

ADMINISTRATIVE COUNCIL OF THE CPVO

27 and 28 November 2012 in Angers

Main conclusions

CONFIDENTIAL PART

1. Duties and functions of the Chair of the AC.

The members of the AC took note of the duties to be performed by the Chair of the AC as stated in document 02.

2. Election of the Chair and Vice-Chair of the AC.

In a secret ballot, the 24 Member States present or represented unanimously elected Mrs Bronislava Bátorová as Chair of the AC for three years from 27 November 2012.

In a secret ballot, Mr Andrew Mitchell was elected Vice-Chair of the AC for three years from 27 November 2012, obtaining 19 votes from the 24 Member States present or represented.

3. Appointment of rapporteurs for appraisal of the President and Vice-President of the CPVO

The members of the AC unanimously appointed Mr Miko and Mr Mitchell as rapporteurs for appraisal of the President of the CPVO, and Mrs Simion and Mr Mitchell for appraisal of the Vice-President of the CPVO.

4. Adoption of the draft minutes from the meeting held on 20 and 21 March 2012 in Brussels

The minutes of the AC meeting in March were adopted with no amendments.

5. Provisional budget for 2013

The members of the AC with voting rights unanimously adopted the budget for 2013.

6. Fee structure, update

The document presented by the CPVO inviting members of the AC to comment on four matters (a direct financial link; cost structure; fees, and the role of the CPVO) was the subject of numerous problems and questions. The members of the AC agreed that it was too soon to take a decision and asked the CPVO to draft a new document containing a more thorough analysis of the fee structure by the next meeting.

7. 2013 Annual work programme

The members of the AC took note of the 2013 work programme and asked for the 2013 objectives to include a guidance paper on the external policies of the CPVO.

8. Commission's report on the status of the plant reproductive material regulation

The draft regulation had been delayed. Inter-service consultation was underway at the Commission. The text should be ready in January 2014 to be adopted by Council before being submitted to Parliament.

The Commission invited AC members to be proactive in raising awareness of these technical issues among MEPs.

9. Commission's report on the findings of the Inter-Institutional Working Group

Members of the AC took note of the oral presentation made by the Commission on the (non-binding) conclusions of the Inter-Institutional Working Group and looked forward to receiving the written version.

10. Legislative working group 2012: report to the AC.

Members of the AC took the following decisions on the items contained in document O6.

- Variety constituents / plant-propagating material: The members of the AC decided that the LWG would not undertake any actions in 2013.
- Registration of essentially derived varieties (EDVs) in the present framework: The members of the AC endorsed the policy proposed by the CPVO for a fixed duration, with the amendment proposed by Ciopora that breeders wishing to register an EDV state it is a variety under Article 5 of the B.R.
- Future registration of EDVs: Members of the AC decided to postpone the decision until the LWG had discussed it further.
- Clarification of the EDV concept: Members of the AC agreed that one document should be drafted by France and another by the two rapporteurs of the working group.
- Use of variety denominations in the marketing of EDVs: Members of the AC expressed their support for the proposal made in the document to draft a new wording of Article 17 of the B.R. by the next meeting of the working group.
- Provisional protection: Members of the AC agreed to postpone the decision until the next meeting.
- Novelty: Members of the AC requested that this item be discussed at the next meeting.
- List of topics to be discussed at future meetings: Members of the AC agreed on the list of items proposed, with the addition of an item on the symbol for protected varieties. The LWG should prioritise topics that do not require amendments to be made to the UPOV Convention.

11. Seminar on the interface between patents and variety rights in collaboration with the EPO

Members of the AC agreed to hold two seminars in 2013. The first would be on enforcing variety rights and held in May or June 2013 in Croatia or Italy, and the second on the patent/variety rights interface in late 2013 at a location to be confirmed.

12. AC meetings.

AC members took note of the conclusion drawn by the President of the CPVO that it would continue to hold two face-to-face meetings a year (one over two days and the other on one day), with the option to take part by videoconference if possible. The number of written procedures would be increased and the present language regime maintained.

13. Quality Audit Service (QAS)

- **Document amendments**: The members of the AC with voting rights, including those voting by proxy unanimously, adopted the proposal set out in document 15.
- **Entrustment recommendations**: The members of the AC with voting rights, including those voting by proxy, unanimously expressed their support for the six entrustment recommendations made by the QAS with full or amended scope for the offices of:
 - ✓ Italy (INRAN),
 - ✓ France (GEVES),
 - ✓ Ireland (Department of Agriculture, Food and the Marine),
 - ✓ Sweden (Jordbruksverket),
 - ✓ Finland (EVIRA),
 - ✓ Bulgaria (EAVTFISC).
- **Appointment of technical experts**: The members of the AC with voting rights, including those voting by proxy, unanimously adopted the list proposed, agreeing to include the three contentious names once the proposal from the CPVO on conflict of interest had been accepted.
- **Audit Advisory Board**: The members of the AC with voting rights, including those voting by proxy, unanimously adopted the proposed list for a period of three years.

14. Research and development projects: status of projects and follow-up measures

The members of the AC took note of the status of R&D projects.

15. Cases before the CPVO Board of Appeal and the Court of Justice of the European Union

The members of the AC took note of the report.

16. Variety denominations

- **Cooperation project with OHIM:** The members of the AC took note of the new procedure.
- **AC consultation on new explanatory notes:** The AC members took note of the proposed changes and called upon the Commission to take the necessary steps to amend Regulation (EC) No 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species.

17. New technical protocol model

The members of the AC with voting rights, including those voting by proxy, unanimously adopted the latest amended version of the new CPVO technical protocol model.

18. Technical questionnaire for species without a CPVO technical protocol or UPOV guidelines

The CPVO would encourage the idea of drawing up technical questionnaires to be approved by expert groups before the information was sent to breeders' organisations. The CPVO would inform the AC before posting these on its website.

The members gave the CPVO the go-ahead to encourage the drafting of technical questionnaires approved by expert groups. This information would be sent to breeders' organisations and the AC would be informed before it was posted on the website.

19. Approval of CPVO technical protocols for DUS tests

The members of the AC with voting rights including those voting by proxy unanimously adopted the five new technical protocols for *Prunus dulcis* (Mill.) D.A. Webb, *Olea europea* L., *Cannabis sativa* L., *Heuchera* L., *Echinacea* Moench, in addition to nine revisions of existing protocols for *Fragaria* L., *Ribes uva-crispa* L., *Ribes rubrum* L., *Prunus persica* (L.) Batsch, *Lilium* L., *Kalanchoe blossfeldiana* Poelln and hybrids, *Prunus salicina* Lindl., *Actinidia* Lindl., *Impatiens* New Guinea Group and *Lonicera caerulea* L., with or without retroactive effect as appropriate.

20. Designation of examination offices

- **Results of the October 2012 inventory on new species:** The members of the AC with voting rights, including those voting by proxy, unanimously designated the offices proposed by the CPVO for the 34 species in question.
- **Information concerning amendments to Annex I for certain species:** The members of the AC took note of the list presented.

21. Any other business

Access to genetic resources: The Commission replied to the Spanish request regarding proposal of a regulation to enforce the Nagoya Protocol. The aim was to enable access to genetic resources. The Protocol was binding and should enter into force in 2014. The members of the AC took note of the presentation and requested that it be posted on the *Members only* section of the CPVO website.