



# COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

## Item 10 of the Provisional Agenda

### INTERGOVERNMENTAL TECHNICAL WORKING GROUP ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

#### Ninth Session

Rome, 25-27 July 2018

### REPORT FROM THE INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)

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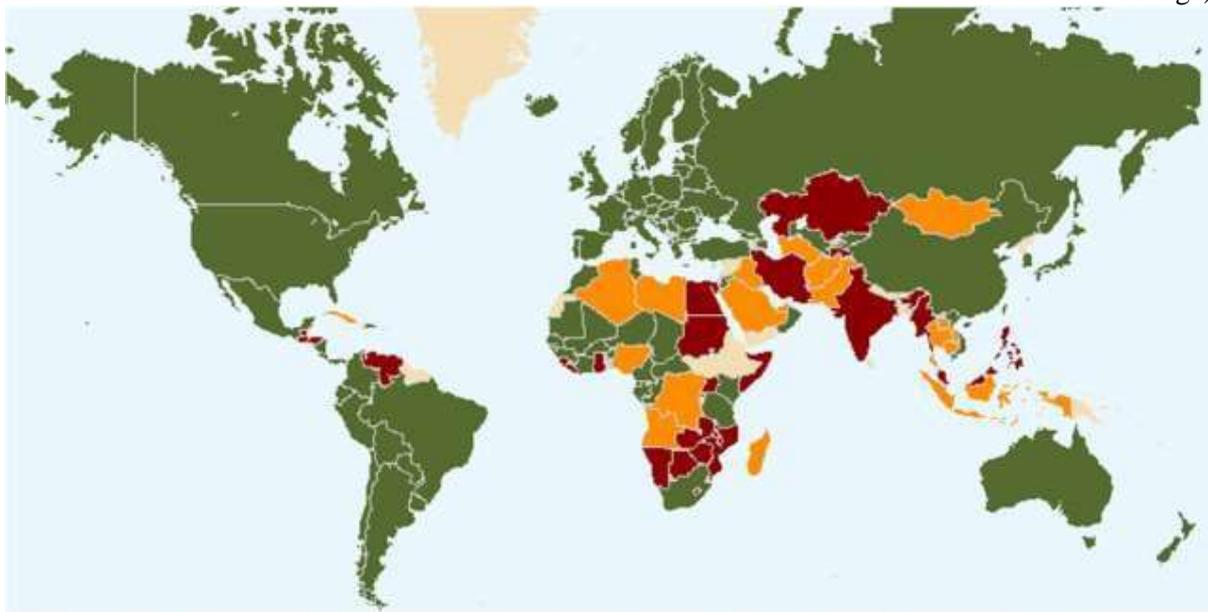
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## I. INTRODUCTION

1. The International Union for the Protection of New Varieties of Plants (UPOV) was established in 1961 by the International Convention for the Protection of New Varieties of Plants (UPOV Convention). The mission of UPOV is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society. As at 13 April 2018, UPOV has 75 members (shown in green). Sixteen States and one intergovernmental organization have initiated the procedure for acceding to the UPOV Convention (shown in brown), and 26 States and one intergovernmental organization have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention (shown in orange):



The boundaries shown on this map do not imply the expression of any opinion whatsoever on the part of UPOV concerning the legal status of any country or territory.

2. Details are provided in the Annex to this report and in the list of UPOV members available at <http://www.upov.int/members/en/>.

3. The UPOV Convention provides the basis for members to encourage plant breeding by granting breeders of new plant varieties an intellectual property right: (see [http://www.upov.int/upovlex/en/upov\\_convention.html](http://www.upov.int/upovlex/en/upov_convention.html)).

4. The UPOV Convention specifies the acts that require the breeder's authorization in respect of the propagating material of a protected variety and, under certain conditions, in respect of the harvested material. UPOV members may also decide to extend protection to products made directly from harvested material, under certain conditions.

5. In order to obtain protection, the breeder needs to file individual applications with the authorities of UPOV members entrusted with the task of granting breeders' rights. The directory of the PVP Offices of the UPOV members is available at [http://www.upov.int/members/en/pvp\\_offices.html](http://www.upov.int/members/en/pvp_offices.html).

