



CAJ/61/12

ORIGINAL: English

DATE: October 18, 2010

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixty-First Session
March 25, 2010

REPORT

adopted by the Administrative and Legal Committee

Opening of the session

- *1. The Administrative and Legal Committee (CAJ) held its sixty-first session in Geneva on March 25, 2010, under the Chairmanship of Mrs. Carmen Gianni (Argentina).
- *2. The session was opened by the Chair, who welcomed the participants.
- *3. The list of participants is reproduced in the Annex I to this report.
- *4. The Chair informed the CAJ that Oman had become the sixty-eighth member of the Union on November 22, 2009.
- *5. The Chair confirmed that the report of the sixtieth session of the CAJ, held in Geneva on October 19 and 20, 2009 (document CAJ/60/11), had been adopted by correspondence and was available on the UPOV website.

* An asterisk next to the paragraph number indicates that the text has been taken from the Report on the Conclusions (document CAJ/61/11).

Adoption of the agenda

*6. The CAJ adopted the agenda, as presented in document CAJ/61/1 with the addition of document TGP/14/1 Draft 11 Supplement under item 4, document CAJ/61/8 Add. under item 10 and document CAJ/61/10 under items 4, 6, 7, 8, 9 and 11.

*7. The Chair informed the CAJ that in agenda item 5. (b) (ii) (document CAJ/61/1), the reference of document “UPOV/EXN/VAR Draft 3” should be amended to read “UPOV/EXN/VAR Draft 4”.

Oral report on developments in the Technical Committee

*8. The CAJ took note of the oral report made by Mr. Chris Barnaby, Chair of the Technical Committee (TC), on the forty-sixth session of the TC, which was held in Geneva from March 22 to 24, 2010 (see document CAJ/61/10). He summarized the “Conclusions of the Chairman of the Technical Committee in conjunction with the Office of the Union” on the Seminar on DUS Testing, which was held in Geneva from March 18 to 20, 2010, and noted that a full report of the conclusions had been distributed to the CAJ at its sixty-first session (reproduced as Annex II to this document).

TGP documents

*9. The CAJ considered documents CAJ/61/2 and CAJ/61/10.

TGP/7/2: Development of Test Guidelines (Revision) (document TGP/7/2 Draft 5)

*10. The CAJ proposed the adoption of document TGP/7/2 by the Council on the basis of document TGP/7/2 Draft 5, amended in accordance with the TC proposals contained in paragraph 2 of document CAJ/61/10, as follows:

Annex I, TQ 4.1	to delete new text and reinstate ASW 15 as contained in document TGP/7/1
Annex I, TQ 4 & TQ 7	to add text for footnote #

*11. The CAJ agreed that document TGP/7/2 Draft 5, as amended above, should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. It noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/7/2 to the Council.

*12. With regard to a future revision of document TGP/7 (document TGP/7/3), the CAJ noted the information contained in paragraph 45 of document CAJ/61/2 and the conclusions of the TC, at its forty-sixth session, as set out in paragraph 7 of document CAJ/61/10.

TGP/8/1 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”

*13. The CAJ proposed the adoption of document TGP/8/1 by the Council on the basis of document TGP/8/1 Draft 15, amended in accordance with the TC proposals contained in paragraph 8 of document CAJ/61/10, as follows:

	Part I
1.3.2.5	to be deleted
3.2.1.4	to read “3.2.1.4 In the context of consistency and harmonization, it should be noted that different statistical methods may produce different results.”
3.3	to retain both the table and the flow chart
3.3	Flow chart: to replace text in box “No statistical methods” with “No statistical method provided in TGP/8”

*14. The CAJ agreed that document TGP/8/1 Draft 15, as amended above, should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. It noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/8/1 to the Council.

*15. With regard to a future revision of document TGP/8 (document TGP/8/1), the CAJ noted the information in paragraphs 13 and 14 of document CAJ/61/2 and the conclusions of the TC, at its forty-sixth session, as set out in paragraph 10 of document CAJ/61/10.

TGP/14/1 “Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents”

*16. The CAJ noted that the TC had agreed that document TGP/14/1 Draft 11 should be amended as indicated in the document, but had agreed that no further modifications were required. In particular, the TC had agreed not to combine synonymous terms within a single entry (e.g. Breeder’s Right, Plant Breeder’s Right and PBR) (paragraph 11 of document CAJ/61/10).

