



CAJ-AG/09/4/2

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

**ADMINISTRATIVE AND LEGAL COMMITTEE
ADVISORY GROUP**

**Fourth Session
Geneva, October 23, 2009**

EXPLANATORY NOTES

Document prepared by the Office of the Union

1. The Administrative and Legal Committee (CAJ), at its fifty-second session, held in Geneva on October 24, 2005, agreed an approach for the preparation of information materials concerning the UPOV Convention, as explained in paragraphs 8 to 10 of document CAJ/52/4. The CAJ also agreed to the establishment of an advisory group to the CAJ ("CAJ-AG") to assist in the preparation of documents concerning such materials, as proposed in paragraphs 11 to 14 of document CAJ/52/4 (see paragraph 67 of document CAJ/52/5, Report).

2. The purpose of this document is to provide background information to assist the CAJ-AG in its consideration of the following draft Explanatory Notes at its fourth session to be held in Geneva on October 23, 2009:

- (i) UPOV/EXN/BRD: Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention
(document UPOV/EXN/BRD Draft 2)
- (ii) UPOV/EXN/VAR: Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention
(document UPOV/EXN/VAR Draft 2)

- (iii) UPOV/EXN/CAL: Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization (document UPOV/EXN/CAL Draft 1)
- (iv) UPOV/EXN/HRV: Explanatory Notes on Acts in Respect of Harvested Material under the UPOV Convention (document UPOV/EXN/HRV Draft 4)

EXPLANATORY NOTES TO BE CONSIDERED BY THE CAJ-AG AT ITS FOURTH SESSION

3. The following paragraphs provide background information to assist the CAJ-AG in its consideration of the relevant draft Explanatory Notes at its fourth session. The report on the work of the CAJ-AG at its third session held in Geneva on October 28, 2008, is contained in document CAJ-AG/08/3/4 "Report".

Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention (document UPOV/EXN/BRD Draft 2)

4. The CAJ-AG, at its third session, requested the preparation of a new draft of document UPOV/EXN/BRD (document UPOV/EXN/BRD Draft 2), on the basis of reflections by the Office of the Union, for consideration by the CAJ-AG at its fourth session (see document CAJ-AG/08/3/4 "Report", paragraph 38).

Explanatory Notes on the Definition of Variety under the 1991 Act of the UPOV Convention (document UPOV/EXN/VAR Draft 2)

5. The CAJ-AG, at its third session, requested the preparation of a new draft of document UPOV/EXN/VAR (document UPOV/EXN/VAR Draft 2), on the basis of reflections by the Office of the Union, for consideration by the CAJ-AG at its fourth session (see document CAJ-AG/08/3/4 "Report", paragraph 40).

Explanatory Notes on Conditions and Limitations Concerning the Breeder's Authorization in Respect of Propagating Material under the UPOV Convention (document UPOV/EXN/CAL Draft 1)

6. The CAJ-AG, at its third session, considered document UPOV/EXN/HRV Draft 2 and a presentation made by the Office of the Union. The CAJ-AG decided to move the explanatory notes on conditions and limitations concerning the breeder's authorization in respect of propagating material which were contained in document UPOV/EXN/HRV Draft 2 to a separate document (document UPOV/EXN/CAL Draft 1) and agreed to delete reference to "price" in paragraph 4(iv) of document UPOV/EXN/HRV Draft 2 and (see document CAJ-AG/08/3/4 "Report", paragraph 36).

Explanatory Notes on Acts in Respect of Harvested Material under the UPOV Convention
(document UPOV/EXN/HRV Draft 4)

7. The CAJ-AG, at its third session, considered document UPOV/EXN/HRV Draft 2 and a presentation made by the Office of the Union and agreed to the following changes (see document CAJ-AG/08/3/4 “Report”, paragraph 36).

8. The CAJ-AG, at its third session, requested the Office of the Union to prepare a new draft of document UPOV/EXN/HRV (draft 3), to be circulated to the CAJ for comments. On the basis of the comments received, the Office of the Union was requested to prepare a further draft (UPOV/EXN/HRV Draft 4) for consideration by the CAJ-AG at its fourth session (see document CAJ-AG/08/3/4 “Report”, paragraph 36).

9. Document UPOV/EXN/HRV Draft 3 was notified to the CAJ for comments by Circular E-1059 of August 26, 2009 and posted at www.upov.int/restrict/en/caj/index_caj_correspondence_2009.htm. No proposals to modify document UPOV/EXN/HRV Draft 3 were received by the deadline of September 26, 2009.

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