6. A State or intergovernmental organization that wishes to become an UPOV member needs to seek the advice of the UPOV Council in respect of the conformity of its laws with the provisions of UPOV Convention. This procedure leads, in itself, to a high degree of harmony in those laws, thus facilitating cooperation between members in the implementation of the system. Guidance documents on how to develop legislation and become a UPOV member can be found at

[http://www.upov.int/upov\\_collection/en](http://www.upov.int/upov_collection/en). The legislation of UPOV members can be consulted in UPOV Lex at <http://www.upov.int/upovlex/en/>.

7. The main objectives of UPOV are, in accordance with the UPOV Convention, to:
- provide and develop the legal, administrative and technical basis for international cooperation in plant variety protection;
  - assist States and organizations in the development of legislation and the implementation of an effective plant variety protection system; and
  - enhance public awareness and understanding of the UPOV system of plant variety protection.
8. The effectiveness of the UPOV system of plant variety protection is enhanced by the provision of guidance and information materials such as Explanatory Notes ("UPOV/EXN" series), Information Documents ("UPOV/INF" series), the General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants, with its associated TGP documents, and the "Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability". Such materials provide the basis for harmonization and, thereby, facilitate cooperation between UPOV members ([http://www.upov.int/upov\\_collection/en/](http://www.upov.int/upov_collection/en/)).
9. Further measures to support and enhance cooperation between members include the UPOV PRISMA PBR Application Tool (<http://www.upov.int/upovprisma/en/index.html>), information available in the PLUTO Plant Variety Database (<http://www.upov.int/pluto/en/>) and in the GENIE database (<http://www.upov.int/genie/en/>).

## **II. UPOV AND PLANT GENETIC RESOURCES**

10. UPOV considers that plant breeding is a fundamental aspect of the sustainable use and development of genetic resources. It is of the opinion that access to genetic resources is a key requirement for sustainable and substantial progress in plant breeding. The concept of the "breeder's exemption" in the UPOV Convention, whereby acts done for the purpose of breeding other varieties are not subject to any restriction, reflects the view of UPOV that the worldwide community of breeders needs access to all forms of breeding material to sustain greatest progress in plant breeding and, thereby, to maximize the use of genetic resources for the benefit of society.

11. The following paragraphs report on some recent areas of cooperation between UPOV and the Commission on Genetic Resources for Food and Agriculture (CGRFA) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)<sup>1</sup>.

### **A. Commission on Genetic Resources**

12. From 30 January to 3 February 2017, in Rome, the Office of the Union attended the Sixteenth Regular Session of the CGRFA.

### **B. International Treaty on Plant Genetic Resources for Food and Agriculture**

UPOV has published a FAQ on "What is the relationship between the UPOV Convention and international treaties concerning genetic resources, e.g. the Convention on Biological Diversity (CBD) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)?" (see <http://www.upov.int/about/en/faq.html#QR10>) which includes the following:

"[...] Both the ITPGRFA and the UPOV Convention aim to support plant breeding activities and to encourage the development of new varieties of plants. The ITPGRFA does so by providing a system for facilitated access to plant genetic resources, while the UPOV Convention does so by establishing a

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<sup>1</sup> See [http://www.upov.int/export/sites/upov/news/en/2003/pdf/cbd\\_response\\_oct232003.pdf](http://www.upov.int/export/sites/upov/news/en/2003/pdf/cbd_response_oct232003.pdf)

system for plant variety protection. When implemented by UPOV members, the relevant legislations dealing with these matters should be compatible and mutually supportive".

*Symposium on Possible Interrelations between the International Treaty on Plant Genetic Resources for Food and Agriculture and the International Convention for the Protection of New Varieties of Plants*

13. On 26 October 2016, UPOV and the ITPGRFA jointly organized a "Symposium on Possible Interrelations between the International Treaty on Plant Genetic Resources for Food and Agriculture and the UPOV Convention" (see [http://www.upov.int/meetings/en/details.jsp?meeting\\_id=40584](http://www.upov.int/meetings/en/details.jsp?meeting_id=40584)).

14. The Symposium was opened by Mr Francis Gurry, Secretary-General of UPOV, and Mr Kent Nnadozie, Secretary ad interim of the ITPGRFA.

15. In their closing remarks, the Co-Moderators Mr Muhamad Sabran, Chairperson of the Seventh Session of the Governing Body of the ITPGRFA, and Mr Raimundo Lavignolle, Vice-President of the Council of UPOV, concluded that:

- We have seen the objectives and benefits of both treaties, the UPOV Convention and the ITPGRFA;
- It is important to interpret and implement both treaties in a mutually supportive way in the context of each contracting party;
- In order to succeed in these objectives, it is important for the two Organizations to work together and to provide the necessary support; and
- the Symposium highlights the need to involve all stakeholders in this process.

