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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL**Forty-Third Ordinary Session
Geneva, October 22, 2009****ADOPTION OF DOCUMENTS***Document prepared by the Office of the Union*

1. The purpose of this document is to provide relevant information concerning the documents that the Council is invited to adopt at its forty-third ordinary:

(a) TGP documents:

TGP/12/1: Guidance on Certain Physiological Characteristics
(document TGP/12/1 Draft 8)

TGP/13/1: Guidance for New Types and Species
(document TGP/13/1 Draft 15)

TGP/0/2: List of TGP Documents and Latest Issue Dates
(document TGP/0/2 Draft 1)

(b) UPOV/INF/12/2: Explanatory Notes on Variety Denominations under the
UPOV Convention
(document UPOV/INF/12/2 Draft 1)

(c) UPOV/INF/13/1: Guidance on How to Become a Member of UPOV
(document UPOV/INF/13/1 Draft 2)

- (d) UPOV/INF/14/1: Guidance for Members of UPOV on How to Ratify, or Accede to, the 1991 Act of the UPOV Convention
(document UPOV/INF/14/1 Draft 2)
- (e) Explanatory notes:
- UPOV/EXN/GEN/1: Explanatory Notes on Genera and Species to be Protected under the 1991 Act of the UPOV Convention
(Article 3)¹
(document UPOV/EXN/GEN Draft 2)
- UPOV/EXN/NAT/1: Explanatory Notes on National Treatment under the 1991 Act of the UPOV Convention
(Article 4)¹
(document UPOV/EXN/NAT Draft 2)
- UPOV/EXN/NOV/1: Explanatory Notes on Novelty under the UPOV Convention
(Article 6)¹
(document UPOV/EXN/NOV Draft 3)
- UPOV/EXN/PRI/1: Explanatory Notes on the Right of Priority under the UPOV Convention
(Article 11)¹
(document UPOV/EXN/PRI Draft 2)
- UPOV/EXN/PRP/1: Explanatory Notes on Provisional Protection under the UPOV Convention
(Article 13)¹
(document UPOV/EXN/PRP Draft 2)
- UPOV/EXN/EDV/1: Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention
(Article 14(5))¹
(document UPOV/EXN/EDV Draft 3)
- UPOV/EXN/EXC/1: Explanatory Notes on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention
(Article 15)¹
(document UPOV/EXN/EXC Draft 4)
- UPOV/EXN/NUL/1: Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention
(Article 21)¹
(document UPOV/EXN/NUL Draft 2)
- UPOV/EXN/CAN/1: Explanatory Notes on the Cancellation of the Breeder's Right under the UPOV Convention
(Article 22)¹
(document UPOV/EXN/CAN Draft 2)
- UPOV/EXN/ENF/1: Explanatory Notes on the Enforcement of Breeders' Rights under the UPOV Convention
(Article 30(1)(i))¹
(document UPOV/EXN/ENF Draft 3)
- (f) UPOV/INF/6/1: Guidance for the Preparation of Laws Based on the 1991 Act of the UPOV Convention
(document UPOV/INF/6/1 Draft 3)

¹ 1991 Act of the UPOV Convention.

A. TGP DOCUMENTS

TGP/12/1: Guidance on Certain Physiological Characteristics (document TGP/12/1 Draft 8)

2. The text in document TGP/12/1 Draft 8 was agreed by the Technical Committee (TC), at its forty-fifth session, held in Geneva from March 30 to April 1, 2009, and by the Administrative and Legal Committee (CAJ), at its fifty-ninth session, held in Geneva on April 2, 2009. The French, German and Spanish translations of document TGP/12/1 Draft 8 have been reviewed by the relevant members of the Editorial Committee.

3. *The Council is invited to adopt document TGP/12/1 “Guidance on Certain Physiological Characteristics” on the basis of document TGP/12/1 Draft 8.*

TGP/13/1: Guidance for New Types and Species (document TGP/13/1 Draft 15)

4. The text in document TGP/13/1 Draft 15 was agreed by the TC, at its forty-fifth session, and by the CAJ, at its fifty-ninth session. The French, German and Spanish translations of document TGP/13/1 Draft 15 have been reviewed by the relevant members of the Editorial Committee.

5. *The Council is invited to adopt document TGP/13/1 “Guidance for New Types and Species” on the basis of document TGP/13/1 Draft 15.*

TGP/0/2: List of TGP Documents and Latest Issue Dates (document TGP/0/2 Draft 1)

6. The TC, at its forty-fifth session, and the CAJ, at its fifty-ninth session agreed to propose that document TGP/0 be revised (to become document TGP/0/2) in conjunction with the scheduled adoption of documents TGP/12 and TGP/13 by the Council at its forty-third ordinary session.

