

Administrative and Legal Committee**CAJ/80/6****Eightieth Session
Geneva, October 25, 2023****Original:** English
Date: October 25, 2023

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 eightieth session in Geneva on October 25, 2023, under the chairmanship of Ms. María Laura Villamayor (Argentina).
2. The session was opened by the Chair, who welcomed the participants. The draft list of participants is reproduced in the Annex to this report.
3. The Chair reported that Rwanda has been granted observer status in the CAJ.
4. The Chair introduced Ms. Yolanda Huerta, who was appointed to the post of Vice Secretary-General, on October 23, 2023, Mr. Martin Ekvad, appointed Director of Legal Affairs and Mr. Leontino Taveira, appointed Director of Global Development and Technical Affairs, on October 15, 2023.

Adoption of the agenda

5. The CAJ adopted the draft agenda, as proposed in document CAJ/80/1.

Report by the Vice Secretary-General on developments in UPOV

6. The CAJ received a presentation from the Vice Secretary-General and noted that a copy of the presentation would be made available after the UPOV sessions on the UPOV website.

Report on developments in the Technical Committee

7. The CAJ noted the information in document CAJ/80/2 and in the oral report made by Ms. Beate Rücker, Chair of the Technical Committee (TC).

Development of guidance and documents proposed for adoption by the Council

8. The CAJ considered document SESSIONS/2023/2.

*Information Materials*UPOV/INF/16: Exchangeable Software (Revision) (document UPOV/INF/16/12 Draft 1)

9. The CAJ approved the revision of document UPOV/INF/16/11 "Exchangeable Software", on the basis of document UPOV/INF/16/12 Draft 1.

10. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document UPOV/INF/16/11 “Exchangeable Software”, on the basis of document UPOV/INF/16/12 Draft 1.

UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision)
(document UPOV/INF/22/10 Draft 1)

11. The CAJ approved the revision of document UPOV/INF/22/9 “Software and equipment used by members of the Union”, on the basis of document UPOV/INF/22/10 Draft 1.

12. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document UPOV/INF/22/9 “Software and equipment used by members of the Union”, on the basis of document UPOV/INF/22/10 Draft 1.

UPOV/INF/23: UPOV Code System (Revision) (document UPOV/INF/23/2 Draft 1)

13. The CAJ approved the revision of document UPOV/INF/23/1 “Guide to the UPOV Code System”, on the basis of document UPOV/INF/23/2 Draft 1.

14. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document UPOV/INF/23/1 “Guide to the UPOV Code System”, on the basis of document UPOV/INF/23/2 Draft 1.

Explanatory Notes:

UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention (Revision)
(Annex I to document SESSIONS/2023/2)

15. The CAJ noted that the TC, at its fifty-ninth session, had not approved the proposal for *Prunus*, which would be considered by the TWPs, at their sessions in 2024.

16. The CAJ approved the revision of document UPOV/EXN/DEN/1 “Explanatory Notes on Variety Denominations under the UPOV Convention”, on the basis of the proposed amendments presented in Annex I to document SESSIONS/2023/2, Proposals 1 (*Allium*) and 3 (*Beta*).

17. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document UPOV/EXN/DEN/1 “Explanatory Notes on Variety Denominations under the UPOV Convention”, on the basis of the proposed amendments presented in Annex I to document SESSIONS/2023/2, Proposals 1 (*Allium*) and 3 (*Beta*).

TGP Documents

Document TGP/7: Development of Test Guidelines (Revision)

Converting standard Test Guidelines wording into optional wording

18. The CAJ considered Annex II to document SESSION/2023/2.

19. The CAJ approved the proposed revision of document TGP/7 “Development of Test Guidelines”, on the basis of the proposed amendments presented in Annex II to document SESSION/2023/2.

20. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document TGP/7 “Development of Test Guidelines”, on the basis of the proposed amendments presented in Annex II to document SESSION/2023/2.

Disease resistance characteristics: addition of state of expression and placement of non-asterisked disease resistance characteristics in Section 5 of the Technical Questionnaire

21. The CAJ approved the revision of document TGP/7 “Development of Test Guidelines”, GN 13, paragraph 3.6, on the basis of the proposed amendments presented in Annex II to document SESSIONS/2023/2

22. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document TGP/7 “Development of Test Guidelines”, GN 13, paragraph 3.6, on the basis of the proposed amendments set out in Annex II to document SESSIONS/2023/2.

Document TGP/12: Guidance on Certain Physiological Characteristics (Revision)

Example disease resistance characteristic

23. The CAJ approved the revision of document TGP/12 “Guidance on certain physiological characteristics”, Section 2.3.2, as presented in Annex IV, paragraph 3, to document SESSIONS/2023/2.

24. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document TGP/12 “Guidance on certain physiological characteristics”, Section 2.3.2, as presented in Annex IV, paragraph 3, to document SESSIONS/2023/2.

TGP/14: Glossary of Terms Used in UPOV Documents (Revision)

25. The CAJ considered paragraph 30 of document SESSION/2023/2.

26. The CAJ approved the revision of document TGP/14 “Glossary of Terms Used in UPOV Documents”, on the basis of the correction presented in paragraph 30 of document SESSION/2023/2.

