

CarIPI - CARIFORUM Intellectual Property Rights and Innovation

**Drafting legislation in accordance with the 1991 Act
of the UPOV Convention and
Becoming a UPOV member**

May 19 , 2022

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International Union for the Protection of New Varieties of Plants

Overview

**(1) UPOV membership process:
developing PVP legislation**

**(2) Steps of the UPOV
membership procedure**

(3) Financial matters

Accession of Ghana to the
UPOV Convention on
December 3, 2021



(1) UPOV MEMBERSHIP PROCESS

- **Policy decision** to draft legislation in accordance with the 1991 Act of the UPOV Convention and on becoming a UPOV member
- **Contact the Office of UPOV** for assistance provision of the Drafting Guidance Document INF/6 and consultations
- **Finalize the Draft Law** for its examination by the Council of UPOV
- **Ask advice** of the Council of UPOV
- If **advice positive** and **Law in force** deposit instrument of accession to become a UPOV member – entry into force one month after deposit
- A matter for each **State to decide the level of contribution** which it wishes to contribute: **First payment** - month of January following accession

(1) UPOV membership process: benefits

- Internationally **accepted and harmonized *sui generis* system**
- **Protection for Breeders** in other UPOV members
- Benefit from **national treatment** and **priority**
- **Co-operation** in examination, protection and enforcement
- Legal and Technical **guidance**
- **Awareness / Influence** of future developments


(2) Steps of the UPOV membership procedure

http://www.upov.int/members/en/upov_membership.html

State/Intergovernmental Organization must:

- Have a **draft law/law which conforms to the UPOV Convention**
- Ask **advice of the Council** of UPOV
- If **advice positive**: deposit instrument of accession

Cont. (2) Steps of the UPOV membership procedure: drafting legislation

	
International Union for the Protection of New Varieties of Plants	
	UPOV/INF/6/5 Original: English Date: April 6, 2017

GUIDANCE FOR THE PREPARATION OF LAWS BASED ON THE 1991 ACT OF THE UPOV CONVENTION

Document adopted by the Council
at its thirty-fourth extraordinary session
on April 6, 2017

UPOV Training and Assistance Strategy: UPOV Council Priorities

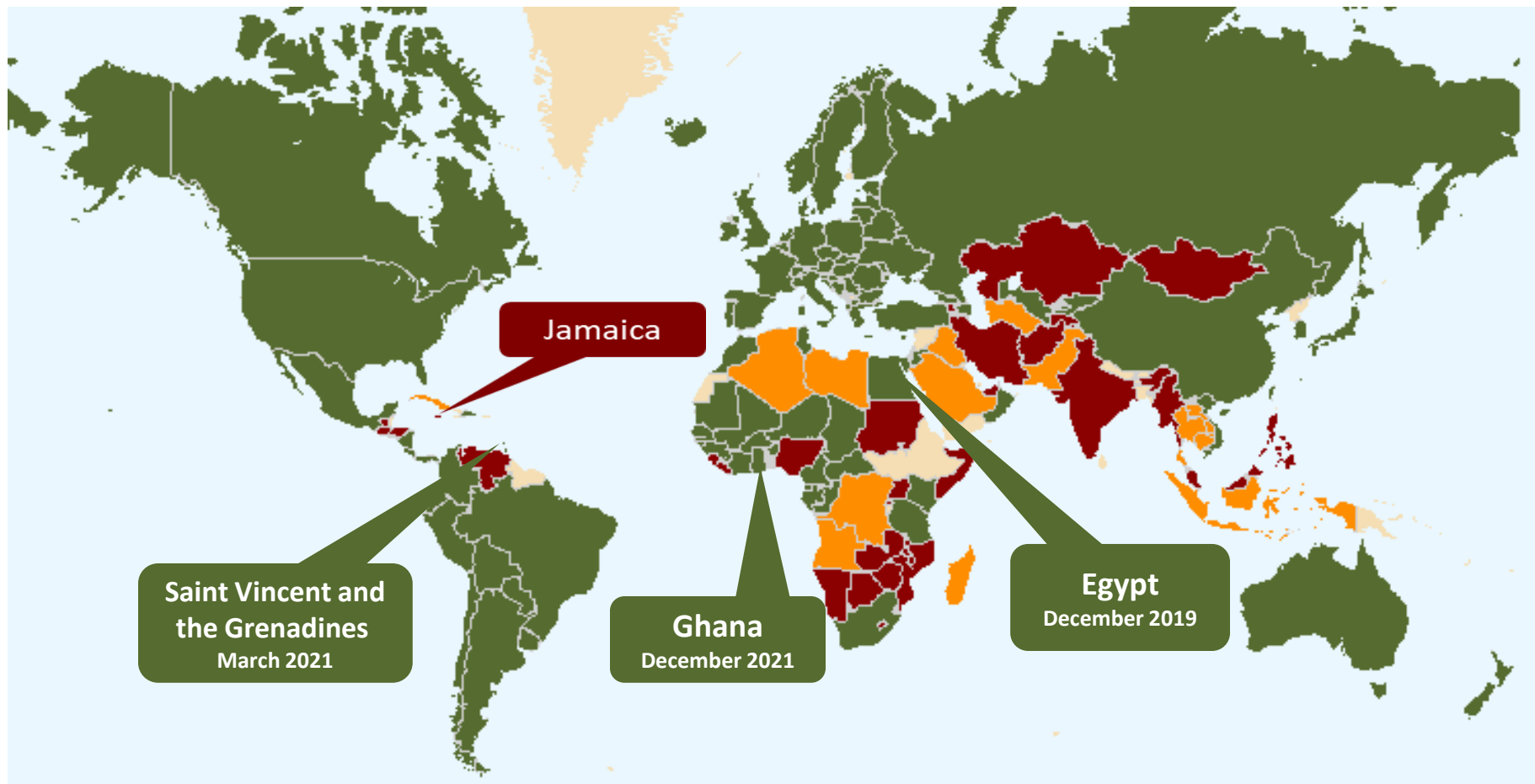
- assistance to **UPOV members**
- assistance to States/organizations in the **development of legislation** in line with the 1991 Act of the UPOV Convention and their accession to the UPOV Convention
- assistance to States/organizations in the **implementation of legislation** that has received a **positive decision** of the UPOV Council, according to their **commitment** to accede to the UPOV Convention

