



CAJ/51/6

ORIGINAL: English

DATE: October 7, 2005

**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**ADMINISTRATIVE AND LEGAL COMMITTEE**

**Fifty-First Session**  
**Geneva, April 7, 2005**

REPORT

*adopted by the Committee*

Opening of the Session

1. The Administrative and Legal Committee (CAJ) held its fifty-first session in Geneva on April 7, 2005, under the Chairmanship of Mr. Krieno Fikkert (Netherlands).
2. The list of participants is reproduced in Annex I to this report.
3. The session was opened by the Chair, who welcomed the participants.
4. The Chair extended a particular welcome to the Delegation of Azerbaijan. He informed the CAJ that Azerbaijan had become a member of UPOV on December 9, 2004.
5. The Delegation of Azerbaijan expressed its gratitude to the Office of the Union and the members of the Union for the assistance given to them in the process of their accession to the UPOV Convention. The declaration of the Delegation of Azerbaijan is reproduced in Annex II to this report.
6. The Chair confirmed that the report of the fiftieth session of the CAJ had been adopted by correspondence (document CAJ/50/7).

### Adoption of the Agenda

7. The CAJ adopted the agenda as presented in document CAJ/51/1.
8. The Chair invited the Chairperson of the Technical Committee (TC) to report on the forty-first session of the TC, which took place in Geneva from April 4 to 6, 2005.
9. The Chair of the TC informed the CAJ that the TC had discussed the development of the TGP documents. With regard to document TGP/3/1 Draft 2 “Varieties of Common Knowledge”, the TC had noted that, whilst that document had been based upon a document adopted by the Council, the Enlarged Editorial Committee (TC-EDC) had wondered whether the document went beyond what was contained in the General Introduction (document TG/1/3), in terms of practical clarification in relation to varieties of common knowledge. The TC agreed that it would be better to try to elaborate a more practical and comprehensive document in respect of varieties of common knowledge in conjunction with the CAJ. The TC had noted that Sections 1 to 7 of TGP/5, which reproduced texts contained in the UPOV publication 644(E) “Important Texts and Documents”, had been adopted several years previously and would benefit from updating. However, the TC recognized that those texts represented the adopted UPOV position and also noted that UPOV publication 644(E) was no longer available, and that many new members of the Union did not have easy access to those texts. Therefore, it had approved Sections 1 to 7 but, in addition, had agreed to develop a program for updating those sections, based on priority, in conjunction with the CAJ and Council, as appropriate. The Office of the Union had agreed to prepare a proposal for consideration by the TC at its forty-second session.
10. The Chair of the TC further reported that the TC had agreed the text of document TGP/4/1 Draft 3 “Constitution and Management of Variety Collections”, and had agreed that TGP/4/1 Draft 3, as amended at the session, should be circulated to the Technical Working Parties (TWPs) at their sessions in 2005. The TC had also agreed on amendments to document TGP/9/1 Draft 3 “Examining Distinctness”. It was anticipated that documents TGP/4 and TGP/9 would be submitted for consideration by the CAJ in April 2006.
11. The Chair of the TC reported that the TC had discussed the situation in UPOV concerning the use of molecular markers in DUS examination, the development of UPOV databases and the work of Crop Subgroups and certain other matters which would be considered under the CAJ agenda.
12. The Chair of the TC informed the CAJ that the TC had considered the proposals by the Working Group on Variety Denominations (WG-VD) and by the Chairman of the Technical Working Party for Fruit Crops (TWF) concerning variety denomination classes. The TC had decided that certain aspects should be considered further by the TWPs in 2005 and reported to the CAJ for consideration at its fifty-second session. Finally, she reported that the TC had adopted 13 Test Guidelines.

