



TC/45/12

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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**TECHNICAL COMMITTEE**

**Forty-Fifth Session**  
**Geneva, March 30 to April 1, 2009**

LIST OF EXCHANGEABLE SOFTWARE

*Document prepared by the Office of the Union*

1. At the forty-fourth session of the Technical Committee (TC), held in Geneva from April 7 to 9, 2008, the Chairman of the TC proposed that, in order for information on exchangeable software to be more accessible to members of the Union and to facilitate regular updating, it might be appropriate to present information, on an annual basis, in a TC document similar to document TC/44/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability". That document could provide members of the Union with information on the existence and availability of software. He proposed that the document should include software concerning, for example, databases of images / photographs, image analysis etc. It was further proposed that the software should be presented and discussed at a session of the Technical Working Party on Automation and Computer Programs (TWC) prior to inclusion in the document.
2. The TC agreed with the proposal above and requested the TWC to formulate the structure and content of the document for consideration by the TC at its forty-fifth session (see document TC/44/13 "Report", paragraph 120).
3. In accordance with the request of the TC, and on the basis of the information provided in document TWC/25/19 "Exchangeable software", the Office of the Union, in conjunction with the TWC Chairperson developed a proposal as a basis for discussion by the TWC, at its twenty-sixth session, held in Jeju, Republic of Korea, from September 2 to 5, 2008 (document TWC/26/7).

4. The TWC clarified that it would not be possible for the TWC to perform a detailed assessment of the programming of the software and confirmed that, in accordance with document TWC/26/7, paragraph 5, the TWC would only be able to propose the inclusion of software in the proposed exchangeable software document on the basis of the experiences presented by experts from the members of the Union at the TWC session.

5. In response to a suggestion that the Annex to document TWC/26/7 should contain information on the versions of the software, the TWC concluded that the document should be kept as simple as possible and noted that that information could be obtained via the software source. Users of the software would be able to provide information on the version used in the column “Application by user(s)”, if appropriate.

6. The TWC agreed that the software should not need to have been developed by a member of the Union, but would need to have been used by a member of the Union for inclusion in the document. In particular, jointly-developed software, freely available software packages and packages built around commercial software products could be included, provided that intellectual property rights were respected and suitable information provided in the column for “Condition for Supply”.

7. The TWC agreed that the TC should already be invited to include the DUSTNT and GAIA software in a first edition of the document. The experts from the United Kingdom and France agreed to provide the necessary information to the Office of the Union.

8. With regard to the DUSTNT software, it was recalled at the twenty-sixth session of the TWC that the DUSTNT program included many modules, including a wide range of multivariate analysis techniques, while UPOV had specifically endorsed only the COYD and COYU methods. The TWC agreed that Mrs. Sally Watson (United Kingdom) should prepare a presentation on the modules contained in the program DUSTNT, highlighting those which are involved in COY analysis, for consideration by the TWC at its twenty-seventh session. The TWC also agreed to invite experts to propose other DUSTNT modules, which had been used by them, for endorsement in the document on exchangeable software.

9. Document UPOV/INF/Software Draft 1 has been developed on the basis of the Annex to document TWC/26/7 and the comments made by the TWC at its twenty-sixth session, as set out in paragraphs 4 to 8 above. Although the TC made reference to the development of a document similar to document TC/44/4 “List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability”, it is proposed that the document on exchangeable software be developed as an “INF” document. That proposal is based on both practical and procedural considerations.

10. Reference to document TC/[44]/4 “List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability” is made difficult because the document is referenced and located according to the relevant session of the TC, which changes every year (e.g. TC/43 in 2007, TC/44 in 2008). In addition, it is anticipated that the document on exchangeable software may need to be considered by the Administrative and Legal Committee (CAJ), for example in relation to software relating to the administration of applications, on-line application systems and variety denomination checking. The development of an “INF” document would also facilitate adoption of the document by the Council.

11. Subject to agreement of this approach, a draft of document UPOV/INF/Software, incorporating amendments agreed by the TC at its forty-fifth session, would be prepared for consideration by the Technical Working Parties, including the TWC, at their sessions in 2009 and by the CAJ at its sixtieth session, to be held in Geneva on October 19 and 20, 2009.

12. In addition, at its twenty-seventh session, to be held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009, the TWC would be invited:

(a) review the entry for DUSTNT in document UPOV/INF/Software, as set out in paragraph 8, above; and

(b) review any proposals for further software to be included in document UPOV/INF/Software.

*13. The TC is invited to consider:*

*(a) document UPOV/INF/Software Draft 1 as a basis for a document on exchangeable software, as set out in paragraphs 9 and 10;*

*(b) the program for the consideration of document UPOV/INF/Software Draft 1, as set out in paragraph 11; and*

*(c) the request for review of software by the TWC, as set out in paragraph 12.*

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