



CAJ/56/4

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

**ADMINISTRATIVE AND LEGAL COMMITTEE**

**Fifty-Sixth Session**  
**Geneva, October 22 and 23, 2007**

**DEVELOPMENT OF INFORMATION MATERIALS  
CONCERNING THE UPOV CONVENTION**

*Document prepared by the Office of the Union*

Introduction

1. The Administrative and Legal Committee (CAJ), at its fifty-second session, held in Geneva on October 24, 2005, agreed an approach for the preparation of information materials<sup>1</sup> concerning the UPOV Convention, as explained in paragraphs 8 to 10 of document CAJ/52/4. It also agreed the establishment of an advisory group to the CAJ (“CAJ-AG”) to assist in the preparation of documents concerning such materials, as proposed in paragraphs 11 to 14 of document CAJ/52/4 (see paragraph 67 of document CAJ/52/5, Report).

2. The agreed approach is summarized as follows: the Office of the Union will develop certain draft materials which it considers covers aspects of a straightforward nature and will circulate these to the CAJ, for comments within a specified time. In other cases, where it is considered that there are difficult issues, where discussions at a CAJ session would be important for the development of suitable information materials, and also in cases where the drafts on seemingly straightforward materials provoke unexpected concerns when circulated

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<sup>1</sup> “Information materials” cover different forms of information, such as those used in relation to frequently asked questions, model forms, explanatory notes, distance-learning materials, guidance documents or position papers.

for comments, it was agreed that the assistance of the CAJ-AG would be sought prior to the CAJ being invited to discuss those matters at its sessions.

3. The purpose of this document is to report to the CAJ on the progress on the development of information materials under the UPOV Convention which have been prepared for circulation to the CAJ and on the preparatory work for the program of the second session of the CAJ-AG to be held on October 26, 2007.

#### Draft Information Materials on Novelty under the UPOV Convention

4. Based on information available in UPOV documents, on the distance-learning course (DL-205) and frequently asked questions (FAQs), the Office of the Union has prepared some draft information materials on novelty under the UPOV Convention. The draft information materials on novelty were circulated to the CAJ members and observers on September 17, 2007 (circular E-570). The draft information materials on novelty have also been posted on the first restricted area of the UPOV website. The deadline for submission of comments is October 12, 2007. In the absence of major concerns with those draft information materials, revisions will be made on the basis of any comments received and the materials will be brought into use by the Office of the Union (see paragraph 9 of document CAJ/52/4). If necessary, to address any major concerns, the advice of the CAJ-AG will be sought at its second session on October 26, 2007.

#### Items to be Discussed at the Second Session of the CAJ-AG

5. The matters to be discussed at the second session of the CAJ-AG are as follows:
1. Article 5(2) of the 1991 Act: Conditions of Protection (Article 6(2) of the 1978 Act); and Article 18 of the 1991 Act: Measures Regulating Commerce (Article 14 of the 1978 Act) (document CAJ-AG/07/2/2)
  2. Article 14(2) of the 1991 Act: Acts in respect of harvested material (Article 5(4) of the 1978 Act); and Article 16 of the 1991 Act: Exhaustion of the Breeder's Right (document CAJ-AG/07/2/3)
  3. Article 14(5) of the 1991 Act: Essentially derived and certain other varieties (document CAJ-AG/06/1/2, paragraphs 42 to 48) (document CAJ-AG/07/2/4)
  4. Article 15 of the 1991 Act: Exceptions to the Breeder's Right (Article 5(3) of the 1978 Act) (document CAJ-AG/07/2/5)
  5. Article 30(1)(i) of the 1991 Act: Implementation of the Convention: Provide for appropriate legal remedies for the effective enforcement of breeders' rights (Article 30(1)(a) of the 1978 Act) (document CAJ-AG/07/2/6)
6. The CAJ will be notified when the CAJ-AG documents are posted on the first restricted area of the UPOV website.

7. With respect to Article 14(2) and Article 16 of the 1991 Act of the UPOV Convention, Circular E-475 was sent on May 8, 2007 requesting materials concerning “Acts in respect of harvested material” and “Exhaustion of the breeder’s right”. The Office of the Union has received contributions from Hungary, Japan, the Netherlands, the Russian Federation and the International Seed Federation (ISF). Those contributions will be incorporated in document CAJ-AG/07/2/3.

8. With respect to Article 14(5) of the 1991 Act of the UPOV Convention, in order to enhance the discussions at the second session of the CAJ-AG, the Office of the Union, in its Circular E-476 of May 8, 2007, invited non-governmental organizations with observer status in the CAJ to provide any materials which they had on guidance or recommendations concerning essentially derived varieties. In that regard, the Office of the Union received contributions from ISF and the International Association of Horticultural Producers (AIPH). Those contributions will be incorporated in document CAJ-AG/07/2/4.

*9. The CAJ is invited to take note of the progress regarding the development of information materials concerning the UPOV Convention.*

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