### Molecular Techniques

13. The Technical Director introduced document CAJ/50/4. He reported to the CAJ on the outcome of the discussions of the TC at its forty-first session on molecular techniques, where it was concluded that the text of the Annex to document TC/40/9 Add. “Situation in UPOV

concerning the possible use of molecular markers in DUS examination”, reproduced in the Annex of document CAJ/50/4, should not be amended.

14. The Delegation of the United States of America thanked the Ad hoc Subgroup of Technical and Legal Experts of Biochemical and Molecular Techniques (BMT Review Group) and the Technical Committee (TC) for the document reproduced in Appendix I of document CAJ/50/4, but explained that it had some concerns with some of the wording used in the Annex to document CAJ/50/4. It requested that, for example, the document be reworded to leave open the opportunity to request additional information beyond that included in the Test Guidelines. The Delegation considered that the wording of the document precluded that possibility. In addition, concerns were expressed about the explanation of the situation with regard to the options and the proposals and if that was intended as general guidance or intended to relate to specific crops or Test Guidelines.

15. The Delegation of Argentina noted that the Annex to document CAJ/50/4 explained the situation in UPOV with regard to the possibility of using molecular markers in the examination of DUS. The use of molecular techniques for other matters, such as variety identification and enforcement, was a different subject matter. The Annex to document CAJ/50/4 did not preclude authorities from using molecular techniques as complementary information, but they should not use those techniques as the only source upon which to base a decision on DUS examination.

16. The Delegation of France, while understanding the views of the Delegation of the United States of America, was concerned about the impact of any changes to the Annex to document CAJ/50/4, since it was important that the methods used for examination be harmonized as far as possible. Option 1 showed that the use of molecular techniques was, in that case, acceptable. Amendments to the Annex should be carefully studied so as not to jeopardize the harmonization, which had provided a great service to new members and facilitated efficient decisions using reliable methods. It was recalled that the 1991 Act of the UPOV Convention, in Article 14(5)(a)(ii), provided that the scope of the breeder's right also applied to varieties which were not clearly distinguishable, in accordance with Article 7, from the protected variety.

17. The representative of the European Community noted that the Annex to document CAJ/50/4 reflected the current situation in UPOV and the work of the BMT Review Group, and it was not the role of the CAJ to change that. He considered that the CAJ could not change the conclusions of the TC or the BMT Review Group and, therefore, could only decide on whether it endorsed that viewpoint or not. On that basis, an amendment might be introduced to paragraph 3.3.3.2 of the Annex to document CAJ/50/4.

18. The Delegation of the United States of America noted the comments made by the representative of the European Community, but was concerned about the status of the Annex as the CAJ was requested to consider it. While recognizing the importance of harmonization, it noted that there were examination differences between members based on the differences in DUS examination systems and considered it appropriate for the document to take those differences into account. The Delegation considered that the TC might have gone beyond the technical aspects concerning molecular techniques, and it was within the competence of the CAJ to consider the legal issues.

19. The representative of the International Seed Federation (ISF) noted that discussions concerning the use of molecular techniques would continue. He said that the use of molecular

techniques as the only method for DUS was not appropriate and considered the Test Guidelines to be the most important means of harmonization of examinations and noted that they also played an important role for new members. He further recalled that the CAJ had already agreed in a previous meeting on the conclusions of the BMT Review Group.

20. The Delegation of Argentina recalled the endorsement made in the past by the CAJ as it was reflected in paragraph 3.3.3.2.

21. The Chair recalled that the CAJ was requested to consider the Annex to document CAJ/50/4 and, as a consequence, amendments were possible.

22. The Delegation of Germany suggested that it would be possible to take into account the concerns expressed by the Delegation of the United States of America, and for the revised document to be sent back to the TC.

23. The Chair noted that some concerns regarding the Annex to document CAJ/50/4 had been outlined at the session. It was, therefore, agreed that written comments should be sent to the Office of the Union by the end of April 2005. On the basis of those comments, a new draft would be prepared by the Office of the Union, in conjunction with the Chair of the TC, for consideration by the CAJ at its fifty-second session to be held in Geneva on October 24 and 25, 2005. The conclusions of the CAJ would then be considered by the TC at its forty-second session in April 2006.

