



TC-EDC/Jan08/2

English only

DATE: November 28, 2007

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ENLARGED EDITORIAL COMMITTEE

Geneva, January 8, 2008

COMMENTS ON TGP/4, TGP/9 AND BMT GUIDELINES

prepared by the Office of the Union

1. At its seventy-fourth session, held in Geneva on October 24, 2007, the Consultative Committee made a preliminary examination of documents TGP/4/1 “Constitution and Maintenance of Variety Collections”, TGP/9/1 “Examining Distinctness”, and “Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction (‘BMT Guidelines’)” proposed for adoption by the Council. The Consultative Committee made the following recommendations:

(a) reference to “Examples of contracts / agreements between authorities and breeders” in section 3.1.2.2.2 of document TGP/4/1 Draft 10 should be replaced by “Examples of policies and contracts for material submitted by the breeder” in accordance with the change of title to Section 11 in document TGP/5 “Experience and Cooperation in DUS Testing” agreed by the Administrative and Legal Committee (CAJ) at its fifty-sixth session on October 22 and 23, 2007;

(b) consideration be given to the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. with regard to their reference in the introduction of document BMT Guidelines (proj.9); and

(c) in response to the comments made by some delegations concerning the need for editorial improvements, the Consultative Committee agreed that a circular be sent to the Consultative Committee, the Technical Committee (TC) and the CAJ providing an opportunity to comment within four weeks on documents TGP/4/1 Draft 10, TGP/9/1 Draft 10 and BMT Guidelines (proj.9). Based on the

comments received, new drafts of those documents would be prepared for consideration by the Editorial Committee (TC-EDC) at its meeting on January 8, 2008. Relevant drafts incorporating the comments by the TC-EDC would subsequently be presented to the TC, the CAJ, the Consultative Committee and the Council in April 2008.

2. In accordance with the recommendations of the Consultative Committee, circular E-606 was issued, inviting comments on documents TGP/4/1 Draft 10, TGP/9/1 Draft 10 and BMT Guidelines (proj.9) to be sent to the Office of the Union.
3. Circular E-606 explained that, based on the comments received, new drafts of the above documents would be prepared for consideration by the TC-EDC at its meeting on January 8, 2008 and that relevant drafts incorporating the comments by the TC-EDC would subsequently be presented to the TC, the CAJ, the Consultative Committee and the Council in April 2008.
4. The Office of the Union received comments from the Ukraine on document TGP/4/1 Draft 10, which are presented in the Annex to this document. The Office of the Union, in conjunction with the TC Chairman, Mr. Chris Barnaby, and the President of the Council, Mr. Doug Waterhouse, agreed that those comments could be considered by the TC-EDC without the preparation of a new draft of document TGP/4/1. The TC-EDC is invited to consider the comments in the Annex to this document and to consider whether those comments can be addressed by the TC at its forty-fourth session, to be held in Geneva, from April 7 to 9, 2008 without the need for a new draft of document TGP/4/1.
5. The Office of the Union received no comments on document TGP/9/1 Draft 10 and, therefore, it has not been necessary to produce a new draft of that document for consideration by the TC-EDC.
6. The Office of the Union received comments from China, Ukraine and the United States of America on document BMT Guidelines (proj.9). Those comments have been incorporated in document BMT Guidelines (proj.10), to be considered by the TC-EDC

[Annex follows]

COMMENTS ON DOCUMENT TGP/4/1 DRAFT 9 “CONSTITUTION AND MAINTENANCE OF VARIETY COLLECTIONS”

The Consultative Committee made the following recommendation:

3.1.2.2.2	reference to “Examples of contracts / agreements between authorities and breeders” should be replaced by “Examples of policies and contracts for material submitted by the breeder” in accordance with the change of title to Section 11 in document TGP/5 “Experience and Cooperation in DUS Testing” agreed by the Administrative and Legal Committee (CAJ) at its fifty-sixth session on October 22 and 23, 2007
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The following comments were received from the Ukraine:

2.1.2.2	to add to “in some cases the collector can collect and maintain living plant material, but in other cases...may only obtain living plant material when required” that the collector can collect and maintain living plant material of self-pollinated and vegetatively propagated species.
2.2.1.5	to make more detailed where it is set up that for the hybrid varieties “the examination of distinctness may include the examination of its components and formula of hybrid”, and to indicate the specific conditions under which the examination of distinctness for hybrid varieties does not include the examination of the components and the formula of the hybrid, or we should change the word “may” with the word “must”.
2.2.2.1	to exclude “genetic resources” from subsection (iv), as this term is too broad in its meaning and includes categories that can not be considered to be category of variety (breeding form).
3.1.2.2.1, 3.1.2.2.3,	Regarding the Section 3.1.2.1 that indicates the sources of plant material for the establishment of variety collections, such source as market is mentioned. We consider that market may be used by the authority to establish the variety collection only in extremis. When using marketed varieties for the purposes of examination of distinctness, it is necessary to have proofs (documents, samples) of the identity of the trademark and the official sample that filed simultaneously with application and correspond to the variety.
3.1.2.3	while assessing the identity of varieties, during the verification in case of repeated replanting of the varieties’ reproductions, it should be taken into account that each further reproduction may somehow be distinct from the original variety (sample), due to the nature of hybridization, gene flow and morbid (virus) affections. Thus, not only new varieties, which are entering to the variety collection, should be assessed for the identity, but also variety material maintained in the variety collection for a long time.

[End of Annex and of document]