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#### 'I' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 1)

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No. prev. doc.: 12969/21

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Subject: Alternate Chairman of the Board of Appeal of the Community Plant Variety Office (CPVO): Selection procedure  
- *Endorsement*

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1. In accordance with Article 47(1) of Council Regulation (EC) No 2100/94<sup>1</sup>, the Alternate Chairman of the Board of Appeal of the Community Plant Variety Office (CPVO) is appointed by the Council from a list of candidates which shall be proposed by the Commission after obtaining the opinion of the Administrative Council of the CPVO.
2. The term of office of the previous Alternate Chairman ended on 14 October 2021.
3. On 13 October 2021, the Commission decided on the shortlist of candidates, subsequently informed the Council of that decision and transmitted relevant documentation (motivation letters and curricula vitae of the candidates)<sup>2</sup>.

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<sup>1</sup> Council Regulation (EC) No 2100/94 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1).

<sup>2</sup> ST 12968/21

4. On 21 October 2021, the Counsellors/Attachés (Phytosanitary Matters) examined a selection procedure for the appointment of the Alternate Chairman of the Board of Appeal of the CPVO as proposed by the Presidency and agreed to submit it to the Permanent Representatives Committee for endorsement<sup>3</sup>.
5. The Permanent Representatives Committee (Part 1) is therefore invited to endorse the selection procedure, as set out in the Annex to this document.

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<sup>3</sup> ST 12969/21

SELECTION PROCEDURE FOR THE APPOINTMENT  
OF THE ALTERNATE CHAIRMAN OF THE BOARD OF APPEAL  
OF THE COMMUNITY PLANT VARIETY OFFICE (CPVO)

The Community Plant Variety Office (CPVO) is an independent EU Agency, established by Council Regulation (EC) No 2100/94 of 27 July 1994. The CPVO is responsible for the management of the Community Plant Variety Rights System.

Appeals made against certain kinds of decisions taken by the CPVO are decided on by the Board of Appeal. The Alternate Chairman of the Board of Appeal shall be appointed by the Council from a list of candidates which shall be proposed by the Commission after obtaining the opinion of the Administrative Council of the CPVO<sup>1</sup>, for a renewable term of 5 years.

The term of office of the previous Alternate Chairman ended on 14 October 2021.

For the purpose of filling the vacant position, the Commission drew up a list of three candidates.

Delegations will be invited to indicate bilaterally to the General Secretariat of the Council the candidate on the list drawn up by the Commission whose appointment as new Alternate Chairman of the Board of Appeal of the CPVO they recommend.

If, at the first round, there is a simple majority of Member States, i.e. at least 14 recommendations, in favour of one of the candidates, the General Secretariat will inform delegations which candidate received the simple majority of recommendations. That candidate will be retained. The retained candidate should be proposed to the Permanent Representatives Committee for confirmation, preferably as a 'I' item on the agenda.

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<sup>1</sup> Article 47(1) of Council Regulation (EC) No 2100/94 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1).

If, at the first round, there is no simple majority of Member States in favour of one of the candidates, delegations will proceed to a second round, according to the following arrangements:

- the candidate who has received the lowest number of recommendations will not be taken into account for the following round;
- if however the two candidates who have received the lowest number of recommendations have received an equal number of recommendations, all three candidates will participate in the following round.

The candidate who has received the highest number of votes in the second round will be retained. The retained candidate should be proposed to the Permanent Representatives Committee for confirmation, preferably as a ‘I’ item on the agenda.

In the event that the two candidates in the second round receive the same number of recommendations (or all three candidates receive an equal number of recommendations), both (or all) candidates will be proposed as a ‘II’ item on the agenda to the Permanent Representatives Committee, which will hold a secret ballot in order to retain the candidate who receives the highest number of votes. If that secret ballot results in the two (or all) candidates receiving the same number of recommendations again, a draw will take place to determine the candidate to be appointed by the Council.

A draft appointment decision will then be submitted to the Council for adoption, preferably as an ‘A’ item on the agenda.