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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixty-First Session
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UPOV-ROM PLANT VARIETY DATABASE

Document prepared by the Office of the Union

1. The purpose of this document is to recall the status of the program for improvements to the Plant Variety Database and to provide an update on developments concerning that program. This document also includes a report on developments concerning the GENIE database, which is *inter alia*, the repository of the UPOV codes that are an integral part of the program for improvements to the Plant Variety Database.

GENIE DATABASE

2. It is recalled that the GENIE database has been developed to provide, for example, online information on the status of protection (see document C/43/6), cooperation in examination (see document C/43/5), experience in DUS testing (see document TC/46/4), and existence of UPOV Test Guidelines (see document TC/46/2) for different GENera and specIEs (hence GENIE), and is used to generate the relevant Council and Technical Committee (TC) documents concerning that information. In addition, the GENIE database is the repository of the UPOV codes and also provides information concerning alternative botanical and common names.

3. A version of the GENIE database (English only) was launched on the first-restricted area of the UPOV website (see <http://www.upov.int/genie/en>) in November 2007. Since that time, the GENIE database has been made available in all four UPOV languages and some

further functionalities have been added to the database including, in particular, the addition of a multiple search function and the possibility to generate customized reports. In addition, the administrative environment of the database has been completed such that the Office of the Union (Office) has control of the data entry in the database. With those changes, the GENIE database can be launched on the freely available area of the UPOV website. That development will be notified to all members and observers in due course.

PLANT VARIETY DATABASE

4. At its fifty-ninth session, held in Geneva on April 2, 2009, the Administrative and Legal Committee (CAJ) considered developments concerning the Plant Variety Database on the basis of documents CAJ/59/6, CAJ/59/6 Add. and the oral report of the comments made by the TC at its forty-fifth session, held in Geneva from March 30 to April 1, 2009.

5. The CAJ agreed the proposals concerning the program for improvements to the Plant Variety Database, as set out in paragraph 21 of document CAJ/59/6, subject to the amendments specified in document CAJ/59/7 "Report on the Conclusions", paragraph 43. The program for improvements to the Plant Variety Database, agreed on that basis, is provided in the Annex to this document.

6. The following sections recall some background information concerning the program.

UPOV-WIPO arrangement

7. It is recalled that, at its seventy-sixth session, held in Geneva on October 29, 2008, the Consultative Committee, approved an arrangement between UPOV and the World Intellectual Property Organization (WIPO) (UPOV-WIPO arrangement), concerning the UPOV Plant Variety Database, as follows:

“(a) WIPO to undertake the collation of data for the UPOV-ROM and to provide the necessary assistance to deliver the program of improvements concerning, in particular, options for receiving data for the UPOV-ROM in various formats and assistance in allocating UPOV codes to all entries (see documents CAJ/57/6, paragraphs 3 and 8 and TC/44/6, paragraphs 12 and 17). In addition, WIPO to undertake the development of a web-based version of the UPOV Plant Variety Database, and the facility to create CD-ROM versions of that database, and to provide the necessary technical support concerning the development of a common search platform (see documents CAJ/57/6, paragraphs 18 to 21 and TC/44/6, paragraphs 27 to 30)).

“(b) UPOV to agree that data in the UPOV-ROM Plant Variety Database may be included in the WIPO Patentscope® search service. In the case of data provided by parties other than members of the Union (e.g. the Organisation for Economic Co-operation and Development (OECD)), permission for the data to be used in the WIPO Patentscope® search service would be a matter for the parties concerned.”

8. On that basis, the program for improvements to the Plant Variety Database, as set out in the Annex to this document, states as follows:

“2.2 In response to the needs identified by members of the Union and contributors to the Plant Variety Database in 2.1, the designated World Intellectual Property Organization (WIPO) staff, in conjunction with the Office, will seek to develop solutions for each of the Plant Variety Database contributors.”

9. In accordance with the UPOV-WIPO arrangement, Mr. José Appave, Senior Data Administration Clerk, WIPO, has taken up responsibility for collating all data for the UPOV-ROM Plant Variety Database (UPOV-ROM) (see circular E-1190). A report on the deployment by WIPO of a software developer will be made to the TC at its forty-sixth session.