24. The Chair requested comments in relation to paragraph 6(b) of document CAJ/50/4.

25. The Delegation of France referred to paragraph 6(b) of document CAJ/50/4 and noted that the TC, at its forty-first session, agreed that the CAJ should be asked to consider the possible use of molecular tools for variety “identification” rather than variety “characterization”.

26. The Delegations of Argentina, Azerbaijan and the Netherlands agreed with the proposed invitation to the BMT Review Group to examine the possible use of molecular tools for variety identification in relation to the enforcement of plant breeders’ rights, technical verification and the consideration of essential derivation.

27. The Delegation of the United States of America endorsed the proposal to invite the BMT Review Group to examine the possible use of molecular tools for variety identification in relation to the enforcement of plant breeders’ rights, technical verification and consideration of essential derivation. It emphasized that the BMT Review Group should be aware that, at least in the United States of America, as well as in several other members, enforcement was determined by the courts, which have their own rules, in particular on what should be accepted as evidence. The BMT Review Group, in looking at recommendations with regard to variety identification, should bear in mind the rules applicable for the court’s determination in considering enforcement and essential derivation cases.

28. The Chair concluded that there was agreement by the CAJ to the proposal in paragraph 6(b) of document CAJ/50/4.

UPOV Information Databases

29. The Technical Director referred to documents CAJ/50/5 and CAJ/51/2. He introduced document CAJ/51/2, which incorporated the contents of document CAJ/50/5 and the developments that had taken place between the fiftieth and the fifty-first sessions.

30. The CAJ received a demonstration of the GENIE Database from Mr. Carl Phillips, Counsellor, Office of the Chief Information Officer (OCIO), IT Division, World Intellectual Property Organization (WIPO), responsible for the development of the software.

31. The Delegation of the United States of America congratulated the Office of the Union for their efforts in developing the databases and expressed its thanks to Mr. Phillips for his presentation.

32. The Delegation of Argentina expressed its appreciation for the work carried out and considered it a step forward in the field of harmonization. It noted with pleasure that the development in relation to the databases had taken into consideration the proposals of Argentina concerning the submission of data for the UPOV-ROM. In relation to the type of assistance that the contributors to the UPOV-ROM may wish to receive in the process of introducing UPOV codes, the Delegation welcomed the possibility to receive an initial assistance as provided in paragraph 21(a) of document CAJ/51/2, but did not consider it necessary to receive ongoing assistance.

33. The Delegation of the United States of America requested clarification on the timeframe for the process of introducing UPOV codes.

34. The Technical Director explained that the Office of the Union encouraged everybody to use the UPOV codes as soon as the codes were made available on the UPOV website. He recalled that the Community Plant Variety Office (CPVO) had started to incorporate the UPOV codes in the data it was consolidating from the members of the European Union.

35. The representative of the European Community explained that it was planned that the CPVO Centralized Database on Variety Denominations would be launched in June 2005, and that the database was accessible to the contributors from members of the European Union, Norway and Switzerland, and at a later date, access to the database would be considered for breeders. He further mentioned that UPOV would be welcome to use the CPVO database.

36. The Chair concluded that the CAJ had noted the developments concerning the UPOV databases and that it agreed with the proposals presented in paragraph 31 of document CAJ/51/2.

Draft Explanatory Notes on Article 15(1)(i) and (2) of the 1991 Act of the UPOV Convention: Acts done Privately and for Non-Commercial Purposes and Provisions on Farm-Saved Seed

37. The Vice Secretary-General introduced document CAJ/51/3.

38. The Chair emphasized that the Annex to document CAJ/51/3 was intended to provide guidance for future members in drafting legislation.

