APBREBES: The Association For Plant Breeding For the Benefit of Society

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To: Vice-Secretary General of the International
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Cc: Mr. Francis Gurry
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RECOMMENDATIONS TO THE WORKING GROUP ON RULES CONCERNING OBSERVERS

On 5th April 2011 the Development Fund and the Berne Declaration, members of APBREBES sent a comparative analysis on rules concerning observers across selected international organisations. We attach a copy of the analysis for your consideration.

In this letter we would like to reiterate and endorse some of its main recommendations:

1. Make all UPOV documents publicly available

Presently little information is publicly available on UPOV's website. UPOV operates what it calls "first restricted area" and "second restricted area" which is only accessible to selected persons.

We are of the view that as an intergovernmental organization UPOV's activities must be consistent with the principles of transparency, accountability and participation. Towards this end in our view it is crucial for all working documents of UPOV including its meeting reports be publicly available. In this context it is important to recall that working documents and meeting reports of its sister organization WIPO are publicly available on its website.

2. Invite all observers to join its work with a view to achieving a balanced representation of the different stakeholders and interests.

Prior to the approval of APBREBES and ECVC in October 2010 mainly observers from the breeding industry and commercial seed sector participated in meetings of the CAJ and the Council. Clearly there is an imbalance in the representation of stakeholders and interests in UPOV. Particularly lacking are the voices of farmer organizations and public interest civil society groups that work on UPOV related matters.

This imbalance is amply demonstrated in the terms of reference of the Administrative and Legal Committee Advisory Group (CAJ-AG), which provides that " [...]The advisory group would report regularly to the CAJ on the progress of its work. Any meetings of the advisory group would be notified to the CAJ. Documents of the advisory group would be accessible to the CAJ. The CAJ members and observers would be able to send comments directly to the advisory group. [...]. Observer organizations, in particular those representing the interests of breeders, might be invited by the advisory group to present their views on a particular provision of the 1991 Act to assist in [its] work" (see document CAJ/52/4, paragraphs 13 and 14, and document CAJ/52/5 "Report", paragraph 67).

In this regard it is also worth noting that intergovernmental organizations such as WIPO (that hosts UPOV) have granted observer status to organizations representing many types of interests.

Accordingly we strongly urge UPOV to ensure balanced representation of different stakeholder groups, especially farmer organizations and other public interest civil society groups, in all its meetings.

In particular we recommend that ALL observers (and NOT select organizations representing breeders interests) to UPOV be invited to meetings of the CAJ-AG as once an organization has been granted observer status to the UPOV Council, it has already proven its competence on UPOV related matters.

3. Allow participation of observers in the Consultative Committee

The consultative committee is the *de facto* main decision-making body of UPOV, however observers are not allowed to participate in or observe its proceedings.

We recommend that the consultative committee's proceedings be opened up to UPOV's observers. This will ensure that UPOV's practices are in line with the general trend of many intergovernmental organizations over the last decade to gradually expand transparency and participatory mechanisms, in line with internationally recognized principles of good governance.

Further according to the report of the 28th extraordinary session of the UPOV Council in April 2011, the "Consultative Committee had recalled that APBREBES would have the opportunity to present its views at the forty-fifth ordinary session of the Council on October 20, 2011."

We look forward to receiving guidance on how we can present our views at the upcoming meeting of the Council.

Finally we understand that the working group on rules concerning observers had its first meeting on 9th April 2011. APBREBES would appreciate receiving the report of that meeting.

We also hope that the above-mentioned recommendations as well as the comparative analysis can be shared with all UPOV members in particular members of the working group on rules concerning observers.

Yours sincerely,
Sangeeta Shashikant
President of APBREBES