*17. The CAJ approved document TGP/14/1 Draft 11 and agreed that a draft of document TGP/14/1 should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010, on the basis of document TGP/14/1 Draft 11. It noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/14/1 to the Council.

*18. With regard to a future revision of document TGP/14 (document TGP/14/1), the CAJ noted the information contained in paragraphs 21 and 27 of document CAJ/61/2 and the conclusions of the TC, at its forty-sixth session, as set out in paragraph 13 of document CAJ/61/10.

TGP/11 “Examination of Stability”

*19. The CAJ agreed the proposed schedule for the development of document TGP/11, as set out in paragraph 31 of document CAJ/61/2, and noted that document TGP/11 Draft 8 would be considered by the TWPs at their sessions in 2010 and by the CAJ at its sixty-second session to be held in Geneva on October 18 and 19, 2010.

TGP/5 “Experience and Cooperation in DUS Testing”

Section 2 “UPOV Model Form for the Application for Plant Breeders’ Rights”

*20. The CAJ noted that the proposed revision of document TGP/5, Section 2/2, as set out in paragraphs 47 to 49 of document CAJ/61/2 would be considered under item 7 “Electronic Application Systems”.

Section 10 “Notification of Additional Characteristics”

*21. The CAJ noted the conclusions of the TC on the need to consider a revision of Section 10/1 of document TGP/5, as set out in paragraphs 16 and 17 of document CAJ/61/10.

TGP/12 “Guidance on Certain Physiological Characteristics”

*22. The CAJ noted the conclusions of the TC on the need to consider a revision of document TGP/12, as set out in paragraph 18 of document CAJ/61/10.

TGP/0 “List of TGP Documents and Latest Issue Dates”

*23. The CAJ agreed to propose the adoption of document TGP/0/3 by the Council at its forty-fourth ordinary session to be held in Geneva on October 21, 2010, in conjunction with the adoption and revision of TGP documents, as appropriate, according to the proposals set out in document CAJ/61/2 and the conclusions of the TC contained in document CAJ/61/10.

Program for the Development of TGP Documents

*24. The CAJ agreed the program for the development of TGP documents, as set out in the Annex to document CAJ/61/2.

Development of information materials concerning the UPOV Convention

*25. The CAJ considered document CAJ/61/3.

*26. The CAJ endorsed the conclusion of the Administrative and Legal Committee Advisory Group (CAJ-AG), at its fourth session, that the terms of reference of the CAJ-AG as set out in documents CAJ/52/4 and CAJ/52/5, paragraphs 14 and 67, respectively (reproduced in paragraph 7 of document CAJ/61/3), provided an effective basis for the work of the CAJ-AG.

*27. The CAJ noted that the conclusions of the CAJ-AG, at its fourth session, on “Matters arising after the grant of the breeder’s right”, as set out in paragraphs 11 and 12 of document

CAJ/61/3 would be considered under agenda item 10 “Matters arising after the grant of a breeder’s right”.

Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention (document UPOV/EXN/VAR Draft 4)

*28. The CAJ considered document UPOV/EXN/VAR Draft 4.

*29. The CAJ approved document UPOV/EXN/VAR Draft 4 and agreed that document UPOV/EXN/VAR be proposed for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010, on the basis of document UPOV/EXN/VAR Draft 4.

Explanatory Notes on Conditions and Limitations Concerning the Breeder’s Authorization in Respect of Propagating Material under the UPOV Convention (document UPOV/EXN/CAL Draft 2)

*30. The CAJ considered document UPOV/EXN/CAL Draft 2.

*31. The CAJ approved document UPOV/EXN/CAL Draft 2 and agreed that a draft of document UPOV/EXN/CAL be proposed for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010, on the basis of UPOV/EXN/CAL Draft 2.

32. In relation to the proposal to develop a document “Explanatory Notes on the Exhaustion of the Breeder’s Right under the 1991 Act of the UPOV Convention” (see paragraph 32 of document CAJ/61/3), the Delegation of the United States of America proposed that further consideration should be given to the possible contents of such a document.

33. The Delegation of the European Union expressed its support for the development of separate documents on matters concerning the exhaustion of the breeder’s right and on matters concerning harvested material and proposed that such an approach be considered by the CAJ-AG at its fifth session.

34. The Chair considered that one possibility would be to develop a general document on the exhaustion of intellectual property rights and to explain the differences between national, regional and international exhaustion. She added that it might also be possible to include suitable examples of the exhaustion of the breeder’s right in such a document. She proposed that the purpose of such a document be considered by the CAJ-AG at its fifth session and that the conclusions of the CAJ-AG be reported to the CAJ.

