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| International Union for the Protection of New Varieties of Plants |  |

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| Administrative and Legal Committee  Eighty-First Session  Geneva, October 23, 2024 | CAJ/81/7  Original: English  Date: October 23, 2024 |

Report

adopted by the Administrative and Legal Committee

Disclaimer: this document does not represent UPOV policies or guidance

## Opening of the session

The Administrative and Legal Committee (CAJ) held its eighty-first session in Geneva on October 23, 2024, under the chairmanship of Ms. María Laura Villamayor (Argentina).

The session was opened by the Chair, who welcomed the participants. The draft list of participants is reproduced in the Annex to this report.

The Chair reported that Armenia had deposited its instrument of accession to the 1991 Act of the UPOV Convention on February 2, 2024, and had become bound by the 1991 Act on March 2, 2024. Armenia became the 79th member of the Union on March 2, 2024.

The Chair reported that Suriname and the International Association for the Protection of Intellectual Property (AIPPI) have been granted observer status in the CAJ, and that Thailand and AIPPI were issued ad hoc invitations to participate in the WG-HRV/6 meeting.

## Adoption of the agenda

The CAJ adopted the draft agenda, as proposed in document CAJ/81/1.

Report by the Vice Secretary-General on developments in UPOV

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

The CAJ noted the information in document CAJ/81/2 and in the oral report made by Ms. Beate Rücker, Chair of the Technical Committee (TC) on the work of the last session of the TC.

The CAJ noted, in particular, that the TC had agreed the following summary of discussions during the agenda item “Open discussion” on disease resistance characteristics:

1. Disease resistance characteristics are important for DUS. Examples were presented for vegetables and agricultural species
2. There may be different need for international harmonization through UPOV TGs, more clearly for vegetables
3. Complex interaction pathogen x environment x variety may require frequent review of characteristics in test guidelines, including technical questionnaires
4. National, regional and international importance should be considered when deciding for whether to include disease resistance characteristics in test guidelines
5. Clear definition and harmonization of methods is required for reliable descriptions (involvement of DUS experts, phytopathologists and breeders)
6. Development of new technologies, e.g. molecular markers as alternative methods can improve testing
7. Cooperation between authorities in disease resistance testing may be considered
8. TWP sessions should be used to inform on developments and to consider inclusion in TGs or notification of additional characteristics in the UPOV webpage
9. TWPs may consider addressing specific items on disease resistance characteristics in subgroups to advance discussions, including outside of TWP sessions

## Development of guidance and documents proposed for adoption by the Council

The CAJ considered documents SESSIONS/2024/2 and CAJ/81/2.

### Information Materials

#### UPOV/INF/16: Exchangeable Software (Revision) (document UPOV/INF/16/13 Draft 1)

The CAJ approved the revision of document UPOV/INF/16/12 “Exchangeable Software”, on the basis of document UPOV/INF/16/13 Draft 1, as presented in document SESSIONS/2024/2, paragraphs 10 to 12.

The CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document UPOV/INF/16/12 “Exchangeable Software”, on the basis of document UPOV/INF/16/13 Draft 1.

UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision) (document UPOV/INF/22/11 Draft 1)

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

The CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document UPOV/INF/22/10 “Software and equipment used by members of the Union”, on the basis of document UPOV/INF/22/11 Draft 1.

UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)

(document UPOV/INF-EXN/18 Draft 1)

The CAJ approved the revision of document UPOV/INF-EXN “List of UPOV/INF-EXN Documents and Latest Issue Dates”, on the basis of document UPOV/INF-EXN/18 Draft 1.

The CAJ agreed that the Council be invited to adopt, at its fifty- eighth ordinary session, the proposed revisions to document UPOV/INF-EXN/17 “List of UPOV/INF-EXN Documents and Latest Issue Dates” on the basis of document UPOV/INF-EXN/18 Draft 1.

### Explanatory Notes:

#### UPOV/EXN/PPM: Explanatory Notes on Propagating Material under the UPOV Convention (Revision) (document UPOV/EXN/PPM/2 Draft 1)

The CAJ noted that the Working Group on harvested material and unauthorized use of propagating material (WG-HRV), at its third meeting, held in Geneva on March 21, 2023, agreed to modify the section “Factors that have been considered in relation to propagating material” of document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention” (as presented in document SESSIONS/2024/2, paragraph 28).

The CAJ approved the revision of document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention”, on the basis of the proposed amendments presented in document UPOV/EXN/PPM/2 Draft 1 (see document WG-HRV/4/3 “Report”, paragraphs 6 and 7).

The CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document UPOV/EXN/PPM “Explanatory Notes on Propagating Material under the UPOV Convention”, on the basis of the proposed amendments presented in document UPOV/EXN/PPM/2 Draft 1.

#### UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention (Revision) (Annex I to document SESSIONS/2024/2)

##### New variety denomination classes for Prunus and situations when a denomination should be compared with other classes within a genus

The CAJ noted that the proposal to create variety denomination classes for *Prunus,* was agreed by the TWPs, at their sessions in 2024. The CAJ noted that the proposal included draft guidance on situations when a denomination should be compared with other classes within a genus.

The CAJ noted that the TC had agreed, at its sixtieth session[[1]](#footnote-2), to propose the revision of document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/EXN/DEN/4), on the basis of the proposed revisions presented in documents SESSIONS/2024/2, Annex I, section “Proposal: New variety denomination classes for Prunus”, and CAJ/81/2, paragraph 9, with the following amendment (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

“c) The ~~registered~~ proposed denominations of ~~an~~ interspecific hybrids ~~variety~~ with parents from different classes within a genus should be different from ~~introduced~~ denominations in ~~all~~ the classes ~~within a genus~~ of all the parent species. The UPOV code for an interspecific hybrid variety with parents from different classes within a genus should be associated with the variety denomination classes of all the parent species.

The CAJ agreed with the proposal of the TC and approved the revision of document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention”, as set out in paragraph 20.

On that basis, the CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention”.

### TGP Documents

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

##### Additional Standard Wording (ASW) 3 “Explanation of the growing cycle”

The CAJ considered Annex IV to document SESSION/2024/2.

The CAJ noted that the TC had agreed, at its sixtieth session1, to propose the revision of document TGP/7/9 “Development of Test Guidelines”, on the basis of the proposed amendments presented in documents SESSIONS/2024/2, paragraph 20 and CAJ/81/2, paragraph 10, as reproduced below:

“(a) Fruit species with clearly defined dormant period

“3.1.2 The growing cycle is considered to be the duration of a single growing season, beginning with the dormancy period, followed by bud burst (flowering and/or vegetative), flowering and fruit harvest and concluding when the following dormant period starts ~~ends with the swelling of new season buds~~.”

The CAJ agreed with the proposal of the TC and approved the proposed revision of document TGP/7 “Development of Test Guidelines”, as set out in paragraph 24.

On that basis, the CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document TGP/7 “Development of Test Guidelines”.

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

##### Equivalence table for states of expression in quantitative disease resistance characteristics in Test Guidelines

The CAJ considered Annex II to document SESSION/2024/2.

The CAJ noted that the TC had agreed, at its sixtieth session1, to propose the revision of document TGP/12/4 “Guidance on Certain Physiological Characteristics”, on the basis of the proposed amendments presented in document SESSIONS/2024/2, Annex II, section “Proposal”, with the following amendment to the disposition of information in the table to be presented as follows:

“Table 2: States of expression in Test Guidelines and terminology used in the vegetable seed sector:

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| *States of expression in Test Guidelines:* | | |
| Resistance to [disease name] | note | state |
|  | 1 | absent or low |
|  | 2 | medium |
|  | 3 | high |
| *Terminology used in the vegetable seed sector:* | | |
| Reaction of a plant variety to a specific pest [[2]](#footnote-3) | Susceptibility (S) | |
|  | Intermediate Resistance (IR) | |
|  | High Resistance (HR) | |

The CAJ agreed with the proposal of the TC and approved the proposed revision of document TGP/12 “Guidance on certain physiological characteristics”, as set out in paragraph 28.

On that basis, the CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document TGP/12 “Guidance on certain physiological characteristics”.

#### TGP/0: List of TGP documents and latest issue dates (Revision) (document TGP/0/16 Draft 1)

The CAJ considered paragraph 40 of document SESSION/2024/2.

The CAJ approved the revision of document TGP/0 “List of TGP documents and latest issue dates” (document TGP/0/15) on the basis of document TGP/0/16 Draft 1.

The CAJ agreed that the Council be invited to adopt, at its fifty-eighth ordinary session, the proposed revisions to document TGP/0 “List of TGP documents and latest issue dates”, on the basis of document TGP/0/16 Draft 1.

## Updates from UPOV members and observers relating to the implementation of the concept of essentially derived varieties (document CAJ/81/3)

The CAJ considered document CAJ/81/3.

The CAJ took note of the presentation delivered by the International Seed Federation (ISF). The CAJ also noted that ISF intended to present examples, at the eighty-second session of the CAJ, that would be discussed in the ISF Coordination Group, on ways to assess EDVs taking into consideration the new Explanatory Notes on EDV (document UPOV/EXN/EDV/3).

The CAJ agreed that it would not be appropriate to discuss ongoing unresolved disputes between parties under this standing agenda item.

The CAJ noted that a copy of the ISF presentation would be made available after the UPOV sessions on the UPOV website.