*Article 15(1)(i) of the 1991 Act*

39. The Delegation of Sweden noted that reference to cooperatives had been removed from the draft explanatory notes concerning Article 15(1)(i) of the 1991 Act. The Delegation preferred the version that was discussed at the fiftieth session of the CAJ in October 2004 and proposed the following text:

“In the same vein, sale or barter, with the exclusive purpose of ensuring food supply for the farmers concerned, may be considered to fall within the meaning of acts done privately and for non-commercial purposes.”

40. The Chair noted that the proposal was not a clear-cut situation and observed that the purpose of this document was rather to provide clear examples.

41. The Delegation of France agreed with the Chair that the objective of the document was to provide examples that would not lead to confusion. It was difficult for the Delegation to understand how a commercial act, even if it was a small-scale commercial act, could be an example of what was “non-commercial”.

42. The Delegation of Argentina requested more clarity in the examples provided and wondered whether the example in paragraph 3 of the Annex to document CAJ/51/3 under Article 15(1)(i) should be clarified in order to avoid confusion with examples concerning the farmer’s privilege. The Delegation also referred to the possibility of introducing other examples, such as the donation of seed by governments to producers, which might be considered to fall within the framework of a public, rather than private, act and for non-commercial purposes.

43. The Delegation of Canada pointed out that it was very difficult to know what type of arrangements existed within a cooperative.

44. The Delegation of China expressed its support for the intervention made by the Delegation of Sweden and considered that the situation of small farmers should be reflected in the Annex of document CAJ/51/3.

45. The Delegation of Austria supported the interventions made by the Delegations of Argentina and France in relation to the need to provide clear examples and considered that examples concerning cooperatives would not be completely clear.

46. In relation to the intervention made by the Delegation of Argentina referring to acts undertaken by governments, such as a donation of seed, the Delegation of Spain informed the CAJ of jurisprudence concerning a case wherein a regional government had produced seed of a protected variety and had subsequently donated that seed to farmers. The judge considered that the donation did not fall within a private and non-commercial sphere and the regional government had to pay damages to the breeder. The Delegation confirmed that, in Argentina, the donation of seed from the Government fell within a public framework and therefore was placed outside the exception to the breeder’s right.

47. The representative of ISF noted that there was a difference between the existence of a right and the possibility to enforce it. The difficulty to enforce the breeder’s right within the activities, taking place in cooperatives, was not a justification for weakening the breeder’s right.

48. The Delegation of France agreed with the examples currently provided in the document.
49. The Delegation of Germany expressed its agreement with the examples, but noted that the notion of amateur gardener was not incorporated in the national legislation of Germany.
50. The Delegation of Azerbaijan agreed with the examples provided.
51. The Delegation of Sweden considered that there were other non-profit activities of cooperatives which could require further analysis on how cooperatives function in different territories.
52. The Vice Secretary-General said that it was possible to include further examples if the CAJ could reach agreement on such examples.
53. The Delegation of Sweden agreed to contact the Office of the Union in order to explore the possibility of including other examples.
54. The Delegation of China said that the issue raised by the Delegation of Sweden was very important and agreed to the possibility of adding other examples under paragraph 4 of the Annex to document CAJ/51/3 which might reflect the situation for subsistence farmers and farmers in remote locations.
55. The Chair recalled that the objective of the document was to provide clear-cut examples and observed that each competent authority could interpret matters which fell within a “grey zone”.
56. The Delegation of Colombia expressed its agreement with the example concerning the amateur gardener and agreed with the opinion expressed by the Delegation of Argentina that the example provided in paragraph 3 of the Annex to document CAJ/51/3 was not sufficiently clear. The notion of commercial purposes should be clarified in relation to harvested material and in relation to propagating material.
57. The representative of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) agreed that the document should provide clear examples.
58. The representative of ISF, referring to the interventions made by the Delegations of Argentina and Colombia concerning confusion in the examples provided in paragraph 3 of the Annex to document CAJ/51/3, observed that if the examples were supposed to be clear cut, then the wording used in the second sentence of that paragraph should reflect that by replacing “may” by “shall”.
59. The Delegation of Argentina mentioned that it would consult with the Office of the Union in order to clarify the example under paragraph 3 of the Annex to document CAJ/51/3.
60. The Chair concluded that there seemed to be general agreement with the examples provided in paragraphs 3 and 4 of the Annex to document CAJ/51/3 and that the Office of the Union would consider how to address the proposals made by the Delegations of Argentina, China, Colombia and Sweden.