7. *The Council is invited to adopt document TGP/0/2 “List of TGP Documents and Latest Issue Dates” on the basis of document TGP/0/2 Draft 1.*

B. UPOV/INF/12/2: EXPLANATORY NOTES ON VARIETY DENOMINATIONS UNDER THE UPOV CONVENTION (document UPOV/INF/12/2 Draft 1)

8. The “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/INF/12/1) were adopted by the Council at its fortieth ordinary session on October 19, 2006. Subject to the endorsement of the CAJ, at its sixtieth session, to be held in Geneva on October 19 and 20, 2009, the Council would be invited to consider that document UPOV/INF/12/1, Annex I, Part II “Classes encompassing more than one genus”, be revised in order to amend Class 202 “*Panicum*, *Setaria*”, due to a botanical reclassification concerning those genera and species, and Class 211 “Edible Mushrooms”.

Class 202

9. The TC, at its forty-fifth session, agreed to propose that Class 202 in document UPOV/INF/12/1, Annex I, Part II “Classes encompassing more than one genus”, be extended to cover *Megathyrsus*, *Panicum*, *Setaria* and *Steinchisma*. In order to ensure that all interested parties would have an adequate opportunity to consider the situation with regard to Class 202, the TC requested the Technical Working Party for Agricultural Crops (TWA) to consider that proposal at the thirty-eighth session of the TWA, to be held in Seoul, Republic of Korea, from August 31 to September 4, 2009. It agreed that, subject to endorsement of the TC proposal by the TWA, the CAJ should be invited to consider that proposal at its sixtieth session, to be held in Geneva on October 19 and 20, 2009, in conjunction with the proposed revision of document UPOV/INF/12/1 “Explanatory notes on variety denominations under the UPOV Convention”.

Class 211

10. The TC, at its forty-fifth session, proposed that Class 211 in document UPOV/INF/12/1, Annex I, Part II “Classes encompassing more than one genus” should be modified to cover all species of *Agaricus*, *Agrocybe*, *Auricularia*, *Dictyophora*, *Flammulina*, *Ganoderma*, *Grifola*, *Hericium*, *Hypsizigus*, *Lentinula*, *Lepista*, *Lyophyllum*, *Meripilus*, *Mycoleptodonoides*, *Naematoloma*, *Panellus*, *Pholiota*, *Pleurotus*, *Polyporus*, *Sparassis* and *Tricholoma*. The TC further agreed that the name of Class 211 should be changed to “Class 211 (Mushrooms)”. The TC noted that its proposal concerning Class 211 would be reported to the CAJ, for consideration at its sixtieth session, to be held in Geneva on October 19 and 20, 2009. The TC noted that, if the CAJ was in accordance with the proposal of the TC, a draft revised version of the “Explanatory Notes on Variety Denominations under the UPOV Convention”, document UPOV/INF/12/2 Draft 1, would be presented to the Council for adoption at its forty-third ordinary session, to be held in Geneva on October 22, 2009.

11. A report on the conclusions of the CAJ, at its sixtieth session, concerning the proposals to revise Class 202 and Class 211, will be made to the Council at its forty-third ordinary session.

12. The Council is invited, subject to the endorsement of the CAJ, to adopt document UPOV/INF/12/2 “Explanatory Notes on Variety Denominations under the UPOV Convention” on the basis of document UPOV/INF/12/2 Draft 1.

C. UPOV/INF/13/1: GUIDANCE ON HOW TO BECOME A MEMBER OF UPOV
(Document UPOV/INF/13/1 Draft 2)

13. The text of document UPOV/INF/13/1 Draft 2 was approved by the CAJ by correspondence on August 29, 2009 (Circular E-1042).

14. The Council is invited to adopt document UPOV/INF/13/1 “Guidance on How to Become a Member of UPOV” on the basis of document UPOV/INF/13/1 Draft 2.

D. UPOV/INF/14/1: GUIDANCE FOR MEMBERS OF UPOV ON HOW TO RATIFY,
OR ACCEDE TO, THE 1991 ACT OF THE UPOV CONVENTION
(Document UPOV/INF/14/1 Draft 2)

15. The text of document UPOV/INF/14/1 Draft 2 was approved by the CAJ by correspondence on August 29, 2009 (Circular E-1042).

16. The Council is invited to adopt document UPOV/INF/14/1 “Guidance for Members of UPOV on How to Ratify, or Accede to, the 1991 Act of the UPOV Convention” on the basis of document UPOV/INF/14/1 Draft 2.

E. EXPLANATORY NOTES

17. The CAJ agreed at its fifty-ninth session and by correspondence on July 8, 2009 (Circular E-1016) and on August 29, 2009 (Circular E-1042) that the Council be invited to adopt the following explanatory notes at its forty-third ordinary session:

UPOV/EXN/GEN/1: Explanatory Notes on Genera and Species to be Protected
(Article 3¹) under the 1991 Act of the UPOV Convention
(document UPOV/EXN/GEN Draft 2)

¹ 1991 Act of the UPOV Convention.