27. The CAJ agreed that the Council be invited to adopt, at its fifty-seventh ordinary session, the proposed revisions to document TGP/14 “Glossary of Terms Used in UPOV Documents”, on the basis of the correction as presented in paragraph 30 of document SESSION/2023/2.

Report on the Working Group on Harvested Material and Unauthorized use of Propagating Material (WG-HRV) (document CAJ/80/3)

28. The CAJ considered document CAJ/80/3.

29. The CAJ noted the developments concerning the work of the WG-HRV, as reported in document CAJ/80/3.

Revision of the “Explanatory Notes on Exceptions to the Breeder’s Right under the 1991 Act of the UPOV Convention” (document CAJ/80/4)

30. The CAJ considered document CAJ/80/4.

31. The CAJ noted the developments concerning the work of the Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use (WG-SHF), as reported in document CAJ/80/4.

Novelty of parent lines with regard to the exploitation of the hybrid variety (document CAJ/80/5)

32. The CAJ considered document CAJ/80/5 and the joint presentation made by the International Seed Federation (ISF), CropLife International, Seed Association of the Americas (SAA), Asia and Pacific Seed Association (APSA), African Seed Trade Association (AFSTA) and Euroseeds on the results of the survey on commercial practices relating to the impact of commercial exploitation of the hybrid on the novelty of parent lines (see paragraph 6 of document CAJ/80/5).

33. The CAJ took note of the joint presentation.

34. The Delegation of Canada considered useful the findings in the survey on commercial practices relating to the impact of commercial exploitation of the hybrid on the novelty of parent lines and expressed the intention to change its current policy to a policy that the novelty of the parent lines would not be lost by the exploitation of the hybrid variety.

35. The CAJ recalled the information in document CAJ/77/6 that presented the status of the novelty of parent lines in relation to exploitation of the hybrid variety in members of the Union, based on the replies to a survey issued by Circular E-19/232 of December 23, 2019 (available at https://www.upov.int/meetings/en/doc_details.jsp?meeting_id=55678&doc_id=511632). The CAJ noted the intervention by the Office of the Union that an important number of members of the Union replied to the survey (56); the majority (30) replied that the novelty of parent lines was not lost by the exploitation of the hybrid variety; a smaller group of members of the Union (12) replied that the novelty of the parent lines was lost by the exploitation of the hybrid variety; and a group of members of the Union (14) replied that they had limited experience on this topic, their policy was being reviewed or contained specific exceptions.

36. The CAJ agreed the following:

(a) to keep this item in the agenda for its eighty-first session in order to share additional information and experiences from members of the Union and create wider awareness on relevant matters concerning this topic; and

(b) the Office of the Union would invite those members of the Union that replied that the novelty of the parent lines was lost by the exploitation of the hybrid variety to make a brief presentation to explain the situation in those members of the Union; the CAJ noted that the Delegation of the European Union volunteered to make a brief presentation to explain its policy that novelty of the parent lines would not be lost by the exploitation of the hybrid variety.

Measures to enhance cooperation in examination (document SESSIONS/2023/4)

37. The CAJ considered document SESSIONS/2023/4.

38. The CAJ noted the replies to the survey of members of the Union on policies or legal barriers that could prevent international cooperation in DUS examination, as presented in Annex II to document SESSIONS/2023/4.

39. The CAJ agreed to invite the Office of the Union to prepare a document for its eighty-first session to continue discussions on possible measures to increase opportunities for international cooperation in DUS examination.

40. The CAJ agreed that the above document would also contain the agreement to organize a seminar on cooperation with breeders in DUS examination. It was further agreed that proposals on the contents and arrangements for the seminar would be included in the document. The CAJ further agreed that the Office of the Union would prepare the proposals for the Seminar in consultation with Australia, Brazil, Canada, European Union, Japan and New Zealand and the United States of America, for consideration at its eighty-first session.

Meetings on Electronic Applications (EAM) (document SESSIONS/2023/6)

41. The CAJ considered document SESSIONS/2023/6.

42. The CAJ noted the developments concerning meetings on Electronic Applications.

Matters for information:

43. The CAJ noted the following documents under item 13 "Matters for information":

(a) UPOV information databases (document SESSIONS/2023/3)

(b) Molecular techniques (document SESSIONS/2023/5)

Program for the eighty-first session

44. The CAJ agreed the following program for its eighty-first session to be held on October 23, 2024:
1. Opening of the session
 2. Adoption of the agenda
 3. Report by the Vice Secretary-General on developments in UPOV
 4. Report on developments in the Technical Committee
 5. Development of guidance and information materials
 - (a) Information documents
 - (b) Explanatory Notes
 - (c) TGP documents
 6. Measures to enhance cooperation in examination
 7. Novelty of parent lines with regard to the exploitation of the hybrid variety
 8. Report on the Working Group on Harvested Material and Unauthorized use of Propagating Material (WG-HRV)
 9. Report on the Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use (WG-SHF)
 10. Report on Meetings on Electronic Applications (EAM)
 11. Report on UPOV information databases
 12. Report on Molecular techniques
 13. Program for the eighty-second session
 14. Adoption of the report (if time permits)
 15. Closing of the session

45. This report was adopted by the CAJ at the close of its session, on October 25, 2023.

[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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