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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Forty-Third Ordinary Session
Geneva, October 22, 2009

**PROGRESS REPORT OF THE WORK OF THE
ADMINISTRATIVE AND LEGAL COMMITTEE**

Document prepared by the Office of the Union

1. The Administrative and Legal Committee (hereinafter referred to as the “CAJ”) held its fifty-ninth session in Geneva, on April 2, 2009, under the chairmanship of Mrs. Carmen Gianni (Argentina). An oral report on the sixtieth session of the CAJ, to be held in Geneva on October 19 and 20, 2009, and the program for its sixty-first session will be made by the Chair of the CAJ at the forty-third ordinary session of the Council.

2. At its fifty-ninth session, the CAJ considered the following matters:

(a) Report on the Developments in the Technical Committee: The CAJ received an oral report by the Chair of the Technical Committee (TC) on the forty-fifth session of the TC, which had taken place in Geneva from March 30 to April 1, 2009.

(b) TGP Documents: The CAJ endorsed the amendments made to document TGP/12/1 Draft 7 “Special Characteristics” agreed by the TC at its forty-fifth session and agreed that document TGP/12/1 Draft 7, as amended, should be the basis for adoption of document TGP/12/1 by the Council at its forty-third ordinary session, to be held in Geneva on October 22, 2009. The CAJ endorsed the amendments to document TGP/13/1 Draft 14 “Guidance for New Types of Species” agreed by the TC at its forty-fifth session and agreed that document TGP/13/1 Draft 14, as amended, should be the basis for adoption of document TGP/13/1 by the Council at its forty-third ordinary session. The CAJ proposed the revision of document TGP/0 “List of TGP Documents and Latest Issue Dates”

(to become document TGP/0/2), by the Council at its forty-third ordinary session. The CAJ agreed the program for the development of TGP documents, as set out in the Annex to document CAJ/59/2 Corr.

(c) Development of Information Materials Concerning the UPOV Convention: The CAJ considered the “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/1) and agreed that document UPOV/INF/6/1 Draft 2, as amended at its fifty-ninth session and incorporating the text of explanatory notes approved by the CAJ by correspondence, be proposed for adoption by the Council at its forty-third ordinary session. The CAJ considered the “Explanatory Notes on the Enforcement of Breeders’ Rights under the UPOV Convention” (document UPOV/EXN/ENF), and agreed that document UPOV/EXN/ENF Draft 2, as amended at its fifty-ninth session, be proposed for adoption by the Council at its forty-third ordinary session. The CAJ also proposed for adoption by the Council at its forty-third session, the explanatory notes approved by the CAJ by correspondence and those approved by the CAJ at its fifty-eighth session on October 27 and 28, 2008. The CAJ approved the work program for the fourth session of the Administrative and Legal Committee Advisory Group (CAJ-AG) to be held on October 23, 2009. The CAJ agreed that CIOPORA and ISF should be invited to participate at part of the fourth session of the CAJ-AG in order to present their comments and views on relevant matters.

(d) Molecular Techniques: The CAJ agreed that, on the basis of the conclusions of the TC and CAJ at their sessions in 2009, a draft of the “UPOV Guidelines for DNA-profiling: molecular marker selection and database construction” (BMT Guidelines) should be prepared for approval by the TC and CAJ in March 2010, in anticipation of the adoption of the BMT Guidelines by the Council in 2010. The CAJ noted the oral report on the conclusion of the *Ad hoc* Subgroup of Technical and Legal Experts of Biochemical and Molecular Techniques (BMT Review Group), at its meeting on April 1, 2009, that the proposal in the Annex to document BMT-RG/Apr09/2 “System for combining phenotypic and molecular distances in the management of variety collections” was acceptable within the terms of the UPOV Convention and would not undermine the effectiveness of protection offered under the UPOV system. The CAJ noted that the assessment of the BMT Review Group would be presented for consideration by the CAJ at its sixtieth session and by the TC at its forty-sixth session, in 2010. The CAJ agreed an approach for the revision of documents TC/38/14-CAJ/45/5 “*Ad Hoc* Subgroup of Technical and Legal Experts on Biochemical and Molecular Techniques (‘The BMT Review Group’)” and TC/38/14 Add.-CAJ/45/5 Add “Recommendations of the BMT Review Group and Opinion of the Technical Committee and the Administrative and Legal Committee Concerning Molecular Techniques”. The CAJ agreed that a first draft of the revised version of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. should be prepared for consideration by the TC at its forty-sixth session and by the CAJ at its sixty-first session, both in March 2010. On that basis, the CAJ noted that a document, including any changes to reflect the outcome of discussions on the proposal considered by the BMT Review Group, could be presented for adoption by the Council in 2010, in conjunction with the BMT Guidelines.

(e) Electronic Application Systems: The CAJ agreed that the Office of the Union should prepare a set of detailed references for the document TGP/5 “Experience and Cooperation in DUS Testing”, Section 2/2: “UPOV Model Form for the Application for Plant Breeders’ Rights” for consideration at its sixtieth session. In addition, the CAJ requested the Office of the Union to provide information on the resource implications of Proposal 1 “Standardized reference by authorities to the UPOV Model Application Form, UPOV Model

TQ and/or UPOV Test Guidelines TQ” and Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form (and possibly the UPOV Model TQ or UPOV Test Guidelines TQ)” (see document CAJ/59/4) for consideration by the CAJ at its sixtieth session.

(f) UPOV-ROM Plant Variety Database: The CAJ agreed to the proposals concerning the program for improvements to the UPOV-ROM Plant Variety Database (see paragraph 21 of document CAJ/59/6), as amended at its fifty-ninth session. The CAJ agreed that there should be a future review of whether to delete fields in the UPOV-ROM that are not used to a significant extent. It was agreed that this review should be based on an analysis of the use of the fields in the UPOV-ROM.

3. At its sixtieth session, the CAJ planned to discuss the following items: TGP documents (TGP/7 “Development of Test Guidelines” (Revision), TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”, TGP/11 “Examining Stability” and TGP/14 “Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents”); Development of information materials concerning the UPOV Convention; Variety denominations (UPOV/INF/12 “Explanatory Notes on Variety Denominations under the UPOV Convention”); Electronic application systems; UPOV-ROM Plant Variety Database;. Molecular techniques (BMT Guidelines); Matters arising after the grant of a breeder’s right; Exchangeable software; and the program for the sixty-first session.

4. *The Council is invited to:*

(a) *note the work of the CAJ, as reported in this document and in the oral report to be made by the Chair of the CAJ; and*

(b) *approve the work program for the sixty-first session of the CAJ, as presented in the oral report of the Chair of the CAJ.*

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