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INTERNATIONAL STANDARD PROPOSED FOR PLANT BREEDERS' RIGHTS

A joint paper proposing an International System of Cooperation (ISC) for plant breeders' rights (PBR) was presented to the UPOV Consultative Committee for consideration on 27 March 2014. Invited by UPOV in October 2014, the paper is the collaborative output of three associations: the International Seed Federation (ISF), CropLife International (CLI) and CIOPORA.

An ISC would build on the current UPOV system by increasing its accessibility to plant breeders worldwide and helping them to overcome the obstacles they face in securing Intellectual Property (IP) rights in UPOV member states. Member surveys by ISF, CLI and CIOPORA showed that deviation from national application procedures, multiple language regimes, cost and time were the main obstacles.

An ISC would enable breeders to file PBR applications in various markets via a simplified and unified procedure, creating advantages for breeders and maximizing the effectiveness of the UPOV system. The system is not envisioned to replace local PBR laws, and each jurisdiction would still maintain complete sovereignty in their application process. It is also expected that the ease of filing would increase the number of PBR applications in most, if not all, countries.

Studies show that an effective UPOV-like system for PBR benefits farmers too by introducing new foreign varieties; increasing the number of domestic bred varieties; improving characteristics of varieties in certain crops; and increasing availability of crops. Without an effective PBR system or a suitable form of protection for plant varieties, there is restricted availability of new and improved varieties to farmers, especially small-scale and subsistence farmers.

The joint proposal envisages an ISC as a means of consolidating the established national systems of PBR registration. With an electronic application form – currently being developed by UPOV – the new system will allow breeders to apply for PBR in multiple countries in the language of their choice.

The procedure foresees the payment of a processing fee to a single bank account with the application fees paid to the national UPOV offices on filing of the ISC application in that country. These measures will increase the efficiency of obtaining PBR by reducing the red tape, and reducing breeders' expenditures on document translations and money transfers to foreign banks.

Once filed, the application will enter the international system responsible for non-DUS matters – namely matters other than distinctness, uniformity and stability. This phase may be conducted by a leading examination office with expertise in respective species to ensure the uniformity of the pre-DUS procedure, including the determination of novelty. This would allow the entire system to benefit from the existing reference collections while maintaining a high quality and uniform standard of DUS examinations within UPOV. Filing of applications for all genera and species will become possible even in countries lacking the capacity to perform DUS examinations in certain species.

An ISC will enhance the accessibility of multiple PBR registrations, increase incentives for IP protection, and potentially encourage more investment in plant breeding and variety development.

Following the presentation of the ISC proposal at the 89th session of the UPOV Consultative Committee in March 2015, the committee, recognizing the complexity of the matter and the need for further elaboration and consideration by the member states, asked the UPOV Office to prepare a written proposal for an ISC, including the cost estimation and the potential impact of an ISC on business.

ISC will be back on the agenda of the 90th meeting of the UPOV Consultative Committee in October 2015. In the meantime ISF, CLI and CIOPORA will continue to contribute their insights into breeders' practices to the discussion.

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