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|  |  | ECAJ/71/9**ORIGINAL:** EnglishDATE: March 25, 2015 |
| INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS  |
| Geneva |

ADministrative and legal committee

Seventy-First Session
Geneva, March 26, 2015

Report on developments in the Technical Committee

Document prepared by the Office of the Union

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The purpose of this document is to report on developments in the Technical Committee (TC) at its fifty‑first session, held in Geneva from March 23 to 25, 2015, of particular relevance for matters to be considered by the Administrative and Legal Committee (CAJ) at its seventy-first session, to be held in Geneva on March 26, 2015. Those developments are reported in the Annex to this document. The report of the TC is available in document TC/51/39 “Report”.

[Annex follows]

CAJ/71/9

ANNEX

CONCLUSIONS OF THE TECHNICAL COMMITTEE IN RELATION TO MATTERS
TO BE CONSIDERED BY THE ADMINISTRATIVE AND LEGAL COMMITTEE

AGENDA ITEM 5: VARIETY DENOMINATIONS

*Variety denominations (document CAJ/71/3)*

 The TC considered document TC/51/12 “Variety denominations”.

 The TC noted the work on the possible development of a UPOV similarity search tool for variety denomination purposes by the Working Group for the Development of a UPOV Denomination Similarity Search Tool (WG-DST), including the test study, as set out in paragraphs 4 to 15 of document TC/51/12. The TC also noted that the result of the test study would be reported to the second meeting of the WG-DST and the most effective search tool would be described and documented.

 The TC noted the proposed revision of document UPOV/INF/12 in relation to changes of registered variety denominations, as set out in paragraph 20 of document TC/51/12, and that, subject to agreement by the CAJ, that revision would be proposed for adoption by the Council at its forty-ninth ordinary session, to be held on October 28, 2015.

 The TC noted that the CAJ, at its seventy-first session, may invite the WG-DST to consider the comments by the CAJ-AG, at its ninth session, on the proposals in document UPOV/INF/12/5 Draft 2 concerning Sections 2.2.2 (b), 2.3.1 (c) and (d), and 2.3.3, as set out in paragraph 26 of document TC/51/12.

 The TC noted that the CAJ, at its seventy-first session, may suggest that the proposals of the CAJ-AG under Sections 2.2.2 (c), 4 (a) and 4 (e)(i) be considered by the CAJ, at its seventy-second session, as set out in paragraph 27 document TC/51/12.

 The Delegation of Argentina reported that it was conducting a study on variety denominations that would be presented to the CAJ at its session in October 2015 (see document TC/51/39 “Report”, paragraphs 182 to 187).

AGENDA ITEM 6: INFORMATION AND DATABASES

*(a) Electronic application systems (document CAJ/71/4)*

 The TC considered document TC/51/7 “Electronic application systems”.

 The TC noted the developments concerning the development of a prototype electronic form as set out in document TC/51/7.

 The European Union requested additional time to provide comments on the development of the prototype electronic form. The UPOV Office clarified that all comments received could be addressed in the subsequent versions of the prototype and invited all UPOV members and breeders to join the project (see document TC/51/39 “Report”, paragraphs 200 to 202).

*(b) UPOV information databases (document CAJ/71/5)*

 The TC considered document TC/51/6.

#### GENIE database

##### Information on type of crop

 The TC noted the information on allocation of crop type(s) for UPOV codes currently used in the PLUTO database, as set out in paragraphs 12 and 13 of document TC/51/6.

 The TC noted that information on crop type(s) would be introduced in the GENIE database and the GENIE database would be modified to show the crop type(s) for each UPOV Code by the end of March 2015.

 The TC noted that a standard report for TWP allocations for UPOV codes would be introduced on the GENIE webpage by the end of March 2015.

 The TC agreed that the Office of the Union would prepare tables of allocation of crop type(s) for UPOV codes used in the PLUTO database for the first time for checking by the relevant authorities, for each of the TWP sessions in 2015 (see document TC/51/39 “Report”, paragraphs 189 to 192).

#### UPOV code system

 The TC considered the developments concerning UPOV codes, as set out in document TC/51/6, paragraph 17. The TC noted that in 2014, 577 new UPOV codes had been created and amendments made to 37 existing UPOV codes. The TC also noted that the total number of UPOV codes in the GENIE database at the end of 2014 was 7,808.