16. The Symposium was attended by 147 participants.

*Interrelations with the International Treaty on Plant Genetic Resources for Food and Agriculture*

17. The UPOV Council, at its fifty-first ordinary session, held in Geneva on 26 October 2017, agreed the following actions concerning interrelations with the ITPGRFA:

- 1) review the frequently asked question (FAQ) on the interrelations between the UPOV Convention and the ITPGRFA (see <http://www.upov.int/about/en/faq.html#QR10>); and
- 2) exchange experience and information on the implementation of the UPOV Convention and the ITPGRFA, with the involvement of stakeholders.

*Other fields of cooperation*

18. On 24 August 2016, at the FAO Liaison Office in Geneva, the Office of the Union attended a preparatory and planning session for the Fourth Partners' Meeting of the Platform for the Co-Development and Transfer of Technologies, organized by the ITPGRFA.

19. On 22 October 2016 the Office of the Union participated in the Fourth meeting of the Platform for the Co-Development and Transfer of Technologies, organized by the ITPGRFA in Vienna.

20. From 14 to 17 March 2017 in Rome, the Office of the Union attended the Sixth Meeting of the ITPGRFA's Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-Sharing.

21. On 17 and 18 March 2017 the Office of the Union attended the event "The Enhancement of the Funding Strategy of the International Treaty", organized by ITPGRFA in Rome.

22. From 30 October to 3 November 2017, the Office of the Union attended the Seventh Session of the Governing Body of the ITPGRFA in Kigali.

### **III. GENERAL DEVELOPMENTS IN UPOV**

#### **A. Situation in UPOV**

##### *New Members*

23. Bosnia and Herzegovina became bound by the 1991 Act of the UPOV Convention on 10 November 2017.

##### *Examination of laws*

###### Brunei Darussalam

24. The Council, at its fifty-first ordinary session, held in Geneva, on 26 October 2017, took a positive decision on the conformity of the “Plant Varieties Protection Order” (Law) of Brunei Darussalam with the provisions of the 1991 Act of the UPOV Convention, which allows Brunei Darussalam to deposit its instrument of accession to the 1991 Act.

###### Guatemala

25. The Council, at its fifty-first ordinary session, held in Geneva, on 26 October 2017, took a positive decision on the conformity of the “Draft Law for the Protection of New Varieties of Plants” (“Draft Law”) of Guatemala with the provisions of the 1991 Act of the UPOV Convention, which allows Guatemala once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act.

###### Myanmar

26. The Council, at its fifty-first ordinary session, held in Geneva, on 26 October 2017, took a positive decision on the conformity of the “Draft Law on New Plant Variety Protection” (“Draft Law”) of Myanmar with the provisions of the 1991 Act of the UPOV Convention, which allows Myanmar once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act.

#### **B. Video**

27. A video on “Using the UPOV system to benefit custodians of native wild germplasm in Argentina”, is available at [http://www.upov.int/about/en/benefits\\_upov\\_system.html](http://www.upov.int/about/en/benefits_upov_system.html).

#### **C. Distance Learning Courses**

28. The next running of the UPOV distance learning courses DL-205 “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”, DL-305 “Examination of applications for plant breeders' rights”, DL-305A “Administration of Plant Breeders' Rights” and DL-305B “DUS Examination”, in English, French, German and Spanish, will be as follows:

Study period: October 1 to November 4, 2018 (registration from August 6 to September 14, 2018)

29. The categories of participants for the UPOV distance learning courses are the following:

*Category 1:* Government officials of members of the Union endorsed by the relevant representative to the UPOV Council (No fee)

*Category 2:* Officials of observer States / intergovernmental organizations endorsed by the relevant representative to the UPOV Council (One non-fee paying student per State/intergovernmental organization; Additional students: CHF1 000 per student)

*Category 3:* Others (Fee: CHF1 000)

Registration of participants in categories 1 and 2 must be accompanied by an endorsement from the representative to the UPOV Council of the UPOV member or observer, as appropriate, formally nominating the participant.

30. More detailed information concerning the UPOV distance learning courses' content and on-line registration is provided on the UPOV website (see <http://www.upov.int/resource/en/training.html>).

