



C/42/9

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Forty-Second Ordinary Session
Geneva, October 30, 2008

**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-seventh session in Geneva, on April 10, 2008, under the chairmanship of Mrs. Carmen Gianni (Argentina). An oral report on the fifty-eighth session of the CAJ and the program for its fifty-ninth session will be made by the Chair of the CAJ at the forty-second ordinary session of the Council.

2. At its fifty-seventh 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-fourth session of the TC, which had taken place in Geneva from April 7 to 9, 2008.

(b) TGP Documents: The CAJ endorsed the amendments made to document TGP/4/1 Draft 10 “Constitution and Management of Variety Collections” by the TC at its forty-fourth session and agreed that document TGP/4/1 Draft 10, as amended, should be the basis for adoption of document TGP/4/1 by the Council at its twenty-fifth extraordinary session on April 11, 2008. The CAJ noted that the Council would be invited to adopt, at its twenty-fifth extraordinary session, document TGP/9/1 “Examining Distinctness” on the basis of document TGP/9/1 Draft 10. The CAJ proposed the adoption of document TGP/10/1 “Examining Uniformity” by the Council at its forty-second ordinary session, to be held in Geneva on October 30, 2008, on the basis of document TGP/10/1 Draft 9, as amended by the TC at its forty-fourth session. The CAJ proposed the adoption of the Introduction and

Sections 1, 2, 4, 5, 6, 7 and 11 of document TGP/5 by the Council, at its forty-second ordinary session to be held on October 30, 2008, on the basis of the amendments agreed by the TC at its forty-fourth session and the CAJ.

(c) Molecular Techniques: Based on the oral report of the conclusions of the TC at its forty-fourth session, the CAJ agreed that the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT) should be invited to consider a new draft of the BMT Guidelines at its eleventh session, to be held in Madrid from September 16 to 18, 2008. The CAJ agreed with the proposal of the TC that the approach presented in documents BMT/10/14 “Possible Use of Molecular Techniques in DUS Testing on Maize: How to Integrate a New Tool to Serve the Effectiveness of Protection Offered Under the UPOV System” and BMT-TWA/Maize/2/11 “Possible Use of Molecular Techniques in DUS Testing on Maize: How to Integrate a New Tool to Serve the Effectiveness of Protection Offered under the UPOV System” should be put forward for consideration at the *Ad hoc* Subgroup of Technical and Legal Experts of Biochemical and Molecular Techniques (BMT Review Group) as a potential option for the use of molecular markers in DUS examination. The CAJ noted that the meeting of the BMT Review Group was anticipated to be held between the TC and the CAJ sessions, on the evening of April 1, 2009.

(d) Electronic Application Systems: The CAJ considered document CAJ/57/4, in conjunction with an oral report by the Vice Secretary-General on the Electronic Applications Systems Meeting, held in Geneva on April 9, 2008. Two concrete proposals had resulted from the discussions at the meeting: (a) to prepare a survey and (b) to develop a pilot project. The CAJ noted that there had been very little time to reflect on the proposals discussed at the meeting and, given the substantial resource implications, suggested that it might be helpful to have more time for reflection. The CAJ agreed that an item should be included on the agenda of its fifty-eighth session on October 27 and 28, 2008.

(e) Development of Information Materials Concerning the UPOV Convention: The CAJ noted the development of draft information materials concerning the UPOV Convention and approved the proposed program for the development of explanatory notes, as set out in document CAJ/57/5. The CAJ considered the “Explanatory Notes on Essentially Derived Varieties under the UPOV Convention” (UPOV/EXN/EDV Draft 2), the “Explanatory Notes on Exceptions to the Breeder’s Right under the UPOV Convention” (UPOV/EXN/EXC Draft 2), and the “Explanatory Notes on Novelty under the UPOV Convention” (UPOV/EXN/NOV Draft 2). The CAJ noted that new drafts of documents UPOV/EXN/EDV Draft 2 and UPOV/EXN/EXC Draft 2 would be prepared for its fifty-eighth session, incorporating the comments made at its fifty-seventh session. The CAJ noted that it would have a further opportunity to consider document UPOV/EXN/NOV Draft 2 at its fifty-eighth session. The CAJ agreed to the development of explanatory notes on provisional protection. The CAJ agreed to invite the Administrative and Legal Committee Advisory Group (CAJ-AG), at its third session, to consider the development of information materials on the enforcement of breeders’ rights, possibly in the form of a list of enforcement measures which might be considered by members, and future members, of the Union. In order to provide guidance in the preparation of laws, the CAJ agreed that a document on drafting guidance for laws based on the 1991 Act should be prepared by the Office of the Union for consideration by the CAJ-AG at its third session and, subsequently, by the CAJ in 2009.

(f) UPOV-ROM Plant Variety Database: The CAJ considered the proposal for the Community Plant Variety Office (CPVO) of the European Community to take on the collation of data for the UPOV-ROM, as set out in paragraphs 8 to 11 of document CAJ/57/6. The CAJ agreed that the proposal made in document CAJ/57/6, paragraphs 8 to 11, and a draft revised “Memorandum of Understanding between UPOV and the CPVO” (MOU), based on that proposal, should be prepared for consideration by the CAJ at its fifty-eighth session to be held on October 27 and 28, 2008, and by the Consultative Committee at its seventy-sixth session to be held on October 29, 2008. The CAJ noted that the matter of the possible introduction of a field in the Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories would be considered at its fifty-eighth session.

3. At its fifty-eighth session to be held on October 27 and 28, 2008, the CAJ planned to discuss the following items: TGP documents (TGP/11: “Examining Stability”, TGP/12: “Special Characteristics”, TGP/13: “Guidance for New Types and Species”); UPOV-ROM Plant Variety Database; Development of information materials concerning the UPOV Convention (“Explanatory Notes on Essentially Derived Varieties under the UPOV Convention”, “Explanatory Notes on Exceptions to the Breeder’s Right under the UPOV Convention”, and “Explanatory Notes on Novelty under the UPOV Convention”); and Electronic application systems.

4. *The Council is invited:*

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

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

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