Future review on the use of fields

10. In deciding to proceed with the program set out in the Annex to this document, the CAJ agreed that there should be a future review of whether to delete fields that are not used to a significant extent (see document CAJ/59/7 “Report on the Conclusions”, paragraph 44). It was agreed that this review should be based on an analysis of the use of the fields in the UPOV-ROM Plant Variety Database.

11. At its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009, the Technical Working Party on Automation and Computer Programs (TWC) noted that the CAJ, in deciding to proceed with the program for improvements to the UPOV-ROM Plant Variety Database, had agreed that there should be a future review of whether to delete fields that are not used to a significant extent. It was noted that the CAJ had agreed that the review should be based on an analysis of the use of the fields in the UPOV-ROM Plant Variety Database. In that regard, the TWC agreed to propose to the TC and the CAJ that it invite the TWC to conduct that analysis of the fields in the UPOV-ROM Plant Variety Database (see document TWC/27/21 “Report”, paragraph 30).

12. The CAJ, at its sixtieth session, noted that the TC would be invited to consider the proposal of the TWC to conduct an analysis of the use of the fields in the UPOV-ROM Plant Variety Database, at the forty-sixth session of the TC, as set out in paragraph 8 of document CAJ/60/6. It was noted that the “use” of fields related to the inclusion of data in those fields by contributors (see document CAJ/60/10 “Report on the Conclusions”, paragraph 36). An oral report of the conclusions of the TC at its forty-sixth session, to be held in Geneva from March 22 to 24, 2010, will be made to the CAJ at its sixty-first session, to be held in Geneva on March 25, 2010.

Common search platform

13. Item 7 of the program for improvements to the UPOV-ROM Plant Variety Database (see Annex to this document) concerns the development of a common search platform, or “portal”, for certain databases relevant for variety denomination searching purposes. The purpose of a common search platform, which would, in particular, be developed for use by authorities and breeders, is to allow information in separate databases to be searched from the UPOV website.

14. As explained in document TC/40/6–CAJ/49/4, paragraph 35, in addition to the information included in the UPOV-ROM Plant Variety Database, certain other information may be relevant for the examination of proposed variety denominations. Examples include

information on varieties that is not held by authorities responsible for plant breeders' rights¹ (e.g. information held by the International Cultivar Registration Authorities (ICRAs)) and information on prior rights (e.g. trademarks) that could prevent the use of a variety denomination².

WIPO brand-related database

15. With regard to potential partners in the development of a common search platform to cover prior rights, it was explained in document CAJ/57/6, paragraph 20, that in 2008 the Office of the Union had held discussions with the Assistant Director General of WIPO responsible for the Sector of Trademarks, Industrial Designs and Geographical Indications. More recently, WIPO informed the Office of the Union that it was considering the scope for development of a database containing trademarks and other international brand-related data ("brand-related database") and invited the Office of the Union to discuss the scope for including data from the UPOV Plant Variety Database in such a database.

16. The Office of the Union clarified that it would be a matter for the members of the Union and other contributors of data to the UPOV-ROM Plant Variety Database to decide on the inclusion of data from the UPOV-ROM Plant Variety Database in a database containing international brand-related data. However, in the context of exploratory discussions, the Office of the Union indicated that such an approach could provide substantial progress in meeting the aims of the common search platform. With regard to the basis for inclusion of data from the Plant Variety Database in a brand-related database, the Office of the Union suggested that it was likely that a requirement for UPOV would be that members of the Union and other contributors of data to the Plant Variety Database would have free access to the data in the brand-related database. Furthermore, it was suggested that the development of search tools for variety denomination purposes could be of particular interest for authorities and breeders and would be an aspect where UPOV would wish to be involved.

17. The CAJ, at its sixtieth session, approved the continued involvement of the Office of the Union in exploratory discussions with WIPO concerning a brand-related database, in accordance with the approach set out in paragraph 16, above and requested the Office of the Union, as appropriate, to develop a proposal for consideration by the TC, CAJ and the Consultative Committee. There have been no substantial developments concerning a brand-related database since the sixtieth session of the CAJ.