For further information about UPOV, please contact the Office of the Union:

Email: [upov.mail@upov.int](mailto:upov.mail@upov.int)

Website: [www.upov.int](http://www.upov.int)

Telephone: (+41-22) 338 9153;

fax: (+41-22) 733 0336

## ANNEX

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)  
as at 13 April 2018

## I. Members of UPOV

African Intellectual Property Organization <sup>3, 5</sup>	Colombia <sup>2</sup>	Israel <sup>3</sup>	Panama <sup>3</sup>	Switzerland <sup>3</sup>
Albania <sup>3</sup>	Costa Rica <sup>3</sup>	Italy <sup>2</sup>	Paraguay <sup>2</sup>	The former Yugoslav Republic of Macedonia <sup>3</sup>
Argentina <sup>2</sup>	Croatia <sup>3</sup>	Japan <sup>3</sup>	Peru <sup>3</sup>	Trinidad and Tobago <sup>2</sup>
Australia <sup>3</sup>	Czech Republic <sup>3</sup>	Jordan <sup>3</sup>	Poland <sup>3</sup>	Tunisia <sup>3</sup>
Austria <sup>3</sup>	Denmark <sup>3</sup>	Kenya <sup>3</sup>	Portugal <sup>2</sup>	Turkey <sup>3</sup>
Azerbaijan <sup>3</sup>	Dominican Republic <sup>3</sup>	Kyrgyzstan <sup>3</sup>	Republic of Korea <sup>3</sup>	Ukraine <sup>3</sup>
Belarus <sup>3</sup>	Ecuador <sup>2</sup>	Latvia <sup>3</sup>	Republic of Moldova <sup>3</sup>	United Kingdom <sup>3</sup>
Belgium <sup>1</sup>	Estonia <sup>3</sup>	Lithuania <sup>3</sup>	Romania <sup>3</sup>	United Republic of Tanzania <sup>3</sup>
Bolivia (Plurinational State of) <sup>2</sup>	European Union <sup>3, 4</sup>	Mexico <sup>2</sup>	Russian Federation <sup>3</sup>	United States of America <sup>3</sup>
Bosnia and Herzegovina <sup>3</sup>	Finland <sup>3</sup>	Montenegro <sup>3</sup>	Serbia <sup>3</sup>	Uruguay <sup>2</sup>
Brazil <sup>2</sup>	France <sup>3</sup>	Morocco <sup>3</sup>	Singapore <sup>3</sup>	Uzbekistan <sup>3</sup>
Bulgaria <sup>3</sup>	Georgia <sup>3</sup>	Netherlands <sup>3</sup>	Slovakia <sup>3</sup>	Viet Nam <sup>3</sup>
Canada <sup>3</sup>	Germany <sup>3</sup>	New Zealand <sup>2</sup>	Slovenia <sup>3</sup>	
Chile <sup>2</sup>	Hungary <sup>3</sup>	Nicaragua <sup>2</sup>	South Africa <sup>2</sup>	
China <sup>2</sup>	Iceland <sup>3</sup>	Norway <sup>2</sup>	Spain <sup>3</sup>	
	Ireland <sup>3</sup>	Oman <sup>3</sup>	Sweden <sup>3</sup>	(Total 75)

<sup>1</sup> 1961 Convention as amended by the Additional Act of 1972 is the latest Act by which 1 State is bound.

<sup>2</sup> 1978 Act is the latest Act by which 17 States are bound.

<sup>3</sup> 1991 Act is the latest Act by which 55 States and 2 organizations are bound.

<sup>4</sup> Operates a plant breeders' rights system which covers the territory of its 28 member States (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom).

<sup>5</sup> Operates a plant breeders' rights system which covers the territory of its 17 member States (Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, Togo).

**States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention**

Armenia, Brunei Darussalam, Egypt, Ghana, Guatemala, Honduras, India, Iran (Islamic Republic of), Kazakhstan, Malaysia, Mauritius, Myanmar, Philippines, Tajikistan, Venezuela (Bolivarian Republic of), Zimbabwe, as well as the African Regional Intellectual Property Organization (ARIPO) .

**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**

Afghanistan, Algeria, Bahrain, Barbados, Cambodia, Cuba, Cyprus, El Salvador, Indonesia, Iraq, Jamaica, Lao People's Democratic Republic , Libya, Liechtenstein, Mongolia, Mozambique, Namibia, Nigeria, Pakistan, Saudi Arabia, Sudan, Thailand, Tonga, Turkmenistan, United Arab Emirates, Zambia, as well as the Southern African Development Community (SADC).