## Measures to enhance cooperation in examination (document SESSIONS/2024/3)

The CAJ considered document SESSIONS/2024/3.

The CAJ agreed to organize a seminar to create awareness on cooperation with breeders in DUS examination. The seminar will take place in the afternoon on Wednesday October 22, 2025. The seminar would be preceded by preparatory webinars that would be recorded. Following the seminar, follow-up actions would be taken such as compiling presentations and documentations that might be used for training purposes. If appropriate, guidance on the cooperation with breeders in examinations might be developed. The following Roadmap can be envisaged.

* Preparatory webinars in 2025
* Seminar October 22, 2025
* Compiling information for training module, by December 2025
* Gathering information / practices /examples to be presented in meetings of UPOV bodies in 2026

The CAJ noted the intervention of the Delegation of the European Union proposing that matters relating to independence and conflict of interests be addressed in the context of possible follow-ups.

The CAJ supported the idea to organize a seminar in line with the proposal in document SESSIONS/2024/3 concerning the contents and arrangements for the Seminar. The CAJ thanked Canada for its assistance in coordinating the preparatory work.

The CAJ noted that the discussions on the role of molecular techniques in DUS examination were being considered in the current program of the Technical Working Party on Testing Methods and Techniques (TWM), which were reported to the TC.

The Delegations of the European Union and Japan requested the Office of the Union to provide more information on phytosanitary matters and what could be done to avoid delays in examination of varieties.

The Delegation of the European Union further suggested that synergies might be explored concerning the work carried out by the International Plant Protection Convention (IPPC).

## Novelty of parent lines with regard to the exploitation of the hybrid variety (document CAJ/81/4)

The CAJ considered document CAJ/81/4 and the presentation made by Germany on how novelty of the parent lines was affected by the exploitation of the hybrid variety of the relevant parent lines.

The CAJ took note of the presentation from Germany, which would be posted in the UPOV website after the UPOV sessions.

The CAJ noted a request from Croplife International, on behalf of the breeders’ organizations, to introduce new text in the Explanatory Notes on Novelty that could clarify certain aspects. The breeders’  organizations proposed to provide a text clarifying that the duration of the protection was for a fixed period (Article 19(1) of the 1991 Act of the UPOV Convention), and that that period could not be extended through the protection provided for under Article 14(5)(a)(iii).

The CAJ noted the intervention and considered that, for the time being, there were not new developments in members of the Union to justify maintaining this item on the agenda for its eighty-second session.

## Report on the Working Group on Harvested Material and Unauthorized use of Propagating Material (WG‑HRV) (document CAJ/81/5 and CAJ/81/5 Add.)

The CAJ considered documents CAJ/81/5 and CAJ/81/5 Add.

The CAJ noted the developments concerning the work of the WG-HRV, as reported in document CAJ/81/5 and CAJ/81/5 Add.

The CAJ noted that the WG-HRV held its sixth meeting in Geneva, on October 22, 2024, by hybrid means. The WG‑HRV/6 documents are available at:

<https://www.upov.int/meetings/en/details.jsp?meeting_id=83693>.

The CAJ noted that the WG-HRV had agreed that the Office of the Union commissioned a study to assist in the WG-HRV deliberations on the “Scope of the Breeder’s Right” in Article 14(1) and (2) of the 1991 Act, including the notions of “unauthorized use” and “reasonable opportunity” and the relationship with the “Exhaustion of the Breeder’s Right” in Article 16 of the 1991 Act, in accordance with the approved Terms of Reference, reproduced in the Annex to document CAJ/81/5 Add.

## Report on the Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use (WG-SHF) (document CAJ/81/6)

The CAJ considered document CAJ/81/6.

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/81/6.

Meetings on Electronic Applications (EAM) (document SESSIONS/2024/4)

The CAJ considered document SESSIONS/2024/4.

The CAJ noted the developments concerning meetings on Electronic Applications.

UPOV information databases (document SESSIONS/2024/5)

The CAJ considered document SESSIONS/2024/5.

The CAJ noted the developments on information databases.

Molecular techniques (document SESSIONS/2024/6)

The CAJ considered document SESSIONS/2024/6.

The CAJ noted the developments on molecular techniques.

## Program for the eighty-second session

The CAJ agreed the following program for its eighty-second session to be held on October 22, 2025:

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
6. Information documents
7. Explanatory Notes
8. TGP documents

6. Measures to enhance cooperation in examination

7. Updates from UPOV members and observers relating to the implementation of the concept of essentially derived varieties

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-third session

14. Adoption of the report (if time permits)

15. Closing of the session

[Annex follows]

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 /  
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[End of Annex and of document]

1. Held in Geneva on October 21 and 22, 2024 [↑](#footnote-ref-2)
2. source: <https://worldseed.org/> [↑](#footnote-ref-3)