



CAJ/54/3

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Fourth Session
Geneva, October 16 and 17, 2006

TGP DOCUMENTS

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1. At its fifty-second session, held in Geneva on October 24 and 25, 2005, the Administrative and Legal Committee (CAJ) agreed to the approach to prepare information materials concerning the UPOV Convention, as proposed in paragraphs 8 to 10 of document CAJ/52/4, and also agreed to the proposed list of provisions presented in paragraph 15 of document CAJ/52/4 (see document CAJ/52/5 "Report", paragraph 67). That list indicated that the TGP documents: TGP/4 "Constitution and Management of Variety Collections"; TGP/9 "Examining Distinctness"; and TGP/10 "Examining Uniformity" would be submitted by the Technical Committee (TC) to the CAJ for its consideration.
2. At its fifty-third session, held in Geneva on April 6, 2006, the CAJ noted the oral report of the Chairperson of the TC, which explained that the TC had proposed that the CAJ consider drafts of TGP/4, TGP/9 and TGP/10 at its fifty-fourth session, in order that the TC would have the possibility to finalize those documents in April 2007.
3. On that basis, the following documents have been prepared for consideration by the CAJ:
 - TGP/4 "Constitution and Management of Variety Collections"
(document TGP/4/1 Draft 7)
 - TGP/9 "Examining Distinctness" (document TGP/9/1 Draft 7)
 - TGP/10 "Examining Uniformity" (document TGP/10/1 Draft 4)

4. The TC agreed the texts as presented in documents TGP/4/1 Draft 7, TGP/9/1 Draft 7 and TGP/10/1 Draft 4, except for the highlighted sections which represent new text drafted at the request of the TC. The text shown in highlighting was drafted after the TC session and, therefore, has not yet been reviewed by the TC.

5. The CAJ is invited to note that the documents above are also being considered by the Technical Working Parties at their sessions in 2006, and an oral report on their comments will be made at the CAJ session. However, the CAJ may wish to note, in particular, the following substantial proposals which have already been made by the Technical Working Party for Agricultural Crops (TWA), reflecting the comments which had previously been made by the Technical Working Party for Vegetables (TWV) and the Technical Working Party on Automation and Computer Programs (TWC) at their sessions in 2006:

TGP/4 “Constitution and Management of Variety Collections” (document TGP/4/1 Draft 7)

Section 3.1.2.2.2 Examples of measures which could help to safeguard the legitimate interests of the breeder should be provided including, in particular, consulting and informing the breeder, establishing a contract between the authority and the breeder and establishing a contract between authorities and other variety collectors.

It was proposed that UPOV might develop a model contract / agreement between authorities and breeders for inclusion in document TGP/5 “Experience and Cooperation in DUS Testing” as a part of the revision of that document.

TGP/9 “Examining Distinctness” (document TGP/9/1 Draft 7)

2.6 It was proposed that the following changes, *inter alia*, should be made to Section 2.6 and, in addition, that the amended section should be moved after Section 2.3:

(a) title of Section 2.6.1 to be changed to a title, such as “Combining and Weighting [Differences in] Characteristics”, which made no reference to phenotypic distance;

(b) the existing text in Section 2.6.1 to be deleted and replaced by a brief explanation that information on characteristics could be combined and weightings given to differences in characteristics in order to determine if varieties were “distinct plus” for the purpose of selecting varieties for the growing trial (and for organizing the growing trial in relation to Section 3). To further explain that, in such an approach, the characteristics would be considered on a characteristic-by characteristic basis and that weightings would only be given to differences for a characteristic where those differences were, on the basis of experience, clear and consistent differences. It agreed that the explanation should, in particular, ensure that it was clear that it would not be appropriate to use a combination of many small differences in order to arrive at a “distinct plus” threshold.

- 5.2.3.14 In addition to the possibility of a side-by side comparison, to add the possibility to use statistical analysis to establish distinctness where a pair of varieties is not distinct on the basis of Notes and to provide Case 2 of Section 5.4.2.1 as an example. In the Case 2 example, to specify that any use of statistical analysis to establish distinctness should be in accordance with the requirements set out in TGP/8.
- 5.4.2 Section to be deleted (see comments on Sections 2.6 and 5.2.3.14)

TGP/10 “Examining Uniformity” (document TGP/10/1 Draft 4)

- 1.2 To add “It is therefore a matter for the authority to decide, in addition to those characteristics included in the UPOV Test Guidelines or national guidelines, which other characteristics it may include in its consideration of uniformity”.
- 3.3 The TWA heard that there were several crops where varieties were examined using a combination of off-types and standard deviations. [...] Therefore, it was agreed that a new Section 6 “Combination of Off-types and Standard Deviations” should be created to provide guidance on the examination of uniformity where a combination of off-types and standard deviations was used.
- General It was proposed that document TGP/10 should be considered again by the Technical Working Parties in 2007.

6. As explained above, an oral report on the comments of the Technical Working Parties will be made at the CAJ session, including the comments of the Technical Working Party for Fruit Crops (TWF) and the Technical Working Party for Ornamental Plants and Forest Trees (TWO), which had not met prior to the preparation of this document. A detailed written report on the comments made by the TWV, TWC and TWA at their sessions in 2006 is presented in document TWF/37/3, Annex II, and also in document TWO/39/3, Annex II. A detailed written report on the comments made by the TWF and the TWO will be included in the reports of those sessions (documents TWF/37/14 and TWO/39/11, respectively).

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