*35. The CAJ agreed to request the CAJ-AG, at its fifth session, to consider the objectives of the possible development of a document on the Exhaustion of the Breeder’s Right under the 1991 Act of the UPOV Convention.

36. The Delegation of the European Union reported that discussions had taken place within the European Union in relation to the notion of “own holdings” in the context of the optional exception of the breeder’s right under Article 15(2) of the 1991 Act of the UPOV Convention.

The Delegation proposed that the CAJ consider including the notion of “own holdings” in the future program of the CAJ-AG.

*37. The CAJ agreed to request the CAJ-AG, at its fifth session, to consider the objectives of the possible development of a document on the notion of “own holdings” under Article 15(2) of the 1991 Act of the UPOV Convention.

*38. The CAJ approved the procedure for the consideration of document UPOV/INF/15/1 Draft 1 “Guidance for Members of UPOV on Ongoing Obligations and Related Notifications” by correspondence, as the basis for adoption of document UPOV/INF/15/1 by the Council, as set out in paragraphs 34 and 35 of document CAJ/61/3.

*39. The CAJ approved the work program for the fifth session of the CAJ-AG, as set out in paragraph 37 of document CAJ/61/3, amended as follows:

1. Opening of the session
2. Adoption of the agenda
3. Explanatory Notes
 - (a) UPOV/EXN/BRD: Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention
 - [(b) UPOV/EXN/HRV: Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention]¹
4. Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (revision)
5. Matters referred by the CAJ to the CAJ-AG consideration of:
 - (a) objectives of the possible development of a document on the Exhaustion of the Breeder’s Right under the 1991 Act of the UPOV Convention
 - (b) objectives of the possible development of a document on the notion of “own holdings” under Article 15(2) of the 1991 Act of the UPOV Convention
 - (c) matters arising after the grant of a breeder’s right
6. Date and program for the sixth session
7. Closing of the session

¹ If document UPOV/EXN/HRV Draft 5 is approved by the CAJ-AG by correspondence, document UPOV/EXN/HRV Draft 6 will be submitted to the CAJ at its sixty-second session, to be held in Geneva on October 18 and 19, 2010 (see paragraph 17 of document CAJ/61/3).

Variety denominations

*40. The CAJ considered documents CAJ/61/4 and CAJ/61/10.

Adoption of document UPOV/INF/12/2 “Explanatory Notes on Variety Denominations under the UPOV Convention” (Revision)

*41. The CAJ noted the adoption by the Council of document UPOV/INF/12/2 “Explanatory Notes on Variety Denominations under the UPOV Convention” (revision).

*42. The CAJ noted the conclusions of the TC concerning the UPOV code and botanical name for “*Lentinula edodes*” contained in paragraph 36 of document CAJ/61/10.

Document UPOV/INF/12, Annex I, Part I:

Class 4.1 Solanum tuberosum L. / Class 4.2 Solanum other than Class 4.1.

*43. The CAJ proposed the adoption of document UPOV/INF/12/2 Annex I, Part I “Classes within a genus”, Class 4, amended in accordance with the proposals of the TC contained in paragraphs 23 and 24 of document CAJ/61/10, as follows:

(a) The CAJ noted that there might be advantages in retaining Tomato rootstock species in the same variety denomination class as Tomato, but agreed with the TC conclusion that the TWV should be invited to consider that matter, on the basis of the following two alternatives for an amendment to document UPOV/INF/12/2 Annex I, Part I “Classes within a genus”, Class 4:

Alternative 1

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum lycopersicum</i> var. <i>lycopersicum</i>	SOLAN_LYC_LYC
Class 4.3	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.4	<i>Solanum</i> other than classes 4.1, 4.2 and 4.3	other than classes 4.1, 4.2 and 4.3

Alternative 2

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.3	<i>Solanum</i> other than classes 4.1 and 4.2	other than classes 4.1 and 4.2

(b) The CAJ agreed that the alternative endorsed by the TWV be put forward as a revision of document UPOV/INF/12/2 for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

*44. The CAJ took note that the TC had agreed to the amendment of the UPOV codes for the relevant taxa, simultaneously with any revision of the “Explanatory Notes on Variety Denominations under the UPOV Convention”, document UPOV/INF/12/2, in accordance with the TC proposals, contained in paragraph 25 of document CAJ/61/10.