UPOV STATUS

May 19, 2022

Recent UPOV members Egypt, Ghana, Saint Vincent and the Grenadines

New State that initiated UPOV membership procedure: Jamaica

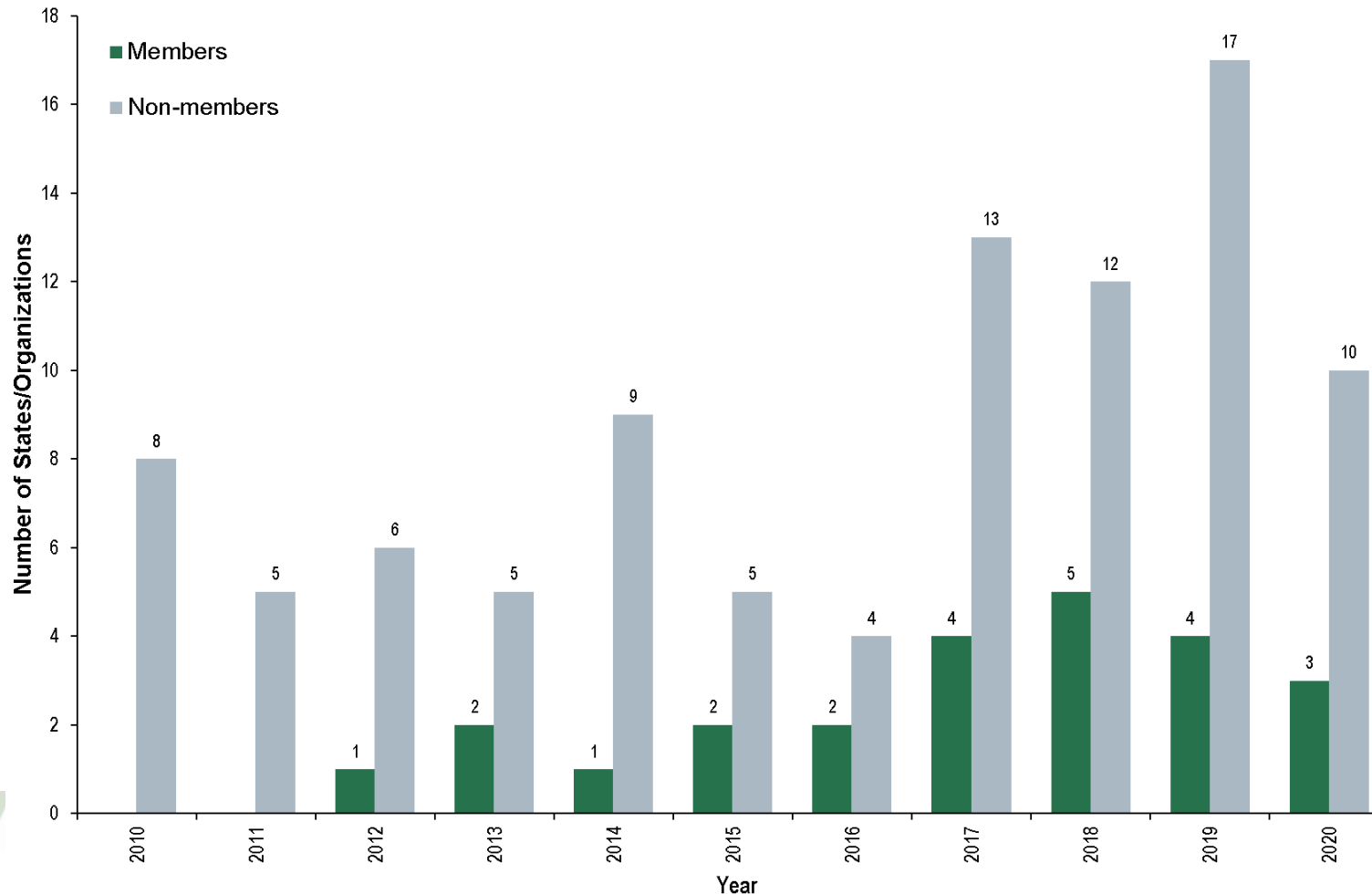


The boundaries shown on this map do not imply the expression of any opinion whatsoever on the part of UPOV concerning the legal status of any country or territory