*Article 15(2) of the 1991 Act*

61. The Chair requested comments in relation to draft explanatory notes corresponding to Article 15(2) of the 1991 Act.

62. The Delegation of Canada appreciated the efforts made in revising the Annex to document CAJ/51/3 in order to introduce less binding language. It informed the CAJ that Canada was working on the introduction of amendments to its legislation in line with the 1991 Act and explained that Canadian farmers' organizations would resist any change to the existing farmer's privilege.

63. The Delegation of Argentina proposed the deletion of the last sentence of paragraph 8 of the Annex to document CAJ/51/3 "Consultation with the interested parties, notably breeders and farmers, to assess such effects is an important means of ensuring successful implementation", because it considered that deciding to undertake consultations was a matter that should be left to the decision of each State.

64. In order to address the concern expressed by the Delegation of Argentina, the Chair suggested to change "is" by "might be" in the last sentence of paragraph 8 of the Annex to document CAJ/51/3. The Delegation of Argentina agreed to that change.

65. The Delegation of Belgium proposed in paragraph 21 of the French version of the Annex to document CAJ/51/3 to change the word "redevance" to "rémunération".

66. The Chair concluded that, subject to the reservation made by the Delegation of Canada, and the comments by the Delegations of Argentina, China, Colombia and Sweden, there was general agreement on the contents of the Annex to document CAJ/51/3.

Guidance Concerning Information, Documents or Material Furnished by the Breeder for Examination Purposes and for Verifying the Maintenance of Varieties

67. The Vice Secretary-General introduced document CAJ/51/4.

68. The Delegation of Australia questioned the use of the term "should" in paragraph 4 of the Annex to document CAJ/51/4, and requested clarification, in paragraph 7, of the term "not appropriate" applicable to the grey boxes of the Table.

69. The Technical Director explained that the term "not appropriate" should be understood as "irrelevant" or "not applicable".

70. The Delegation of Australia suggested to further elaborate what was meant by the use of grey boxes, because some of them were quite relevant in the case of a breeder-based testing system.

71. The Delegation of the United States of America was in agreement with the intervention made by the Delegation of Australia and considered that the term "not appropriate" was confusing. It congratulated the Office of the Union for the improvement to the Annex and suggested that the Table should be simplified.



72. The Delegation of Sweden expressed concern in relation to certain recommendations to keep certain information secret. Following those recommendations would oblige Sweden to amend its legislation on access to public documents. The Delegation preferred not to have a checklist, as proposed in the Table, and was concerned with the recommendation under paragraph 4 of the Annex to document CAJ/51/4.

73. The Chair referred to the first sentence of paragraph 1 of the Annex to document CAJ/51/4, which said that the proposed guidance was without prejudice to applicable law and international treaties.

74. The Delegation of Sweden, while understanding the principle that the guidance was not binding, was reluctant to approve guidance which it would not be in a position to follow.

75. The Delegation of New Zealand referred to the first sentence of paragraph 2 of the Annex to document CAJ/51/4, which “recognized that the authority is required to act in accordance with its public service status”. The notion of public status was broad enough to include the notion of free access to documents and information.

