



CAJ/57/2 Add.

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Seventh Session
Geneva, April 10, 2008

ADDENDUM

TGP DOCUMENTS

Document prepared by the Office of the Union

The purpose of this document is to report on proposals made by the Technical Committee (TC) at its forty-fourth session held in Geneva from April 7 to 9, 2008, in relation to documents TGP/4/1 Draft 10 "Constitution and Maintenance of Variety Collections", TGP/5 "Experience and Cooperation in DUS Testing" and TGP/10/1 Draft 9 "Examining Uniformity". The proposals are reproduced in the Annex to this document.

[Annex follows]

ANNEX

AMENDMENTS PROPOSED BY THE TECHNICAL COMMITTEE
AT ITS FORTY-FOURTH SESSION HELD IN GENEVA FROM APRIL 7 TO 9, 2008
TO DOCUMENTS TGP/4/1 DRAFT 10 “CONSTITUTION AND MAINTENANCE OF
VARIETY COLLECTIONS”, TGP/5 “EXPERIENCE AND COOPERATION IN
DUS TESTING” AND TGP/10/1 DRAFT 9 “EXAMINING UNIFORMITY”

TGP/4/1 Draft 10 “Constitution and Maintenance of Variety Collections”

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| 1.4 | To add the following sentence (copied from Section 3.1.2.1) at the end of section 1.4 of the Introduction: “For the purposes of this document, maintenance of living plant material refers to the way the living plant material is maintained in storage (e.g. seed) or under cultivation (e.g. vegetatively propagated varieties).” |
| 2.2.2.1 (iv) | To amend section 2.2.2.1 (iv) to read: “(iv) any list including varieties which are publicly available within plant collections (varieties included in genetic resource collections, collection of old varieties, etc.);” |
| 3.1.2.2.2 | Last sentence to be updated according to the title of document TGP/5, Section 11 |
| 3.1.2.2.3 | To delete in section 3.1.2.2.3: “: e.g. to verify the identity of material obtained on the market,” |

TGP/5 “Experience and Cooperation in DUS Testing”

The TC proposed that all sections of document TGP/5 should be reviewed with regard to the possibility of confusion arising from their application to use in relation to official registers, for example, of varieties admitted to trade (e.g. National List, Official Catalogue etc.).

The TC made the following proposals concerning the Introduction and Sections 1, 2, 4, 5, 6, 7 and 11 of document TGP/5:

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| <i>Introduction Draft 2: Introduction</i> | |
| | no comments |
| <i>Section 1/2 Draft 5: Model Administrative Agreement for International Cooperation in the Testing of Varieties</i> | |
| | no comments |

| <i>Section 2/2 Draft 5: UPOV Model Form for the Application for Plant Breeders' Rights</i> | |
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| General | the TC agreed that it would be important to consider the outcome of the discussions of the electronic application systems meeting before finalizing document TGP/5 Section 2/2, in particular with regard to the structure and layout of the form, on the basis that it might be appropriate to make further modifications to facilitate harmonization in electronic applications. |
| Box (before 1.) | to delete “with the following State or Intergovernmental Organization” and to move the remaining text in this part of the form to Item 7, with any consequential editorial amendments. |
| 1. (a) | to delete “(Breeder)”, whilst retaining footnote “2” |
| 5. (a) | to delete the tick box and to present the text “To the best of my/our knowledge there is no other person who bred, or discovered and developed the variety” as a statement, either as a new subparagraph 5. (b), or within Item 9. |
| 9. (a) | to amend to read as follows: <input type="checkbox"/> has already been completed in _____ date completed: _____ <input type="checkbox"/> is in progress in _____ date started: _____ <input type="checkbox"/> has not yet been carried out _____ |
| B Item 3 | (i) to consider the deletion of “In respect of period of protection, fees or conditions for obtaining protection in respect of the applicant’s nationality, place of residence or registered offices” from Item 3.1 (b) (ii) to consider the use of separate paragraphs to address technical and legal considerations; (iii) to consider amending “law” to cover situations where the genera and species are specified in, for example, regulations; and (iv) to use paragraph numbering 3.1.1, 3.1.2 etc. instead of (a), (b) etc. |
| B Item 8.4 | to amend the text to clarify that “prior commercial use” refers to commercial use prior to the filing of the application. |

| <i>Section 4/2 Draft 5: UPOV Model Form for the Designation of the Sample of the Variety</i> | |
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| 1. | tick boxes to read as follows: <input type="checkbox"/> has already been completed in _____ date completed: _____ <input type="checkbox"/> is in progress in _____ date started: _____ <input type="checkbox"/> is to be performed in _____ |

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| <i>Section 5/2 Draft 5: UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results</i> | |
| | no comments |

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| <i>Section 6/2 Draft 5: UPOV Report on Technical Examination</i> | |
| 16. (a) | to amend “Other variety from which it is not distinct (if applicable)” to read “Variety(ies) from which ...” |
| 16. (b) | to replace line “.....” with “are provided in an annex to this report” |
| 16. (c) | to replace line “.....” with “are provided in an annex to this report” |
| 16. (d) | to replace “the annex” with “an annex” and to delete “, for which there may be an additional cost” |

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| <i>Section 6/2 Draft 5: UPOV Variety Description</i> | |
| 15. | 15. header line to be moved above column header row |
| 17. | to add “(if appropriate)” after “Photograph” |

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| <i>Section 7/2 Draft 5: UPOV Interim Report on Technical Examination</i> | |
| 16. | to include “no plant material received”, “requirements for plant material not met” and “test failed, observations” as examples of general information to be provided in Item 16. |

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| <i>Section 11/1 Draft 3: Examples of Policies and Contracts for Material Submitted by the Breeder</i> | |
| | no comments |

TGP/10/1 Draft 9 “Examining Uniformity”

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| 4.2.3.3 | To read: “In cases where there is still uncertainty at the end of a growing cycle about whether or not a plant is an off-type, in particular concerning the genetic basis or otherwise of atypical expression, the variety could be observed in a further growing cycle. This can be carried out on the existing material for a second cycle, or on new material. Depending on the circumstances, new plants or plant material may be requested from the breeder and/or plants may be propagated from existing DUS trial material, <u>including from the plants with atypical expression</u> . That would also allow measures to be taken concerning the phytosanitary status of the material, if that was considered to be a possible cause of the atypical expression. In cases where a new batch of plants is requested, a sample of the original material should be retained, where possible, to check the conformity of the new material with the original material.” |
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