- Members of UPOV (78) (covering 97 States)
- Initiating States (19) and Organization (1)
- States (22) and Organization (1) in contact with the UPOV Office

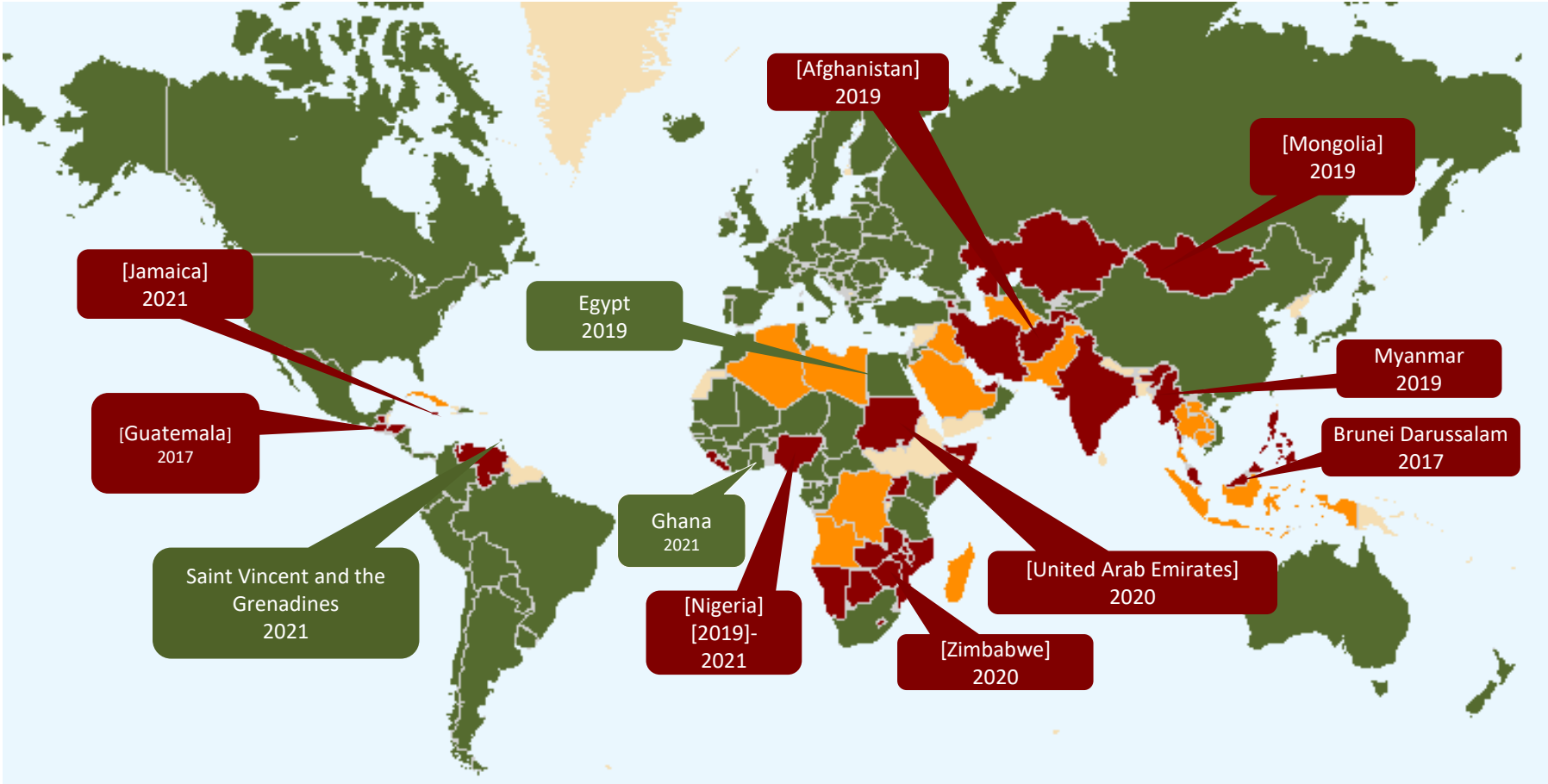
March 16 to 18 2021 virtual Workshop for the development of plant variety protection laws: plenary sessions and bilateral meetings with 20 countries