76. The Delegation of Argentina wondered whether the use of the word “únicamentè in the Spanish version in paragraph 3 of the Annex to document CAJ/51/4 was redundant. It proposed to redraft paragraph 5 of the Annex to document CAJ/51/4 from the point of view of the authorities and not of judges. For instance, “Information, documents and material furnished by the breeder or generated by the authority concerning applications for and grants of breeders’ rights might be submitted by the authorities in the context of court proceedings.” The Delegation suggested to share policies and legislation on access to documents amongst members of the Union. It mentioned that Argentina had provisions on matters which might be kept confidential.

77. The Delegation of France noted that the situation, raised by the Delegation of Sweden concerning transparency, was also applicable to the policy followed by the European Community. It further suggested, in order to facilitate understanding of the grey zones in the Table, to reserve those grey zones to those matters which were recommended to be kept confidential, for instance, hybrid formulae. It further proposed not to delete the word “uniquement” in the French version of paragraph 3 of the Annex to document CAJ/51/4. It proposed that the relationship between breeders and authorities should be clarified in the Table in the Annex to document CAJ/51/4, mainly as regards the role of the authorities in gathering information, the best practices in relation to material submitted and the required flexibility in conformity with their public service status.

78. The Delegation of the United States of America requested further clarification in the Table of whether a particular recommendation concerning information, documents and material submitted with the application applied before or after the right had been granted.

79. The Delegation of Sweden proposed that the document be amended to deal with matters concerning access to documents.

80. The Delegation of Germany referred to paragraph 6 of the Annex to document CAJ/51/4 which provided that it was for each authority, in accordance with its national law, to decide which information, documents or material furnished by the breeder it published, made available to the public on request or made available to other authorities.

81. The Delegation of Norway said that its position was very similar to that of the Delegation of Sweden.

82. The Delegation of Mexico explained that Mexico also had legislation concerning transparency and considered that the information provided in the Annex to document CAJ/51/4 was very important. It supported the clarification of the grey zones and proposed to include information on the origin, the genealogy (pedigree) and the breeding method of the variety. The Delegation further proposed to clarify what was meant by “other information in the file” at the bottom of Section 4 of the Table in page 5 of the Annex to document CAJ/51/4 and suggested the inclusion of some examples.

83. The Delegation of Belgium wondered whether, for instance, where there was an obligation under Article 30 of the 1991 Act, the word “encourage” should be replaced by the word “compulsory” or “mandatory”.

84. The Delegation of Australia noticed that Section 4 of the Table dealt with growing trials. However, access to material by the public did not seem to be covered by the Table.

85. The representative of ISF expressed his agreement with the intervention made by the Delegation of France and recalled that the origin of the document was to identify what should be considered as confidential information not to be made available to the public. He was concerned that the present document did not have the same objective as was originally intended. He noted that in some international treaties confidentiality of certain information was permitted.

86. The Chair proposed that the Annex to document CAJ/51/4 be amended in order to reflect the comments received.

#### Draft Recommendations to Ensure the Independence of those DUS Examination Centers which have, or have links to, Breeding Activities

87. The Chair made a brief introduction to document CAJ/49/3 and mentioned that, due to time constraints, the CAJ had not had the possibility to consider that document. He proposed that an updated version of the document be prepared for a future session of the CAJ.

#### Program for the Development of Explanatory Notes on the 1991 Act of the UPOV Convention

88. The Vice Secretary-General introduced document CAJ/51/5 and referred, in particular, to the proposed invitation to international breeders’ organizations to present their views and concerns in the field of enforcement of plant breeders’ rights.

89. The Delegation of Japan supported the proposal to invite breeders to express their views on enforcement matters and stated that enforcement was an important issue.

90. The Delegation of the United Kingdom thanked the Office of the Union for the proposed program for the development of explanatory notes on the 1991 Act. However, it expressed concern at the heavy workload that the program implied, bearing in mind the current budgetary resources and constraints. The Delegation noted that consideration of certain provisions of the 1991 Act would entail difficult discussions in order to secure

agreement. It recommended caution to the Office of the Union and wondered what level of priority the program should be given.