 The TC agreed that the Office of the Union would prepare tables of UPOV codes additions and amendments, for checking by the relevant authorities, for each of the TWP sessions in 2015, as set out in document TC/51/6, paragraph 18 (see document TC/51/39 “Report”, paragraphs 193 and 194).

#### PLUTO database

 The TC noted the summary of contributions to the PLUTO database from 2012 to 2014 and the current situation of members of the Union on data contribution, as presented in document TC/51/6, Annex II.

 The TC noted that the number of submissions to the PLUTO database in Annex II to document TC/51/6 did not include all of the submissions made by the CPVO during transitional arrangements for online uploading of data and noted that the Office would provide a corrected version of Annex II.

 The TC noted that an additional column in the PLUTO search screen, showing the date on which the information was provided, would be introduced by the end of March 2015.

 The TC agreed to make both the “Denomination” and “Breeder’s Ref” fields searchable, independently or in combination, by denomination search tools on the “Denomination Search” page of the PLUTO database, as set out in document TC/51/6, paragraphs 28 and 29, and noted that the conclusions of the TC on that matter would be reported to the CAJ at its seventy-first session, to be held in Geneva, on March 26, 2015.

 The TC noted the information concerning the training course “Contributing data to the PLUTO database”, held in Geneva in December 2014, as set out in document TC/51/6, paragraphs 31 to 34, and the plans to organize three further courses, in English, French and Spanish, in 2015 (see document TC/51/39 “Report”, paragraphs 195 to 199).

### (c) Exchange and use of software and equipment (document CAJ/71/6)

 The TC considered document TC/51/8 “Exchange and use of software and equipment”.

#### Document UPOV/INF/16 “Exchangeable Software”

##### Revision of document UPOV/INF/16

 The TC noted that the Council, at its forty-eighth ordinary session, held in Geneva, on October 16, 2014, had adopted the revision of document UPOV/INF/16 “Exchangeable Software” (document UPOV/INF/16/4).

##### Software proposed for inclusion in document UPOV/INF/16 “Exchangeable software”

 The TC noted that the discussions on the inclusion of the SISNAVA software in document UPOV/INF/16 would be continued in the TWC, subject to the conclusion on discussions on the variation of variety descriptions over years in different locations.

##### Information on use by members

 The TC approved the revision of document UPOV/INF/16/4 concerning the inclusion of information on the use of software by members of the Union, as set out in Annex I to document TC/51/8.

 The TC noted that the conclusions of the TC, at its fifty-first session, concerning the use of software by members of the Union, would be reported to the CAJ at its seventy-first session, to be held in Geneva on March 26, 2015, and if agreed by the CAJ, a draft document UPOV/INF/16/5 would be presented for adoption by the Council at its forty-ninth ordinary session, to be held on October 29, 2015 (see document TC/51/39 “Report”, paragraphs 206 and 207).

#### Document UPOV/INF/22 “Software and Equipment used by members of the Union”

##### Adoption of document UPOV/INF/22/1

 The TC noted that the Council, at its forty-eighth ordinary session, held in Geneva, on October 16, 2014, had adopted document UPOV/INF/22/1 “Software and equipment used by members of the Union”.

##### Software/Equipment proposed for inclusion in document UPOV/INF/22

 The TC agreed the information in Annex II to document TC/51/8 for inclusion in document UPOV/INF/22, subject to corrections to be provided by Germany and to checking of the data provided by Uruguay.

 The TC noted that the comments of the TC concerning the use of software by members of the Union would be reported to the CAJ at its seventy-first session, and if agreed by the CAJ, a draft of document UPOV/INF/22/2 would be presented for adoption by the Council at its forty-ninth ordinary session, to be held on October 29, 2015 (see document TC/51/39 “Report”, paragraphs 208 to 210).

AGENDA ITEM 7: TGP DOCUMENTS

### TGP documents (document CAJ/71/7)

#### Matters for adoption by the Council in 2015

##### TGP/0: List of TGP Documents and Latest Issue Dates

 The TC considered document TC/51/5 “TGP Documents” and noted that the Council would be invited to adopt document TGP/0/8, in order to reflect the adoption of TGP documents.

##### TGP/9: Examining Distinctness

 The TC considered document TC/51/23 “TGP/9: Examining Distinctness”.

*(i) Revision of document TGP/9: Section 1.6: Schematic Overview of TGP Documents Concerning Distinctness*

 The TC agreed that the flow diagram in TGP/9, Section 1.6 “Schematic overview of TGP documents concerning distinctness”, should be revised as set out in Annexes I and II to document TC/51/23.

