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Betreff: Federal Bill of 2024 on the protection of new plant varieties of the United Arab Emirates

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

Dr. Yehan Cui, President of the Council
Mr. Anthony Parker, Vice-President of the Council
Ms Yolanda Huerta, Vice Secretary-General

34, chemin des Colombettes
CH-1211 Genève 20

Switzerland

Dear Ms. Huerta,
Dear Dr. CUI, dear Mr. Parker

For the preparation of the next meeting of the Council on 25 October please find attached our short analysis of the Federal Bill of 2024 on the protection of new plant varieties of the United Arab Emirates.

We would kindly like to ask you to share our comments with the Council members.

We are looking forward to meeting with you next week.

Best Regards,

Edgar Krieger



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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV)
The President of the Council
The Vice-Secretary General

34, chemin des Colombettes
CH-1211 Genève 20

Switzerland

Hamburg, 23 October 2024

Short analysis of the Federal Bill ... of 2024 on the protection of new plant varieties of the United Arab Emirates

CIOPORA is pleased to submit its short analysis of the most relevant provisions of the Federal Bill No. of 2024 on the protection of new plant varieties of the United Arab Emirates as shared with the UPOV Council for examination of the compliance with the 1991 Act of the UPOV Convention.

CIOPORA is very pleased to see that the bill not only is in line with the UPOV 1991 Act, but also makes use in favour of the breeders of the flexibility given in the UPOV 1991 Act. As a result, the Bill of the United Arab Emirates provides for better protection for breeders than most of the PBR laws of the UPOV members.

Only very few amendments are proposed, mainly for the sake of clarity and transparency.

In detail:

- **Article 1 Definitions**

CIOPORA appreciates the sufficiently broad definition of “propagating material”.

- **Article 3 Genera and Species Eligible for Protection:**

CIOPORA appreciates that all genera and species of plants are eligible for plant variety protection in the United Arab Emirates.

- **Article 7 Novelty**

The triggering point for the start of the grace period concerning novelty in plant varieties should be linked to the physical transfer of propagating material for commercial purposes. This clarification would prevent confusion arising from differing interpretations of "sales".

The marketing of harvested material, incapable of producing a new plant true-to-type (e.g. most fruits), should not trigger the grace period as it doesn't allow for the variety's continued use.

Recognizing the globalization of markets and the extended timeframe for bringing a variety to market, the grace period for non-woody plants should be extended to six years and for woody plants to ten years.

CIOPORA appreciates the extension of the Novelty period for older varieties.

- **Article 13 Right of Priority**

In Article 13 the following sentence should be added:

The right of priority shall have the effect that the date on which the earlier application was filed shall count as the date of application for the plant variety right of the United Arab Emirates for the purposes of Articles 7, 8 and 12.

- **Article 15 Scope of the breeders' right**

CIOPORA appreciates the protection of products made directly from harvested products, according to Article 15 (3) (b) of the law.

The definition of EDV in Article 15 (5) of the bill of the United Arab Emirates copies the UPOV text on EDV. However, it is clear from the developments in the last years that the text of the first and the third requirement of the EDV definition are contradictory and cause significant disputes about what is an EDV.

It is, therefore, strongly suggested to deleting the second half of the sentence in Article 15 (5) (a) "while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety". This half sentence has been deleted e.g. in the Community Plant Variety Right Regulation 2100/94, too, and in many other PBR laws of UPOV members.

- **Article 16 Exceptions to the breeders' Rights**

CIOPORA very much appreciates that the farmers' exemption shall not apply to ornamental and fruit varieties.

Cannabis should also be exempted from the farmers' exemption.

- **Article 19 Variety Denomination**

For the sake of transparency and clarity, we strongly advocate for the mandatory use of the variety denomination for all plant material, including both propagating material and harvested material. Article 19 should include at least a provision that foresees that the variety denomination must be presented upon request by the breeder, the title-holder, buyer, or an authority. A good example of such provision can be found in Article 17.2 of the Community Plant Variety Right Regulation 2100/94.

- **Article 20 Examination of the application**

CIOPORA appreciates that the law allows the take-over of DUS examination reports from other countries.

- **Article 22 Provisional Protection**

CIOPORA appreciates that according to Article 22 of the law the applicant for a plant breeders' right shall have the right as the title holder, including the right to license and to initiate legal proceedings.

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