¹ Article 20(2) of the 1991 Act of the UPOV Convention states that:
"[Characteristics of the denomination] It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in the territory of any member of the Union, an existing variety of the same plant species or of a closely related species."

² Article 20(4) of the 1991 Act of the UPOV Convention (Paragraph 10 of Article 13 of the 1961 Convention) states that:
"[Prior rights of third persons] Prior rights of third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph (7), is obliged to use it, the authority shall require the breeder to submit another denomination for the variety."

Databases containing variety denomination data

18. Cooperation between operators of databases containing information relevant for variety denomination purposes, such as the ICRAs, PlantScope (Netherlands), etc., was discussed at the 5th International Symposium on the Taxonomy of Cultivated Plants, held in Wageningen, Netherlands, from October 15 to 19, 2007 (<http://www.istcp2007.wur.nl>). At that symposium, Mr. Kees van Ettehoven (Netherlands), President of the International Association for Cultivated Plant Taxonomy (IACPT), agreed to organize a meeting with relevant partners to discuss the development of a common search platform (see document CAJ/57/6, paragraph 20 and www.iacpt.net). Mr. van Ettehoven has since agreed that it would be useful for UPOV to initiate such a meeting once UPOV is in a position to provide technical support for the development of a common search platform, as set out in the program for improvements to the UPOV-ROM Plant Variety Database. The timing of such a meeting will be discussed with the relevant WIPO staff, once in post, as a part of the program for improvements to the UPOV-ROM Plant Variety Database.

19. *The CAJ is invited to:*

(a) note the developments concerning the UPOV-WIPO arrangement, as set out in paragraph 9;

(b) consider the conclusions of the TC concerning the proposal for the TWC to conduct the analysis of the inclusion of data in fields in the UPOV-ROM Plant Variety Database, as set out in paragraphs 10 to 12; and

(c) note the situation concerning the development of common search platforms, as set out in paragraphs 15 to 18.

[Annex follows]

ANNEX

PROGRAM FOR IMPROVEMENTS TO THE PLANT VARIETY DATABASE

*as approved by the Administrative and Legal Committee (CAJ),
at its fifty-ninth session, held in Geneva on April 2, 2009*

1. Title of the Plant Variety Database

In recognition of the intention to develop a web-based version of the Plant Variety Database, no reference will be made to the “UPOV-ROM”. The full name of the Plant Variety Database will be the “VARDAT Plant Variety Database”, abbreviated to VARDAT as appropriate.

2. Provision of assistance to contributors

2.1 The Office will continue to contact all members of the Union and contributors to the Plant Variety Database that do not provide data for the Plant Variety Database, do not provide data on a regular basis, or do not provide data with UPOV codes. In each case, they will be invited to explain the type of assistance that would enable them to provide regular and complete data for the Plant Variety Database.

2.2 In response to the needs identified by members of the Union and contributors to the Plant Variety Database in 2.1, the designated World Intellectual Property Organization (WIPO) staff, in conjunction with the Office, will seek to develop solutions for each of the Plant Variety Database contributors.

2.3 An annual report on the situation will be made to the Administrative and Legal Committee (CAJ) and Technical Committee (TC).

2.4 With regard to the assistance to be provided to contributors, the UPOV-ROM “General Notice and Disclaimer” states that “[...] All contributors to the UPOV-ROM are responsible for the correctness and completeness of the data they supply. [...]”. Thus, in cases where assistance is provided to contributors, the contributor will continue to be responsible for the correctness and completeness of the data.

3. Data to be included in the Plant Variety Database

3.1 Data format

3.1.1 In particular, the following data format options to be developed for contributing data to the Plant Variety Database:

- (a) data in XML format;
- (b) data in Excel spreadsheets or Word tables;
- (c) data contribution by on-line web form;
- (d) an option for contributors to provide only new or amended data

3.1.2 To consider, as appropriate, restructuring TAG items; for example, where parts of the field are mandatory and other parts not.