*(ii) Revision of document TGP/9: Section 2.5: Photographs*

 The TC considered the proposed guidance on photographs for inclusion in document TGP/9, Section 2.5 “Photographs”, and agreed the guidance to read as follows:

“2.5.3 The suitability of photographs for the identification of similar varieties is strongly influenced by the quality of the photographs taken by the authority for the varieties in the reference collection and the photograph of the candidate variety provided by the applicant with the Technical Questionnaire. Comprehensive guidance for taking suitable photographs is provided in document TGP/7, GN 35. The guidance was developed in particular for the applicants to provide suitable photographs of the candidate variety. The same instructions are important and useful for the authorities to take photographs of the varieties in the variety collection under standardized conditions.”

 The TC noted that editorial changes needed to be made to the draft text in German and recalled that the language experts of the editorial committee would be requested to check the translations in French, German and Spanish of all documents before they were prepared for adoption by the Council.

*(iii) Revision of document TGP/9: Sections 4.3.2 and 4.3.4 Method of Observation (Single Measurement – MG)*

 The TC considered the proposed example of a single record for a group of plants (MG) taken on plant parts for inclusion in document TGP/9, Section 4.3.2 “Single record for a group of plants or parts of plants (G)” and Section 4.3.4 “Schematic Summary”, and agreed the guidance to read as follows:

“Example (MG)

“Measurement (MG): ‘Leaf blade: width’ in Hosta (vegetatively propagated): a representative measurement in the plot.”

 The TC agreed that the illustration for inclusion in Subsection 4.3.4, should be amended to appear as follows:



##### TGP/14: Glossary of Terms Used in UPOV Documents

*(i) Revision of document TGP/14: Section 2.4 “Apex/tip shape characteristics”*

 The TC considered the revision of document TGP/14 Section 2.4 as presented in document TC/51/25 and agreed that the wording should read as follows:

“2.4 Apex/Tip Shape Characteristics

“2.4.1 The APEX (apical or distal part) of an organ or plant part is the end furthest from the point of attachment. In some cases, the distal extremity of the apex may be differentiated into a ‘TIP’.

“2.4.2 In considering the approach to describe the apex, the size of the organ and the number of apex shapes should be taken into account. Apex characteristics can be described in simple terms and if a differentiated tip is present it could be further described as a separate characteristic. Generally, it is not necessary to separate the apex shape characteristic into differentiated tip and apex characteristics.

“2.4.3 In cases where it is appropriate to separate into differentiated tip and apex characteristics, the shape of the apex is taken as the general shape, excluding any differentiated tip (if present) and the separation of tip and apex should be indicated in the explanation of the characteristic. For example:

[…]”

 The TC noted that editorial changes needed to be made to the draft text in German and recalled that the language experts of the editorial committee would be requested to check the translations in French, German and Spanish of all documents before they were prepared for adoption by the Council.

*(ii) Revision of document TGP/14: Subsection 3: “Color”, Annex*

 The TC noted the correction to the French translation of the color group “dark purple red” to read “rouge pourpre foncé” in document TGP/14 Subsection 3: “Color” (see document TC/51/39 “Report”, paragraphs 113 to 125).

### Possible future revision of TGP documents

#### TGP/5: Experience and Cooperation in DUS Testing

 The TC considered document TC/51/5 “TGP documents”.

#### (i) Revision of document TGP/5: Section 3: Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders’ Rights

 The TC agreed that document TGP/5: Section 3 should read as follows:

“A model Technical Questionnaire is provided in document TGP/7 ‘Development of Test Guidelines’: Annex 1: TG Template: Chapter 10. The UPOV Test Guidelines (http://www.upov.int/edocs/tgpdocs/en/tgp\_7.pdf) contain, in Chapter 10, a specific Technical  Questionnaire for varieties covered by those Test Guidelines.”

#### (ii) Revision of document TGP/5: Section 8: Cooperation in Examination

The TC agreed that document TGP/5: Section 8 should read as follows:

 “A synopsis of cooperation in examination between authorities is provided in the form of a Council document:

“C/[session]/5 (e.g. C/49/5), (http://www.upov.int/meetings/en/topic.jsp?group\_id=251).”

#### (iii) Revision of document TGP/5: Section 9: List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established

 The TC agreed that document TGP/5: Section 9 should read as follows:

“A list of genera and species in which practical knowledge has been acquired or for which national test guidelines have been established is provided in the Technical Committee document:

“TC/[session]/4 (e.g. TC/51/4), (http://www.upov.int/meetings/en/topic.jsp?group\_id=254).