UPOV/EXN/NAT/1: (Article 4) ¹	Explanatory Notes on National Treatment under the 1991 Act of the UPOV Convention (document UPOV/EXN/NAT Draft 2)
UPOV/EXN/NOV/1: (Article 6) ¹	Explanatory Notes on Novelty under the UPOV Convention (document UPOV/EXN/NOV Draft 3)
UPOV/EXN/PRI/1: (Article 11) ¹	Explanatory Notes on the Right of Priority under the UPOV Convention (document UPOV/EXN/PRI Draft 2)
UPOV/EXN/PRP/1: (Article 13) ¹	Explanatory Notes on Provisional Protection under the UPOV Convention (document UPOV/EXN/PRP Draft 2)
UPOV/EXN/EDV/1: (Article 14(5)) ¹	Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (document UPOV/EXN/EDV Draft 3)
UPOV/EXN/EXC/1: (Article 15) ¹	Explanatory Notes on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention (document UPOV/EXN/EXC Draft 4)
UPOV/EXN/NUL/1: (Article 21) ¹	Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention (document UPOV/EXN/NUL Draft 2)
UPOV/EXN/CAN/1: (Article 22) ¹	Explanatory Notes on the Cancellation of the Breeder's Right under the UPOV Convention (document UPOV/EXN/CAN Draft 2)
UPOV/EXN/ENF/1: (Article 30(1)(i)) ¹	Explanatory Notes on the Enforcement of Breeders' Rights under the UPOV Convention (document UPOV/EXN/ENF Draft 3)

18. *The Council is invited to adopt the following documents:*

(a) *UPOV/EXN/GEN/1 “Explanatory Notes on Genera and Species to be Protected under the 1991 Act of the UPOV Convention” on the basis of document UPOV/EXN/GEN Draft 2;*

¹ 1991 Act of the UPOV Convention.

(b) *UPOV/EXN/NAT/1 “Explanatory Notes on National Treatment under the 1991 Act of the UPOV Convention” on the basis of document UPOV/EXN/NAT Draft 2;*

(c) *UPOV/EXN/NOV/1 “Explanatory Notes on Novelty under the UPOV Convention” on the basis of document UPOV/EXN/NOV Draft 3;*

(d) *UPOV/EXN/PRI/1 “Explanatory Notes on the Right of Priority under the UPOV Convention” on the basis of document UPOV/EXN/PRI Draft 2;*

(e) *UPOV/EXN/PRP/1 “Explanatory Notes on Provisional Protection under the UPOV Convention” on the basis of document UPOV/EXN/PRP Draft 2;*

(f) *UPOV/EXN/EDV/1 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention” on the basis of document UPOV/EXN/EDV Draft 3;*

(g) *UPOV/EXN/EXC/1 “Explanatory Notes on Exceptions to the Breeder’s Right under the 1991 Act of the UPOV Convention” on the basis of document UPOV/EXN/EXC Draft 4;*

(h) *UPOV/EXN/NUL/1 “Explanatory Notes on the Nullity of the Breeder’s Right under the UPOV Convention” on the basis of document UPOV/EXN/NUL Draft 2;*

(i) *UPOV/EXN/CAN/1 “Explanatory Notes on the Cancellation of the Breeder’s Right under the UPOV Convention” on the basis of document UPOV/EXN/CAN Draft 2; and*

(j) *UPOV/EXN/ENF/1 “Explanatory Notes on the Enforcement of Breeders’ Rights under the UPOV Convention” on the basis of document UPOV/EXN/ENF Draft 3.*

F. UPOV/INF/6/1: GUIDANCE FOR THE PREPARATION OF LAWS BASED ON THE 1991 ACT OF THE UPOV CONVENTION (document UPOV/INF/6/1 Draft 3)

19. The “Guidance for the Preparation of Laws Based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/1 Draft 3) is intended to provide assistance to States/ intergovernmental organizations wishing to draft a law in accordance with the 1991 Act of the UPOV Convention. The text in document UPOV/INF/6/1 Draft 3 was approved by the CAJ, at its fifty-ninth session, and by correspondence on July 8, 2009 (Circular E-1016) and on August 29, 2009 (Circular E-1042). The CAJ agreed that document UPOV/INF/6/1 be proposed for adoption by the Council at its forty-third ordinary session. The CAJ noted that document UPOV/INF/6/1 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention”, once adopted by the Council, would replace the “Model Law on the Protection of New Varieties of Plants” (UPOV Publication No. 842).

20. The Council is invited to adopt document UPOV/INF/6/1 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” on the basis of document UPOV/INF/6/1 Draft 3.

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