3.2 Data quality and completeness

The following data requirements to be introduced in the Plant Variety Database

<u>TAG</u>	<u>Description of Item</u>	<u>Current Status</u>	<u>Proposed status</u>	<u>Database developments required</u>
<000>	Start of record and record status	mandatory	start of record to be mandatory	mandatory, subject to development of facility to calculate record status (by comparison with previous data submission), if required
<190>	Country or organization providing information	mandatory	mandatory	data quality check: to verify against list of codes
<010>	Type of record and (variety) identifier	mandatory	both mandatory	(i) meaning of “(variety) identifier” to be clarified in relation to item <210>; (ii) to review whether to continue type of record “BIL”; (iii) data quality check: to check against list of types of record
<500>	Species--Latin name	mandatory until UPOV code provided	mandatory (even if UPOV code provided)	
<509>	Species--common name in English	mandatory if no common name in national language (<510>) is given.	not mandatory	
<510>	Species--common name in national language other than English	mandatory if no English common name (<509>) is given	not mandatory	
<511>	Species--UPOV Taxon Code	mandatory	mandatory	(i) if requested, the Office to provide assistance to the contributor for allocating UPOV codes; (ii) data quality check: to check UPOV codes against the list of UPOV codes; (iii) data quality check: to check for seemingly erroneous allocation of UPOV codes (e.g. wrong code for species)
	DENOMINATIONS			
<540>	Date + denomination, proposed, first appearance or first entry in data base	mandatory if no breeder’s reference (<600>) is given	(i) mandatory to have <540>, <541>, <542>, or <543 if <600> is not provided (ii) date not mandatory	(i) to clarify meaning and rename; (ii) data quality check: mandatory condition in relation to other items
<541>	Date + proposed denomination, published		see <540>	(i) to clarify meaning and rename (ii) data quality check: mandatory condition in relation to other items

<542>	Date + denomination, approved	mandatory if protected or listed	see <540>	(i) to clarify meaning and rename; (ii) to allow for more than one approved denomination for a variety (i.e. where a denomination is approved but then replaced) (iii) data quality check: mandatory condition in relation to other items
<543>	Date + denomination, rejected or withdrawn		see <540>	(i) to clarify meaning and rename (ii) data quality check: mandatory condition in relation to other items
<600>	Breeder's reference	mandatory if existing	not mandatory	
<601>	Synonym of variety denomination		not mandatory	
<602>	Trade name		not mandatory	(i) to clarify meaning (ii) to allow multiple entries
<210>	Application number	mandatory if application exists	mandatory if application exists	to be considered in conjunction with <010>
<220>	Application/filing date	mandatory if application exists	mandatory	explanation to be provided if TAG<220> not completed
<400>	Publication date of data regarding the application (protection)/filing (listing)		not mandatory	
<111>	Grant number (protection)/registration number (listing)	mandatory if existing	(i) mandatory to have <111> / <151> / <610> or <620> if granted or registered (ii) date not mandatory	(i) data quality check: mandatory condition in relation to other items; (ii) to resolve any inconsistencies concerning the status of TAG<220>
<151>	Publication date of data regarding the grant (protection) / registration (listing)		see <111>	data quality check: mandatory condition in relation to other items
<610>	Start date--grant (protection)/registration (listing)	mandatory if existing	see <111>	(i) data quality check: mandatory condition in relation to other items; (ii) data quality check: date cannot be earlier than <220>
<620>	Start date--renewal of registration (listing)		see <111>	(i) data quality check: mandatory condition in relation to other items; (ii) data quality check: date cannot be earlier than <610> (iii) to clarify meaning
<665>	Calculated future expiration date	mandatory if grant/listing	not mandatory	
<666>	Type of date followed by "End date"	mandatory if existing	not mandatory	
	PARTIES CONCERNED			

