

**Administrative and Legal Committee****CAJ/74/10****Seventy-Fourth Session  
Geneva, October 23 and 24, 2017****Original:** English  
**Date:** October 24, 2017

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**REPORT***adopted by the Administrative and Legal Committee**Disclaimer: this document does not represent UPOV policies or guidance*Opening of the session

1. The Administrative and Legal Committee (CAJ) held its seventy-fourth session in Geneva on October 23 and 24, 2017, under the chairmanship of Mr. Anthony Parker (Canada).
2. The session was opened by the Chair, who welcomed the participants. The list of participants is reproduced in the Annex to this report.
3. The Chair reported that Bosnia and Herzegovina had deposited its instrument of accession to the 1991 Act of the UPOV Convention on October 10, 2017, and had become bound by the 1991 Act on November 10, 2017. Bosnia and Herzegovina would become the 75<sup>th</sup> member of the Union.
4. The Chair confirmed that the report of the seventy-third session of the CAJ, held in Geneva on October 25, 2016 (document CAJ/73/10), had been adopted by correspondence and made available on the UPOV website.

Adoption of the agenda

5. The CAJ adopted the draft agenda, as proposed in document CAJ/74/1 Rev.

Report on developments in the Technical Committee

6. The CAJ considered document CAJ/74/9.
7. The CAJ noted the report on developments in the TC at its fifty-third session, held in Geneva from April 3 to 5, 2017. The CAJ noted that the conclusions of the TC in relation to matters to be considered by the CAJ were reported in relevant documents. It further noted that the report of the TC was available in document TC/53/31 "Report".

Development of information materials concerning the UPOV Convention

8. The CAJ considered document CAJ/74/2.
9. The CAJ noted the request of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (CIOPORA) and the International Seed Federation (ISF) to postpone the meeting of the Office of the Union with CIOPORA, ISF and the World Intellectual Property Organization (WIPO) in order to explore the possible role of UPOV in alternative dispute settlement mechanisms for matters concerning essentially derived varieties, including the provision of experts on EDV matters. The CAJ noted that any developments with regard to a meeting would be reported at future sessions of the CAJ.

10. After discussion of the comments in document CAJ/74/2, the CAJ agreed to include in the program for its seventy-fifth session the following three items and to invite presentations by members and observers to share their perspectives on the indicated substantive matters:

(a) Essentially Derived Varieties

- (i) essential characteristics
- (ii) predominantly derived
- (iii) indirect derivation, including in relation to parent lines and hybrids
- (iv) assessment of essentially derived varieties

(b) Conditions and Limitations Concerning the Breeder's Authorization in Respect of Propagating Material

- suitable examples of conditions and limitations

(c) Scope of Provisional Protection

11. On the above basis, the CAJ would consider the need for a revision of the current guidance.

*UPOV Model Plant Breeders' Rights Gazette (Revision)*

12. The CAJ requested the Office of the Union to prepare proposals, for consideration by the CAJ, at its seventy-fifth session, for the revision of document UPOV/INF/5 "UPOV Model Plant Breeders' Rights Gazette (Revision)", taking into consideration matters for updating identified by the CAJ at its sixty-fourth session and reflecting developments concerning the EAF, and relevant fields of the PLUTO Database, as follows:

(a) reflect the wording of the 1991 Act of the UPOV Convention and of documents recently adopted by the Council (e.g. UPOV Model Form for the Application of Plant Breeders' Rights (document TGP/5 Section 2/3) and developments concerning the Electronic Application Form (EAF));

(b) address relevant developments in the formats of national/regional Gazettes of members of the Union and relevant fields of the PLUTO Database as an additional tool to inform the public of information concerning applications for and grants of breeders' rights, and proposed and approved denominations;

(c) simplify the structure of the document.

*Explanatory Notes on Variety Denominations under the UPOV Convention (Revision)*

13. The CAJ noted that a report on the work concerning the possible development of a UPOV similarity search tool for variety denomination purposes and proposals concerning a possible revision of document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention" were provided in document CAJ/74/3 "Variety denominations".

*Tentative Program for the Development of Information Materials*

14. The CAJ agreed to consider the program for the development of information materials in conjunction with the discussions under the item "Program for the seventy-fifth session".

Variety denominations

15. The CAJ considered document CAJ/74/3.

16. The CAJ noted the developments concerning a possible revision of document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention", as set out in paragraphs 6 and 7 of document CAJ/74/3.

17. The CAJ noted the developments concerning a UPOV similarity search tool for variety denomination purposes, as set out in paragraph 9 of document CAJ/74/3.
18. The CAJ noted the developments concerning the possible expansion of the content of the PLUTO Database, as set out in paragraphs 10 and 11 of document CAJ/74/3.
19. The CAJ noted the developments concerning non-acceptable terms, as set out in paragraph 13 of document CAJ/74/3.
20. The CAJ noted that the fourth meeting of the WG-DEN would be held in Geneva, on October 27, 2017.
21. The CAJ noted the draft agenda of the fourth meeting of the WG-DEN, as set out in paragraph 15 of document CAJ/74/3.

#### Information and databases

##### *Electronic application form*

22. The CAJ considered document CAJ/74/4 and the presentation made by the Office of the Union, which would be provided as document CAJ/74/4 Add.
23. The CAJ noted the developments concerning EAF Version 1.1 and the plans for the development of Version 2.0, as set out in document CAJ/74/4.
24. The CAJ noted the strategy for the addition of new crops/species, as provided in paragraphs 18 to 21 of document CAJ/74/4.
25. The CAJ noted that the name PRISMA and the logo, as set out in paragraph 26 of document CAJ/74/4, would be proposed for approval at the fifty-first ordinary session of the Council, to be held in Geneva on October 26, 2017.
26. The CAJ noted that proposals concerning financial aspects of the EAF would be considered by the Consultative Committee at its ninety-fourth session and, if appropriate, by the Council at its fifty-first ordinary session.

