



TC/39/10

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL COMMITTEE

Thirty-Ninth Session
Geneva, April 7 to 9, 2003

ISSUES CONCERNING THE USE OF MATERIAL SUBMITTED FOR THE
EXAMINATION OF DISTINCTNESS, UNIFORMITY AND STABILITY

Document prepared by the Office of the Union

1. At its thirty-eighth session, held in Geneva from April 15 to 17, 2002, the Technical Committee (hereinafter referred to as "the TC") noted that the Administrative and Legal Committee (hereinafter referred to as "the CAJ") would, at its forty-fifth session, held in Geneva on April 18, 2002, discuss issues concerning the use of material submitted for the examination of distinctness, uniformity and stability (DUS). The purpose of the discussions was to explore the importance of including plant material of candidate varieties, submitted by the applicant, in the collections of varieties used by examining authorities for the examination of DUS. Furthermore, it wished to identify the issues which could arise when this practice cannot be freely undertaken. In particular, it was to consider the situation where a breeder might wish to attach conditions to the use of plant material for such practices, or where the breeder did not permit such a practice at all. The TC noted that the outcome of the discussions in the CAJ would be reported at the next session of the TC.

2. The CAJ discussed the matter at its April 2002 session (see document CAJ/45/8, Report, paragraphs 24 to 33) and agreed to continue the discussion during its forty-sixth session, held in Geneva on October 21 and 22, 2002, on the basis of a new document (document CAJ/46/4) incorporating the conclusions reached in April 2002.

3. Following the discussions in its October 2002 session (see document CAJ/46/8 Prov., Draft Report, paragraph 37), the CAJ noted that:

“(a) some authorities have established collections of plant material of varieties of common knowledge for the purposes of examination but need to consider how to manage plant material of candidate varieties provided by the breeder, as a part of the application, if conditions are attached to its use for such a purpose;

“(b) a system of publishing variety descriptions may, if based on technical information considered to be reliable by the Technical Committee, offer an effective means of examining distinctness to address situations where plant material of varieties was unavailable for comparison in growing tests or other trials.”

4. Furthermore, the following topics were identified for future discussion by the CAJ (see document CAJ/46/8 Prov., Draft Report, paragraph 38):

“(a) arrangements for the transfer of material

“(i) from the breeder to the examination authority, and

“(ii) between examination authorities.

“In particular, it was suggested that UPOV might consider the development of standard model agreements for such transfers;

“(b) recommendations to ensure the independence of those DUS examination centers which have, or have links to, breeding activities.”

5. The Office of the Union will continue to keep the TC informed on the outcome of these ongoing discussions in the CAJ.

6. The TC is invited to note these developments and consider if it wishes to make any comments for consideration by the CAJ.

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