<730>	Applicant's name	mandatory if application exists	mandatory if application exists	
<731>	Breeder's name	mandatory	mandatory	to clarify meaning of "breeder" according to document TGP/5 (see <733>)
<732>	Maintainer's name	mandatory if listed	not mandatory	to be accompanied by start and end date (maintainer can change)
<733>	Title holder's name	mandatory if protected	mandatory if protected	(i) to clarify meaning of "title holder" according to document TGP/5 (see <731>) (ii) to be accompanied by start and end date (title holder can change)
<740>	Type of other party followed by party's name		not mandatory	
	INFORMATION REGARDING EQUIVALENT APPLICATIONS IN OTHER TERRITORIES			
<300>	Priority application: country, type of record, date of application, application number		not mandatory	
<310>	Other applications: country, type of record, date of application, application number		not mandatory	
<320>	Other countries: Country, denomination if different from denomination in application		not mandatory	
<330>	Other countries: Country, breeder's reference if different from breeder's reference in application		not mandatory	
<900>	Other relevant information (phrase indexed)		not mandatory	
<910>	Remarks (word indexed)		not mandatory	
<920>	Tags of items of information which have changed since last transmission (optional)		not mandatory	to develop option to generate automatically (see 2.1.1.(a))
<998>	FIG		not mandatory	
<999>	Image identifier (for future use)		not mandatory	to create possibility to provide hyperlink to image (e.g. an authority's webpage)

3.3 Mandatory "items"

3.3.1 With respect to items that are indicated as "mandatory" in Section 3.2, data will not be excluded from the Plant Variety Database if that item is absent. However, a report of the non-compliances will be provided to the contributor.

3.4.2 A summary of non-compliances will be reported to the TC and CAJ on an annual basis.

3.4 Dates of commercialization

3.4.1 An item will be created in the Plant Variety Database to allow for information to be provided on dates on which a variety was commercialized for the first time in the territory of application and other territories, on the following basis:

Item <XXX>: dates on which a variety was commercialized for the first time in the territory of application and other territories (not mandatory)

	<u>Comment</u>
(i) Authority providing the [following] information	ISO two letter code
(ii) Territory of commercialization	ISO two letter code
(iii) Date on which the variety was commercialized* for the first time in the territory (* The term “commercialization” is used to cover “sold or otherwise disposed of to others, by or with the consent of the breeder, for purposes of exploitation of the variety” (Article 6(1) of the 1991 Act of the UPOV Convention) or “offered for sale or marketed, with the agreement of the breeder” (Article 6(1)(b) of the 1978 Act of the UPOV Convention), as appropriate.	according to the format YYYY[MMDD] (Year[MonthDay]): month and day will not be mandatory if not available
(iv) Source of information	mandatory for each entry in item <XXX>
(v) Status of information	mandatory for each entry in item <XXX> (to provide an explanation or a reference to where an explanation is provided (e.g. the website of the authority providing the data for this item))
<i>Note: for the same application, the authority in (i) could provide more than one entry for items (ii) to (v). In particular, it could provide information on commercialization in the “territory of application”, but also “other territories”</i>	

3.4.2 The following disclaimer will appear alongside the title of the item in the database:

“The absence of information in [item XXX] does not indicate that a variety has not been commercialized. With regard to any information provided, attention is drawn to the source and status of the information as set out in the fields ‘Source of information’ and ‘Status of information’. However, it should also be noted that the information provided might not be complete and accurate.”

4. *Frequency of data submission*

The Plant Variety Database will be developed in such a way as to allow updating at any frequency determined by the members of the Union. Prior to completion and publication of the web-based version of the Plant Variety Database, no change is proposed to the frequency of updating, i.e. contributors will be requested to update their data on a bimonthly basis. Once that stage is complete, the TC and CAJ will be invited to consider whether to create possibilities for data to be updated on a more frequent basis.

5. *Discontinuation of inclusion of general information documents in UPOV-ROM*

On the basis that such information is readily available on the UPOV website, the following general information documents will no longer be included in the UPOV-ROM:

- Addresses of Plant Variety Protection Offices
- List of members of the Union
- Cover with some useful information
- UPOV: What it is, what it does (“UPOV flyer”)
- List of UPOV publications

6. *Web-based version of the Plant Variety Database*

6.1 A web-based version of the Plant Variety Database will be developed. The possibility to create CD-ROM versions of the Plant Variety Database, without the need for the services of Jouve, will be developed in parallel to the web-based version of the database.

6.2 An update on the planned timetable for development of a web-based version of the Plant Variety Database will be provided to the TC and CAJ.

7. *Common search platform*

A report on developments concerning the development of a common search platform will be made to the TC and CAJ. Any proposals concerning a common search platform will be put forward for consideration by the TC and CAJ.

[End of Annex and of document]