Document UPOV/INF/12, Annex I, Part II “Classes encompassing more than one genus”: new class for Verbena and Glandularia

*45. The CAJ noted, as set out in paragraph 26 of document CAJ/61/10, that the TC had agreed to propose to amend document UPOV/INF/12/2 Annex I, Part II “Classes encompassing more than one genus” in order to include a new class (Class 212) for *Verbena* L. and *Glandularia* J. F. Gmel..

*46. The CAJ agreed that document UPOV/INF/12/2 Annex I, Part II, amended to include a new class (Class 212) for *Verbena* L. and *Glandularia* J. F. Gmel., be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

Electronic application systems

*47. The CAJ considered documents CAJ/61/5 and CAJ/61/10.

*48. The CAJ agreed to the revision of document TGP/5, Section 2/2, as follows:

“A. General Instructions

“[...]

“0.4 A standard UPOV reference has been provided for each field in the UPOV Model Form. For example,

“for item 1.(a) Applicant(s) Name(s),

“the standard UPOV reference is “UPOV A1: 1(a)(i)”

“To facilitate harmonization and to assist applicants, an Authority may include that standard UPOV reference in the corresponding field of the Authority’s own form. It is a matter for each Authority to decide if the field in the Authority’s own form corresponds sufficiently precisely to the field in the UPOV Model Application Form for the standard UPOV reference to be included.”

*49. The CAJ also agreed that, in the revision of document TGP/5, Section 2/2, a footnote be added to the first standard reference (UPOV A1: 1(a)(i)) stating that “standard UPOV reference – see Section A. General Instructions, item 0.4”.

*50. The CAJ noted that the standard references and “linear blank forms” (in “Word” format) for posting on the freely accessible area of UPOV website, on the basis of Annexes I

and II of document CAJ/60/5, would be presented for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

*51. The CAJ agreed with the conclusion of the TC that inclusion of an explanation of the standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes III and IV of document TC/46/13 (document CAJ/60/5), would benefit from discussion in the TWPs and TC and should not be included in document TGP/7/2, but should be considered for a future revision of document TGP/7 (document TGP/7/3).

*52. The CAJ noted the responses to Circular E-1141 concerning Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ”.

*53. The CAJ noted the intervention made by the Delegation of the European Union that recalled that, in principle, it had supported the Proposal 2 approach, but explained that it had already developed an electronic application system that would preclude such an approach without starting a new system from the beginning. It was explained that the CPVO had launched an online application system and was encouraging the individual member States of the European Union to adopt that system for plant breeder’s right and national list purposes. The CPVO was planning to make that system available in French, German and Dutch. In response to a an intervention by the representative of ISF, the Delegation of the European Union explained that the system would be made available to the member States of the European Union in the first instance, but as a second step, consideration could be given to making that system available to members of the Union.

*54. The CAJ agreed that, in relation to Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ”, it would be beneficial to await developments concerning the possibility of the CPVO online application system being made available to members of the Union, as explained by the Delegation of the European Union, and decided to continue deliberations on electronic application systems, as considered appropriate by the CAJ.

UPOV-ROM Plant Variety Database

*55. The CAJ considered document CAJ/61/6.

*56. The CAJ noted that the GENIE database had been launched on the freely available area of the UPOV website on March 15, 2010.

*57. The CAJ noted the developments concerning the UPOV-WIPO arrangement, as set out in paragraph 9 of document CAJ/61/6. The CAJ heard that, also in accordance with the UPOV-WIPO arrangement, a software developer had been recruited by WIPO to work 100% of her time on the program of improvements concerning the UPOV-ROM and would take up her duties on May 1, 2010.

*58. The CAJ noted that, in accordance with the UPOV-WIPO arrangement, Mr. José Appave, Senior Data Administration Clerk, WIPO, had taken up responsibility for collating data for the UPOV-ROM Plant Variety Database (UPOV-ROM) (see circular E-1190). The CAJ further noted the clarification that the current arrangements

for providing data for the UPOV-ROM, as set out in the UPOV-CPVO MoU (see documents CAJ/57/6, paragraph 6), would not be affected by that development.

*59. The CAJ noted 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 of document CAJ/61/6 and paragraph 42 of document CAJ/61/10, and agreed that the Office of the Union should consider that offer in conjunction with the work under the UPOV-WIPO arrangement.

*60. The CAJ noted the situation concerning the development of common search platforms, as set out in paragraphs 15 to 18 of document CAJ/61/6.

Molecular techniques

*61. The CAJ considered documents CAJ/61/7 and CAJ/61/10.

“Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction (‘BMT Guidelines’)” (document BMT Guidelines (proj.16))

*62. The CAJ noted that no proposals for modification to document BMT Guidelines Proj.16 had been made by the TC at its forty-sixth session (paragraph 47 of document CAJ/61/10).

*63. The CAJ agreed that document BMT Guidelines should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010, on the basis of document BMT Guidelines Proj.16. It noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document BMT Guidelines to the Council.

“Possible use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)” (document BMT/DUS Draft 2)

*64. The CAJ noted that the TC, at its forty-sixth session, had endorsed the recommendations of the BMT Review Group, as set out in paragraph 16 of document CAJ/61/7 (paragraph 50 of document CAJ/61/10).

*65. The CAJ noted the conclusions of the TC on document BMT/DUS Draft 2, as follows (paragraph 51 of document CAJ/61/10):

Title	to read “Possible Use of Molecular Markers in the Examination of Distinctness, Uniformity and Stability (“DUS”)
Structure	to differentiate the models into those which received a positive endorsement by the BMT Review Group, CAJ and TC and those where was no consensus on their acceptability. Within the models which received a positive endorsement by the BMT Review Group, CAJ and TC, to consider a further separation of the models for which further work was required.

Title of models	to seek to develop a short title for each model
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*66. The CAJ noted that the TC had agreed that a new draft of the document BMT/DUS should be prepared by the Office of the Union, in conjunction with the TC Chairman and the BMT Chairman, for consideration by the BMT and the TWPs at their sessions in 2010 and a further draft prepared on the basis of the comments of the BMT and TWPs for consideration by the TC at its forty-seventh session.

*67. The CAJ noted that, at the twelfth session of the BMT, to be held in Ottawa, Canada, from May 11 to 13, 2010, the specific day for the agenda items “The use of molecular techniques in the consideration of essential derivation” and “The use of molecular techniques in variety identification” (the “Breeders’ Day”) would be May 11, 2010.

Matters arising after the grant of a breeder’s right

*68. The CAJ considered documents CAJ/61/8 and CAJ/61/8 Add.

69. The Delegation of New Zealand reported that it had experienced difficulties in relation to the process of decisions concerning nullity and cancellation of breeders’ rights, rather than the decision itself. For instance, it was important for the authority to consider the level of evidence that was required before starting an investigation. The Delegation noted that those matters were of particular relevance with respect to cases of non-compliance for the conditions of distinctness and uniformity because growing trials and a considerable amount of time and financial resources would be required for an investigation. The Delegation welcomed guidance on those matters.

70. The Chair suggested that separate aspects could be identified on the basis of the examples that had been provided. For example: nullity and cancellation; exhaustion of the breeder’s right; and essentially derived varieties. She noted that the objectives of the possible development of a document on the exhaustion of the breeder’s right had already been discussed under the item “Development of information materials concerning the UPOV Convention”. The Chair recalled that explanatory notes on nullity, cancellation, enforcement of breeders’ rights and essentially derived varieties had already been developed and adopted by the Council. In addition, the CAJ-AG was working on a future revision of the explanatory notes on essentially derived varieties. Therefore, consideration would need to be given to specific items that were not already covered in those documents and whether such items should be covered in a document on matters arising after the grant of a breeder’s right.

*71. The CAJ noted the contributions contained in documents CAJ/61/8 and CAJ/61/8 Add. and requested the Office of the Union to prepare a document for consideration by the CAJ -AG, at its fifth session, on possible ways to proceed with matters raised in those contributions.

72. The Delegation of Japan reported that farmers and growers in Japan often applied for breeders’ rights for mutation varieties. The Delegation was interested to learn more about the experience of other members of the Union on matters that might be raised concerning essentially derived varieties.

*73. In response to the intervention of the Delegation of Japan concerning essentially derived varieties, the Vice Secretary-General made reference to document CAJ/46/7 “The Notion of Essentially Derived Varieties in the Breeding of Ornamental Varieties” and Annex III to document CAJ/47/8 “Report” and suggested that those documents be considered by the CAJ-AG at its fifth session.

Exchangeable software

*74. The CAJ considered documents CAJ/61/9, CAJ/61/10 and UPOV/INF/Software Draft 3 “Exchangeable Software”.

*75. The CAJ noted that the TC had agreed to the adoption of document UPOV/INF/Software by the Council, on the basis of document UPOV/INF/Software Draft 3 (paragraph 56 of document CAJ/61/10).

