



CAJ/52/2

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Second Session
Geneva, October 24 and 25, 2005

MOLECULAR TECHNIQUES

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1. At its fifty-first session, held in Geneva on April 7, 2005, the Administrative and Legal Committee (CAJ) considered document CAJ/50/4. The Annex to that document contained a text which the Technical Committee (TC) considered would provide a summary of the “situation in UPOV concerning the possible use of molecular markers in DUS examination”.
2. The development of the Annex to document CAJ/50/4 was the result of a discussion by the TC, at its thirty-ninth session, held in Geneva from April 7 to 9, 2003, of a proposal from the Technical Working Party for Fruit Crops (TWF) for the preparation of a document on the possible use of molecular markers in the examination of distinctness, uniformity and stability (DUS). At that session, the TC agreed that the Office of the Union (Office), in conjunction with the Chairmen of the TC and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), would use existing documents and, in particular, document TC/38/14 Add.-CAJ/45/5 Add. to develop a summary of the situation. At its fortieth session, held in Geneva from March 29 to 31, 2004, the TC agreed a text, attached as the Annex to document CAJ/50/4, which it considered would be a suitable summary of the current UPOV situation and proposed that the CAJ should be invited to examine the document for that purpose.
3. As stated above, document CAJ/50/4 was considered by the CAJ at its fifty-first session. Some concerns regarding the document were outlined at the session, and it was agreed that written comments should be sent to the Office by the end of April 2005. On

the basis of those comments, a new draft was to be prepared by the Office, in conjunction with the Chairperson of the TC, Ms. Julia Borys, 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 were then to be considered by the TC at its forty-second session in April 2006.

4. Following the fifty-first session of the CAJ, the Chairperson of the TC and the Office agreed that it would be important that any redrafting of the text in the Annex to document CAJ/50/4 should involve the other persons involved in the drafting of the original text, namely: Mr. Michael Camlin, former Chairman of the TC, and Mr. Gerhard Deneken, Chairman of BMT. Both Mr. Camlin and Mr. Deneken agreed to work with Ms. Borys and the Office (the “TC Chairperson’s group”) in relation to any redrafting of the text.

5. The comments received by the Office on the Annex to document CAJ/50/4 indicated that clarification was needed on:

(a) whether the document was intended to consider molecular markers in the form of characteristics and/or the use of molecular methods in the examination of DUS using existing characteristics; and

(b) whether the document was intended to provide general guidance or guidance on the possible use of molecular markers in specific UPOV Test Guidelines, e.g. the Test Guidelines for the crops and species mentioned in the proposals,

(c) the relationship and difference between the “options” and the “proposals”.

6. It was clarified that the concerns expressed above with regard to the Annex to document CAJ/50/4 did not relate to documents TC/38/14 -CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add., which presented the proposals developed in the *ad hoc* crop subgroups, the recommendations of the BMT Review Group concerning those proposals and the opinion of the TC and the CAJ regarding the recommendations of the BMT Review Group.

7. The TC Chairperson’s group noted that the problems concerned the clarity of the explanation of the situation, rather than the situation as agreed by the TC and the CAJ in 2003. Having reviewed the comments received, the TC Chairperson’s group was of the view that those comments had identified important aspects where the text should be improved, but noted that it would not be possible to make the necessary improvements without a substantial reworking of the text. The TC Chairperson’s group also noted that there had been some important discussions at the ninth session of the BMT in Washington, D.C., United States of America, held from June 21 to 23, 2005, which could have a bearing on the situation in due course. In particular, it noted that there had been substantial progress in the drafting of the “Guidelines for molecular marker selection and database construction” (BMT Guidelines) and a good level of agreement on those at that BMT session, which could allow reference to that document in any new version of the Annex to document CAJ/50/4. In addition, it noted that new proposals concerning molecular markers might come forward for consideration and that, furthermore, some of those proposals might not fit completely within the framework of the three options previously discussed.

8. In conclusion, on the basis of the comments received and reflection on those comments, the TC Chairperson’s group agreed that a substantial reworking of the Annex to document CAJ/50/4 was required. It concluded, after consultation with the Chairman of the CAJ, that such a reworking would have gone beyond the intention of the CAJ at its fifty-first session

and agreed that a decision to undertake such a reworking should be first considered by the CAJ and the TC. Furthermore, the TC Chairperson's group noted the developments at the ninth session of the BMT and considered that those developments might be taken into account in any revision of the text.

9. The CAJ is invited to consider whether a reworking of the text in the Annex to document CAJ/50/4 would be appropriate in accordance with paragraph 8, above.

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