(see below Number of States/Organizations provided with comments on laws)



UPOV members and UPOV Council examination of [draft] Laws (2017-2021) (all positive)

Status November 3, 2021



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Cont. (2) Steps of the UPOV membership procedure: draft law approved/law adopted

- (a) Ask Council of UPOV to advise on conformity of its draft law/law (Article 34(3) of the Convention)
- (b) If the advice of the Council is positive: deposit the instrument of accession
- (c) Becomes a UPOV member one month after depositing the instrument of accession

Cont. (2) Steps of the UPOV membership procedure

- If the advice of the Council is positive on:
adopted law/draft law adopted with no changes
deposit the instrument of accession

Requirements for the deposit:

- Copy of the Law in force
- Declaration of units of contributions
- Declaration of plant genera and species covered
(all or list)

Becomes UPOV member one month after
depositing the instrument of accession

(3) Financial matters

- First payment of annual contribution- month of January following accession
- The value of one contribution unit = 53,641 Swiss Francs
- A matter for each State to decide the level of contribution which it wishes to contribute https://www.upov.int/edocs/pubdocs/en/upov_pub_423.pdf
- One-fifth (0.2) is the minimum level of annual contribution: 10,728 Swiss Francs
- Payment to the Working Capital Fund of UPOV (one-time payment)

Cont. (3) Financial matters: examples of membership in 2021

Example 1: Future member A decides to pay **one unit of contribution (1.0)**

- to pay in **January 2022**
Annual contribution (53,641 Swiss Francs) + Working Capital Fund (8,333 Swiss Francs) **total: 61,974 Swiss Francs**
- to pay in January each year **after 2022**: Annual contribution: **53,641 Swiss Francs**

Example 2: Future member B decides to pay **one-fifth of a contribution unit (0.2)**

- to pay in **January 2022**
Annual contribution (10,728 Swiss Francs) + Working Capital Fund (1,667 Swiss Francs) **total: 12,395 Swiss Francs**
- to pay in January each year **after 2022**: Annual contribution: **10,728 Swiss Francs**

Feedback received from Ghana the most recent UPOV member

Lessons Learnt in the procedure of development of PVP legislation and becoming a UPOV member:

- Importance of national dialogue
- Importance of national strategy
- Need for National Champions
- Availability of resources for capacity building and sensitization activities
- Collaboration and sharing of experiences

SUMMARY

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