##### *UPOV information databases*

27. The CAJ considered document CAJ/74/5.

##### *GENIE database*

28. The CAJ noted that a specification document explaining the data structure and functions of the GENIE database was being developed by the Office of the Union in order that IT-related maintenance could be provided in the future.

##### *UPOV Code System*

29. The CAJ noted that 173 new UPOV codes had been created in 2016 and that a total of 8,149 UPOV codes were included in the GENIE database.
30. The CAJ noted that the Office of the Union had received a request to create new UPOV codes for 191 forest tree species moving in international trade under the OECD certification schemes. The requested UPOV codes were introduced in GENIE in September 2017. The CAJ further noted that the Directorate-General for Health and Food Safety (DG SANTE) of the European Commission had proposed the establishment of an administrative arrangement between the Office of the Union and the European Commission to cover collaboration in scientific names of plant species present in each other's databases and, in particular, regarding the attribution of UPOV codes to plant species in the European Commission's Forest Reproductive Material Information System (FOREMATIS).

*PLUTO database*

31. The CAJ noted the summary of contributions to the PLUTO database from 2013 to 2016 and the situation of members of the Union on data contribution, as presented in the Annex to document CAJ/74/5.

32. The CAJ noted that the WG-DEN, at its third meeting had agreed that agenda item 5 “Expansion of the content of the PLUTO database” would be considered at a later meeting on the basis of the document presented at its second meeting.

*Exchange and use of software and equipment*

33. The CAJ considered documents CAJ/74/6, UPOV/INF/16/7 Draft 1 and UPOV/INF/22/4 Draft 1.

*Documents to be considered by the CAJ*

34. The CAJ noted that the Council, at its fiftieth ordinary session, had adopted the revision of document UPOV/INF/16 “Exchangeable Software” (document UPOV/INF/16/6) and document UPOV/INF/22 “Software and Equipment Used by Members of the Union” (document UPOV/INF/22/3).

35. The CAJ approved the proposed revisions to document UPOV/INF/16, as presented in document UPOV/INF/16/7 Draft 1, and in document UPOV/INF/22, as presented UPOV/INF/22/4 Draft 1.

36. The CAJ noted that the Council would be invited to consider the proposed revisions to documents UPOV/INF/16 and UPOV/INF/22, as presented in documents UPOV/INF/16/7 Draft 1 and UPOV/INF/22/4 Draft 1, respectively, for adoption at its fifty-first ordinary session.

TGP documents

37. The CAJ considered document CAJ/74/7.

38. The CAJ noted that the TC had agreed that the proposed revisions of TGP documents be presented for adoption by the Council in 2018, subject to approval by the CAJ, at its seventy-fifth session.

39. The CAJ approved the program for the development of TGP documents, as set out in the Annex to document CAJ/74/7.

Molecular techniques

40. The CAJ considered document CAJ/74/8.

41. The CAJ noted that a 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, as set out in paragraph 7 of document CAJ/74/8, had been adopted by the Council at its fiftieth ordinary session.

42. The CAJ noted that the TC, at its fifty-third session, had agreed that possible future collaboration between UPOV, the Organization for Economic Co-operation and Development (OECD) and the International Seed Testing Association (ISTA) might include the harmonization of terms and methodologies used for different crops and the possible development of standards, after agreement by those organizations.

43. The CAJ noted that the TC had agreed that UPOV and OECD consider making progress in collaboration if ISTA was unable to participate in the near future.

44. The CAJ noted that the TC had agreed to propose that the meetings of the BMT be held on an annual basis and that consideration be given to organizing the sessions of the TWC and BMT back-to-back in the same location to facilitate exchange of information.

45. The CAJ noted that practical workshops on “DNA Techniques and Variety Identification” had been held in Roelofarendsveen, Netherlands, from May 8 to 10, 2017 and from September 20 to 22, 2017.

Program for the seventy-fifth session

46. In response to a suggestion by CIOPORA and AIPH for the CAJ to consider the matter of minimum distance, the CAJ agreed to invite CIOPORA and AIPH to make a joint presentation on minimum distance at its seventy-fifth session. The CAJ noted that the matter was under consideration by the TC and that a report on the conclusions of the TC would be provided under agenda item 3 "Report on developments in the Technical Committee" at the seventy-fifth session of the CAJ.

47. The CAJ agreed the following program for its seventy-fifth session to be held in 2018:

1. Opening of the session
2. Adoption of the agenda
3. Report on developments in the Technical Committee
4. TGP documents
5. Essentially Derived Varieties
6. Conditions and Limitations Concerning the Breeder's Authorization in Respect of Propagating Material
7. Provisional Protection
8. Development of information materials concerning the UPOV Convention
  - UPOV Model Plant Breeders' Rights Gazette (Revision)
9. Variety denominations
10. Information and databases
  - (a) Electronic application form
  - (b) UPOV information databases
  - (c) Exchange and use of software and equipment
11. Molecular techniques
12. Minimum distance
13. Program for the seventy-sixth session
14. Adoption of the report on the conclusions (if time permits)
15. Closing of the session

*48. The CAJ adopted this report at the close of its session on October 24, 2017.*

[Annex follows]

## ANNEXE / ANNEX / ANLAGE / ANEXO

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 French names of the members / in alphabetischer Reihenfolge der französischen Namen der Mitglieder / por orden alfabético de los nombres en francés de los miembros)

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