(See document TC/51/39 “Report”, paragraphs 163 to 170.)

### Program for the development of TGP documents

 The TC agreed the program for the development of TGP documents, as set out in Appendixes I and II of this document (see document TC/51/39 “Report”, paragraph 171).

AGENDA ITEM 8: MOLECULAR TECHNIQUES

### Molecular techniques (document CAJ/71/8)

#### Discussion on molecular techniques

 The TC received the following presentations on molecular techniques (in order of presentation):

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| Reports on developments in UPOV Concerning Biochemical and Molecular Techniques  | UPOV Office |
| Marker-Assisted Selection of “Similar Variety” in DUS Testing | Republic of Korea (Mr. Seung-In Yi) |
| The Use of Reference Varieties in Varietal Distinctness: An Approach under Investigation in the United States of America for Potential Application in Plant Variety Protection | United States of America (Mr. Paul Nelson) |
| A European Potato Database as Centralized Collection of Varieties of Common Knowledge | United Kingdom (Mr. Alex Reid) |
| Development of EST-SSR Markers of Lettuce and Application for Variety Identification | Republic of Korea (Mr. Seung-In Yi) |
| Ownership and Use of DUS Samples and of DNA and DNA Data During and After the DUS Tests | Netherlands (Mr. Kees van Ettekoven) |
| Existing Areas of Cooperation Between OECD, UPOV and ISTA  | UPOV Office |

 The TC noted that a copy of the presentations would be made available on the UPOV website.

 The TC considered document TC/51/11 Rev. “Molecular techniques”.

 The TC noted the report on developments in the TC, TWPs and BMT, as set out in paragraphs 4 to 22 of document TC/51/11 Rev.

 The TC approved the program for the fifteenth session of the BMT, to be held in 2016, including the dedication of a particular date (“Breeders’ Day”), for the items on the use of molecular techniques in the consideration of essential derivation and in variety identification, as set out in paragraph 22 of document TC/51/11 Rev.

 The TC agreed to develop a joint document explaining the principal features of the systems of OECD, UPOV and ISTA (e.g. DUS, variety identification, variety purity, etc.), subject to the approval of the Council and in coordination with OECD and ISTA.

 The TC noted that the OECD/UPOV/ISTA Joint Workshop on Molecular Techniques had agreed that it would be useful to repeat the joint workshop at relevant meetings of the OECD and ISTA and, in that regard, that the Technical Working Group Meeting of the OECD Seed Schemes, had agreed that another OECD/UPOV/ISTA Joint Workshop on Molecular Techniques should be organized either back-to-back with the Annual Meeting of the OECD Seed Schemes, to be held in Paris, in June, 2015, or in conjunction with the Technical Working Group Meeting to be held in January 2016.

 The TC agreed to develop an inventory on the use of molecular marker techniques, by crop, with a view to developing a joint OECD/UPOV/ISTA document containing that information, in a similar format to UPOV document UPOV/INF/16 “Exchangeable Software”, as set out in paragraph 26 of document TC/51/11, subject to the approval of the Council and in coordination with OECD and ISTA. It agreed that it would be necessary to establish criteria and a process for information to be added to the document.

 The TC agreed that the BMT, at its fifteenth session, should develop lists of possible joint initiatives with OECD and ISTA in relation to molecular techniques, for consideration by the TC.

 The TC considered the development of a draft question and answer concerning the information on the situation in UPOV with regard to the use of molecular techniques for a wider audience, including the public in general. The TC agreed to request the TWPs, at their sessions in 2015, to consider the following initial draft discussed during the TC session (see document TC/51/39 “Report”, paragraphs 172 to 181):

“Is it possible to obtain protection of a variety on the basis of its DNA-profile?

“For a variety to be protected, it needs to be clearly distinguishable from all existing varieties on the basis of characteristics that are physically expressed, e.g. plant height, time of flowering, fruit color, disease resistance etc. [Molecular techniques (DNA profiles) may be used as supporting information].

“A more detailed explanation is provided in the FAQ ‘Does UPOV allow molecular techniques (DNA profiles) in the examination of Distinctness, Uniformity and Stability (“DUS”)?’

“See also:

“What are the requirements for protecting a new plant variety?”

[Appendix follows]

APPENDIX I

See Excel spreadsheet

APPENDIX II

See Excel Spreadsheet

 [End of Annex and of document]