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UPOV

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

# ADMINISTRATIVE AND LEGAL COMMITTEE

## Sixty-Second Session
## October 19, 2010

UPOV-ROM PLANT VARIETY DATABASE

*Document prepared by the Office of the Union*

1.    The purpose of this document is to report on developments concerning the program for improvements to the Plant Variety Database, as set out in the Annex to this document, since the sixty-first session of the Administrative and Legal Committee (CAJ), held in Geneva on March 25, 2010.

2.    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."

3.      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."

4.      At its sixty-first session, the CAJ noted that, in accordance with the UPOV-WIPO arrangement (see paragraph 9 of document CAJ/61/6), Mr. José Appave, Senior Data Administration Clerk, WIPO, had taken up responsibility for collating data for the UPOV-ROM Plant Variety Database (UPOV-ROM).  The CAJ further noted the clarification that the current arrangements for providing data for the UPOV-ROM, as set out in the memorandum of understanding between UPOV and the Community Plant Variety Office of the European Union (CPVO), would not be affected by that development (see document CAJ/61/11 "Report on the Conclusions", paragraph 54).

5.      At its sixty-first session, the CAJ also noted that, 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 (see document CAJ/61/11 "Report on the Conclusions", paragraph 53).  In that regard, Mrs. Lili Chen has taken up her duties as software developer, as anticipated, and has agreed a project brief with the Office of the Union.  The project has now been initiated on the basis of that brief.

6.      A report on substantial progress with the project, together with a demonstration of a prototype web-based version of the Plant Variety Database, will be made to the CAJ at its sixty-third session.

> *7.      The CAJ is invited to note the developments concerning the program for improvements to the Plant Variety Database.*

[Annex follows]

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

| TAG | Description of Item | Current Status | Proposed status | Database developments required |
|---|---|---|---|---|
| **<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 |

| TAG | Description of Item | Current Status | Proposed status | Database developments required |
|---|---|---|---|---|
| **<541>** | **Date + proposed denomination, published** | | **see <540>** | (i)     to clarify meaning and rename <br><br>(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; <br><br>(ii)     to allow for more than one approved denomination for a variety (i.e. where a denomination is approved but then replaced) <br><br>(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 <br><br>(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 <br><br>(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** <br>(ii)     date not mandatory | (i)     data quality check: mandatory condition in relation to other items; <br><br>(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; <br><br>(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: <br><br>(ii)     data quality check: date cannot be earlier than <610> <br><br>(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 | |

| TAG | Description of Item | Current Status | Proposed status | Database developments required |
|---|---|---|---|---|
| **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)*

|  | Comment |
|---|---|
| (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<br><br>([*] 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><br><br>(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) |
| *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"* |  |

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]