UPOV

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixtieth Session
Geneva, October 19 and 20, 2009

EXCHANGEABLE SOFTWARE

Document prepared by the Office of the Union

1.   The purpose of this document is to invite the Administrative and Legal Committee (CAJ) to consider the development of a document, "Exchangeable Software", which would contain software that would be available for use by members of the Union. With regard to the type of software that might be included, the Technical Committee (TC) has proposed the following categories:

  (a)   Administration of applications;
  (b)   On-line application systems;
  (c)   Variety denomination checking;
  (d)   DUS trial design and data analysis;
  (e)   Data recording and transfer;
  (f)   Image analysis; and
  (g)   Biochemical and molecular data.

Background

2.   A regular item on the agenda of the sessions of the Technical Working Party on Automation and Computer Programs (TWC) has been the preparation of a TWC document on exchangeable software. At the forty-fourth session of the TC, held in Geneva from April 7 to 9, 2008, the Chairman of the TC proposed that, in order for information on exchangeable software to be more accessible to members of the Union and to facilitate regular updating, it

might be appropriate to present information, on an annual basis, in a TC document similar to document TC/44/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability". That document could provide members of the Union with information on the existence and availability of software. The Chairman of the TC proposed that the document should include software concerning, for example, databases of images / photographs, image analysis etc.

3.   The TC agreed with the proposal above and requested the TWC to formulate the structure and content of the document for consideration by the TC at its forty-fifth session, held in Geneva from March 30 to April 1, 2009.

4.   In accordance with the request of the TC, and on the basis of the information provided in document TWC/25/19 "Exchangeable software", the Office of the Union, in conjunction with the TWC Chairperson developed a proposal as a basis for discussion by the TWC, at its twenty-sixth session, held in Jeju, Republic of Korea, from September 2 to 5, 2008.

5.   The TWC clarified that it would not be possible for the TWC to perform a detailed assessment of the programming of the software and confirmed that, in accordance with document TWC/26/7, paragraph 5, the TWC would only be able to propose the inclusion of software in the proposed exchangeable software document on the basis of the experiences presented by experts from the members of the Union at the TWC session.

6.   The TWC agreed that the software should not need to have been developed by a member of the Union, but would need to have been used by a member of the Union for inclusion in the document. In particular, jointly-developed software, freely available software packages and packages built around commercial software products could be included, provided that intellectual property rights were respected and suitable information provided in the column for "Condition for Supply".

7.   The TWC agreed that the TC should already be invited to include the DUSTNT and GAIA software in a first edition of the document. The experts from the United Kingdom and France agreed to provide the necessary information to the Office of the Union.

8.   Although the TC made reference to the development of a document similar to document TC/44/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability", it was proposed to the TC that the document on exchangeable software be developed as an "INF" document. That proposal was based on both practical and procedural considerations. Reference to document TC/[44]/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability" is made difficult because the document is referenced and located according to the relevant session of the TC, which changes every year (e.g. TC/43 in 2007, TC/44 in 2008). In addition, it was anticipated that the document on exchangeable software would need to be considered by the CAJ, for example in relation to software relating to the administration of applications, on-line application systems and variety denomination checking. The development of an "INF" document was also intended to facilitate adoption of the document by the Council.

Document UPOV/INF/Software

9.   The TC, at its forty-fifth session, held in Geneva from March 30 to April 1, 2009, agreed that document UPOV/INF/Software Draft 1 provided a suitable initial structure for a list of exchangeable software, but agreed that the categories of software might need to be modified according to the software that was included.

10.   The TC agreed that document UPOV/INF/Software Draft 2 should be prepared for consideration by the Technical Working Parties, including the TWC, at their sessions in 2009, and by the CAJ at its sixtieth session, to be held in Geneva on October 19 and 20, 2009.

11.   The TWC considered document UPOV/INF/Software Draft 2 at its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009.

12.   Based on the information provided by experts from France under agenda item 12 "Data Loggers" (see documents TWC/27/17 and TWC/27/17 Add.), the TWC agreed to propose the inclusion of the SIRIUS system for data capture in document UPOV/INF/Software under the section (e) "Data recording and transfer". It was agreed that Mr. Christophe Chevalier (France) would provide the necessary information to the Office of the Union.

13.   On the basis that the TWC had agreed to recommend to the TC to include the SIRIUS software in document UPOV/INF/Software, Mr. Chevalier requested that, in parallel with that process, consideration be given by the Office of the Union to the translation of the user guide into English. The Office of the Union agreed to consider that request on the basis that the experts from France would check any translation provided by the Office of the Union.

14.   During its discussions on electronic application systems (see document TWC/27/8), the TWC noted that exchangeable software for electronic application systems could be included in document UPOV/INF/Software, section (b) "On-line application systems".

15.   During its discussions on UPOV information databases (see document TWC/27/4), the TWC heard that the Community Plant Variety Office of the European Community (CPVO) had developed a software for assessing similarity of denominations. The TWC welcomed the offer of the expert from the European Community to make a presentation of that software at its twenty-eighth session with a view to possible inclusion of the software in document UPOV/INF/Software.

16.   Subject to the approval of the TC and the CAJ, document UPOV/INF/Software would be put forward for adoption by the Council and would be revised in response to developments concerning exchangeable software (see document UPOV/INF/Software Draft 2, section 2 "Procedure for inclusion of software").

> *17.   The CAJ is invited to consider document UPOV/INF/Software Draft 2, as a basis for a document on exchangeable software, as set out in paragraph 16.*

[End of document]