legislation. The most recent comments were provided on November 4, 2004 on the "Plant Breeder's Rights Bill" and on May 10, 2005 on the "Draft Act Amending the Act of Plant Varieties Registration, Control and Certification of Seeds and Seedling". No reply was received to those comments. On November 27, 2007, the Office of the Union learned informally that the Plant Breeder's Rights Bill had been adopted by the Parliament and that several provisions of the adopted Act appear not to correspond to the 1991 Act of the UPOV Convention. The Office of the Union has not received a copy of the Act.

## **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.

## **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.

## **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.

## **MYANMAR**

On December 19, 2012, in Nay Pyi Taw, Myanmar, at the fringes of the "Plant Variety Protection Awareness Raising Seminar", the Office of the Union met senior officials of the Ministry of Agriculture and Irrigation of to discuss the Draft Law of Plant Variety Protection of Myanmar (Draft Law) and explained the procedure for becoming a member of UPOV.



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 the Draft Law. On March 15, 2013, the Office of the Union sent comments on the Draft Law.

On December 9, 2013, Ms. Pa Pa Win, Assistant Research Officer, Department of Agricultural Research, Ministry of Agriculture and Irrigation, sent an updated version of the Draft Law to the Office of the Union. On December 20, 2013, the Office of the Union sent comments in relation to the provisions of the 1991 Act of the UPOV Convention that had not been incorporated in the December 9, 2013, version of the Draft Law.

## **NAMIBIA**

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

## **PAKISTAN**

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

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

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

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

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

## **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).

## **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.

## **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.

## **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 Wongsas, 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.

## **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 28, 2013, Mr. Makkawi requested the preparation of detailed comments of the Law 2009. The detailed comments are currently under preparation.

## **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.

[End of Annex II and of document]