91. The Vice Secretary-General explained that the draft explanatory notes were meant to provide assistance to the Office of the Union which was often requested to clarify to government officials, legislators, lawyers and breeders the provisions of the 1991 Act.

92. The Chair concluded that, due to time constraints, it was not possible to consider the program proposed in document CAJ/51/5.

#### Variety Denominations

93. The Chair reported that the Working Group on Variety Denominations (WG-VD) had held a meeting on April 7, 2005, in order to reach agreement on draft explanatory notes on Article 20 of the 1991 Act for consideration by the CAJ at its session in October 2005.

#### Program for the Fifty-Second Session

1. Opening of the session
2. Adoption of the agenda
3. Draft explanatory notes on Article 15(1)(i) and (2) of the 1991 Act of the UPOV Convention: Acts done privately and for non-commercial purposes and provisions on farm-saved seed
4. Draft guidance concerning information, documents or material furnished by the breeder for examination purposes and for verifying the maintenance of varieties and draft recommendations to ensure the independence of those DUS examination centers which have, or have links to, breeding activities
5. Molecular techniques
6. Draft explanatory notes on Article 20 of the 1991 Act of the UPOV Convention concerning variety denominations
7. Explanatory notes on the 1991 Act of the UPOV Convention
8. UPOV information databases
9. Program for the fifty-third session
10. Closing of the session

*94. The present report has been adopted by correspondence.*

[Annexes follow]

ANNEXE I / ANNEX I / ANLAGE I / ANEXO I

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /  
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des États/  
in the alphabetical order of the names in French of the States/  
in alphabetischer Reihenfolge der französischen Namen der Staaten/  
por orden alfabético de los nombres en francés de los Estados)

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Yolanda HUERTA (Mrs.), Senior Legal Officer

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Sigue el Anexo II]



ANNEX II

Declaration of the Delegation of Azerbaijan

Mr. Chairman,  
Ladies and Gentlemen,

On behalf of the Government of the Republic of Azerbaijan and on behalf of the Ministry of Agriculture, Azerbaijan appreciates the warm welcome into the UPOV family and are very honored to be member of UPOV. We express our appreciation to all those who contributed to the accession of Azerbaijan to this prestigious organization.

On November 9, 2004, Azerbaijan deposited its instrument of accession to the UPOV Convention (1991 Act). On December 9, 2004, Azerbaijan became the fifty-eighth member of UPOV.

The State Commission for Testing and Protection of Selection Novelty is the official body for testing and protection of new achievements. The State Commission acts in conformity with the Law of Azerbaijan Republic on Selection Achievements passed by the Parliament on November 17, 1996, and was amended by the Law on Alterations and Additions No 808-IQD of February 8, 2000. On October 26, 2000, the Council of UPOV took a positive decision on the conformity of the Law on Selection Achievements with the 1991 Act of the UPOV Convention.

The State Commission has the appropriate legal and institutional framework for the grant of protection of plant breeders' rights. The staff received excellent training in Georgia and the Islamic Republic of Iran in the field of plant breeders' rights.

Azerbaijan cooperates in DUS testing with France, Hungary, the Islamic Republic of Iran, the Netherlands and Turkey. As of today, protection is available in Azerbaijan for 20 genera and species. Annual crops are protected for the period of 20 years, but perennial crops for 25 years. DUS trials for varieties of agricultural crops are carried out in 16 variety testing stations that represent 9 soil-climatic types. Testing activities and protection of new plant varieties are carried out with strict conformity of State testing methods.

I would like to emphasize our gratitude for the assistance received by the Office of the Union in the accession procedure of Azerbaijan to the UPOV Convention.

I would like also to convey thanks to experts from the Islamic Republic of Iran, Georgia and Turkey, and from other authorities of members of the Union for their help and cooperation.

Thank you.

[End of Annex II and of document]