*76. The CAJ agreed that document UPOV/INF/Software Draft 3 should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The CAJ noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document UPOV/INF/Software to the Council.

*77. The CAJ noted that, at its twenty-eighth session, to be held in Angers, France, from June 29 to July 2, 2010, the TWC would receive a presentation by an expert from the European Union on software for assessing similarity of denominations, developed by the CPVO. The Delegation of the European Union explained that it would also like to offer access to its complete variety denomination database, including the variety denomination similarity tool, to members of the Union. The log-in and password would be provided on request to the CPVO by e-mail (cpvo@cpvo.europa.eu).

*78. The CAJ approved the translation into English of the user guide for the SIRIUS system for data capture, as set out in paragraph 16 of document CAJ/61/9.

*79. The CAJ noted the software that would be discussed in the TWC for possible inclusion in a future revision of document UPOV/INF/Software as, set out in paragraph 18 of document CAJ/61/9.

Program for the sixty-second session

*80. The CAJ anticipated that one day would be sufficient for the program of its sixty-second session and, therefore, it agreed to hold the fifth session of the CAJ-AG on October 18, 2010, instead of on October 22, 2010. The CAJ agreed the following program for its sixty-second session, to be held in Geneva on October 19, 2010:

1. Opening of the session
2. Adoption of the agenda
3. TGP documents

4. Development of information materials concerning the UPOV Convention
5. Variety denominations
6. Electronic application systems
7. UPOV-ROM Plant Variety Database
8. Molecular techniques
9. Program for the sixty-third session
10. Adoption of the report on the conclusions (if time permits)
11. Closing of the session

81. The present report has been adopted by correspondence.

[Annexes follow]

ANNEXE I / ANNEX I / ANLAGE I / ANEXO I

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres/
in the alphabetical order of the names in French of the members/
in alphabetischer Reihenfolge der französischen Namen der Mitglieder/
por orden alfabético de los nombres en francés de los miembros)

I. MEMBRES / MEMBERS / VERBANDSMITGLIEDER / MIEMBROS

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V. BUREAU / OFFICER / VORSITZ / OFICINA

Carmen Amelia M. GIANNI (Mrs.), Chair
Lü BO, Vice-Chair

VI. BUREAU DE L'UPOV / OFFICE OF UPOV /
BÜRO DER UPOV / OFICINA DE LA UPOV

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Peter BUTTON, Technical Director
Raimundo LAVIGNOLLE, Senior Counsellor
Makoto TABATA, Senior Counsellor
Yolanda HUERTA (Mrs.), Senior Legal Officer

[L'annexe II suit/
Annex II follows/
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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

SEMINAR ON DUS TESTING

Geneva, March 18 to 20, 2010

Conclusions of the
Chairman of the Technical Committee in conjunction with the Office of the Union

- UPOV members have used a range of approaches for DUS testing, as envisaged within the UPOV Convention, in order to provide an efficient and effective system for breeders according to their circumstances.
- Cooperation is crucial for all UPOV members and will need to intensify in future to meet the expansion of the UPOV system. There is a need to:
 - continue to work on guidance documents (TGP documents, Test Guidelines) and exchangeable software (COY, GAIA etc.) to promote harmonization;
 - enhance efficiency of cooperation, through
 - maintaining standard forms, agreed fee for DUS reports, etc.;
 - the use and further development of tools, such as the GENIE database;
 - increasing exchange of information between UPOV members on their newly acquired experience;
 - exchanging variety descriptions; and
 - coordinating resources offered by members of the Union (e.g. training, helpdesks, *ad hoc* expert advice).
- The Technical Committee and Technical Working Parties are an important means of training and exchanging information in an expert forum, and additional benefits can be achieved through preparatory workshops and associated training events.
- It is important to continue to explore methods to address the management of variety collections, e.g. the potential role for molecular techniques.
- The organization of such seminars, from time-to-time, provides a valuable means of sharing broad overviews and new developments and also of identifying areas for possible future guidance (e.g. treatment of data for distinctness and descriptions, understanding of “similar varieties”, status of the variety descriptions).
- UPOV encourages breeders’ organizations to contribute to UPOV’s technical work and encourages a constructive dialogue on relevant issues at an early stage.

- Participation by experts of potential future members of the Union in the Technical Committee and Technical Working Parties, as observers, was encouraged as a principal means of achieving harmonization with the UPOV system and facilitation of future cooperation on becoming UPOV members.

[End of Annex II and of document]