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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Forty-Fourth Session
Geneva, October 22 and 23, 2001

ADDENDUM TO DOCUMENT CAJ/44/4

PUBLICATION OF VARIETY DESCRIPTIONS

prepared by the Office of the Union

1. The *Ad hoc* Working Group on Publication of Variety Descriptions (hereinafter referred to as “the WG”) held a meeting on October 22, 2001, to consider further the initial proposals for publication of variety descriptions presented in document CAJ/44/4.
2. The WG made additional recommendations on the following aspects:

Corrections to Paragraph Numbering

3. The WG confirmed that the paragraph numbering in document CAJ/44/4 should be amended as shown in the Annex.

Aim of the Project

4. The document should clarify that the aims of the project are:
 - (a) To increase the availability of variety description information to interested parties (i.e. DUS examiners, breeders and maintainers of varieties of common knowledge) and thereby to maximize the effectiveness of the examination of distinctness.

(b) To use appropriate elements of the variety description, in the process of examining distinctness, to eliminate varieties which do not require further comparison and to identify those varieties against which a further comparison is required.

Prioritization of Species

5. Insert the following paragraph as a new paragraph 5:

“5. Prioritization of species should first take account of whether effective descriptions can be developed. Whilst it would be preferable to select species for which descriptions could be compared on a global basis, it may also be appropriate to work on some species where the descriptions would only be effective for comparisons at a regional level.”

re-number former paragraph 5 as paragraph 6, and delete former paragraph 6.

Method of Publishing and Using Variety Descriptions

6. The WG emphasized that this section was only intended to provide an illustration of how descriptions produced from UPOV characteristics have potential to be used in a database. In particular, it considered that it was premature to anticipate how the information might be used until the model study had been conducted.

Nature of Variety Descriptions

7. The WG recommended that the Committee should emphasize the importance of describing varieties according to UPOV Test Guidelines characteristics by amendment of the following sections in paragraph 36:

“36. The main purpose of the model study would be to address the technical difficulties in developing and publishing variety descriptions in an effective way. It is, therefore, proposed that the Technical Committee and its Technical Working Parties be asked to develop the following aspects of a model study:

...

“(c) Identify those UPOV Test Guidelines characteristics which may have useful discriminatory power from documented descriptions produced at different locations (see “Influence of the Environment on the Expression of a Characteristic,” paragraphs 13 to 15).

“(d) Consider the possibility of developing standardized states of expression (i.e. standardized descriptions) for UPOV Test Guidelines characteristics with useful discriminatory power (see “Harmonized Examination and Recording of Characteristics,” paragraphs 9 to 11), for all varieties of a species, or a defined group of varieties within a species. As far as possible, this standardization should encompass all contributors to the study, including non-Contracting Parties. In the case of a variety grouping, the group should be clearly defined”.

Administrative, Legal and Financial Considerations

8. The WG considered that there might be additional aspects which could be usefully addressed in a questionnaire for Contracting Parties and suggested the paragraph be reworded to allow scope for the WG as follows:

“39. The following proposal is made for consideration of administrative, legal and financial issues:

(a) The WG should develop a questionnaire for Contracting Parties, to be issued by the Office, relating to information on legal and administrative issues. This questionnaire, for example, might include a request for Contracting Parties to advise if:

- they currently publish variety descriptions and, if so, by what means and whether a fee is charged;
- they would have any legal difficulties associated with the publication of variety descriptions via a centralized international database, with access for all interested parties as identified in paragraph 24 (“Access to ‘Published’ Variety Descriptions”);
- the cost of the production of a variety description, for a variety submitted for DUS examination, is entirely borne by the applicant;
- they decided to contribute their variety descriptions to a centralized database, the Contracting Party would wish to charge a fee for access to their variety description and, if so, on what basis this would be to cover the costs of producing the descriptions or to cover only the administrative costs;
- they might be prepared to accept an access fee to the database with a view to potential economies in the maintenance of reference collections.”

[Annex follows]

ANNEX

AMENDMENTS TO PARAGRAPH NUMBERING IN DOCUMENT CAJ/44/4

Development of a Model Study

36. [...]

(b) Identify which Contracting Parties and other interested parties (see “Access to ‘Published’ Variety Descriptions,” paragraphs 12 and 2627) would wish to contribute to the model study for each species.

(f) Consider what, and how, other relevant information (see “Inclusion of Information Related to the DUS Examination,” paragraph 2324) might be provided with a variety description.

37. At the same time, the *ad hoc* working group should develop a “test publication” of these standardized variety descriptions, produced in the model study, to address the issues raised in paragraphs 16 to 2223 (“Method of Publication”). This test publication would be only for contributors to the model study or other authorized participants, for example, in the form of a special edition UPOV-ROM or restricted access site on the UPOV Web site. However, it should be used to test the usefulness of the descriptions and to identify the appropriate method of publication (i.e. UPOV-ROM, web-based system, etc.) prior to the introduction of any UPOV approved system.

38. The *ad hoc* working group should also be invited to explore possible systems for utilizing published variety descriptions in the process of examining distinctness (see paragraph 2423) and report on their merits.

Administrative, Legal and Financial Considerations

39. The following proposal is made for consideration of administrative, legal and financial issues:

(a) The Office of the Union to be asked to issue a questionnaire for all Contracting Parties to advise if:

- they would have any legal difficulties associated with the publication of variety descriptions via a centralized international database, with access for all interested parties as identified in paragraph 2624 (“Access to ‘Published’ Variety Descriptions”);

(d) The Committee to consider if the *ad hoc* working group should be asked to consider the possibility of including other variety information in any centralized database (see Part III).

40. *The Committee is invited to take note of the information given above and to take decisions on the basis of the proposals set out in paragraphs 35-3936 to 40 above.*

[End of Annex and of document]