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ELECTRONIC APPLICATION SYSTEMS

Document prepared by the Office of the Union

1. The purpose of this document is to report on developments concerning:

(a) the introduction of standard references for the UPOV model form for the application for plant breeders' rights ("UPOV Model Application Form") (document TGP/5 "Experience and Cooperation in DUS Testing", Section 2/3: "UPOV Model Form for the Application for Plant Breeders' Rights") and the development of "linear blank forms" (in "Word" format), with those standard references, for posting on the freely accessible area of UPOV website;

(b) the introduction of standard references for the Technical Questionnaire (TQ) to be completed in connection with an application for plant breeders' rights (document TGP/5 "Experience and Cooperation in DUS Testing", Section 3: "Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders' Rights") and the development of "linear blank forms", with those standard references, for posting on the freely accessible area of UPOV website; and

(c) use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ.

I. STANDARD REFERENCES FOR THE UPOV MODEL APPLICATION FORM AND LINEAR BLANK FORM

Standardized reference by authorities to the UPOV Model Application Form

2. The Administrative and Legal Committee (CAJ), at its sixtieth session, held in Geneva on October 19 and 20, 2009, agreed that Proposal 1 “Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ”, as approved by the CAJ at its sixtieth session, would be put forward for adoption by the Council in October 2010 (see document CAJ/60/10 “Report on the Conclusions”, paragraph 31).

3. At its forty-fourth ordinary session, held in Geneva on October 21, 2010, the Council adopted document TGP/5, Section 2/3: Experience and Cooperation in DUS Testing: UPOV Model Form for the Application for Plant Breeders’ Rights (see document C/44/16 “Report on the Decisions”, paragraph 16). That document has been posted on the freely accessible area of UPOV website (see http://www.upov.int/export/sites/upov/en/publications/tgp/documents/tgp_5_section_2_3.pdf).

4. With regard to Proposal 1 “Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ”, document CAJ/60/5, paragraph 35, proposed that “In order to monitor the usefulness of this approach, if approved, it is proposed that, on a regular basis, the members of the Union be invited to provide information to the Office of the Union on the extent to which they use the standard references in their application forms and technical questionnaire”.

5. The Technical Committee (TC), at its forty-seventh session held in Geneva from April 4 to 7, 2011, and the CAJ at its sixty-third session held in Geneva on April 7, 2011, agreed that the Office of the Union should seek information on the extent to which members of the Union use the standard references to the UPOV Model Application Form in their application forms (see document TC/47/26 “Report on the Conclusions”, paragraph 42 and document CAJ/63/9 “Report on the Conclusions”, paragraph 48).

Linear Blank Form corresponding to Section 2: “UPOV Model Form for the Application for Plant Breeders’ Rights” (Linear Blank Form for PBR Applications)

6. Annex II to document TGP/5, Section 2/3, contains the “Linear Blank Forms corresponding to Section 2: ‘UPOV Model Form for the Application for Plant Breeders’ Rights’” (“Linear Blank Form for PBR Applications”).

7. The Technical Working Party for Fruit Crops (TWF), at its forty-first session, held in Cuernavaca, Morelos State, Mexico, from September 27 to October 1, 2010, agreed that, as a means of providing information in a convenient [electronic] form, consideration should be given to authorities having the possibility to receive information in the UPOV linear form, *in addition to the forms that the authority required for an application*¹ [italics added for emphasis] (see document TWF/41/30 Rev. “Revised Report”, paragraph 50).

¹ The text in italics has been emphasized to clarify that the proposal discussed in the TWF did not relate to the use of the Linear Blank Form for PBR Applications as an application for a breeder’s right. The potential use of the UPOV Model Application Form to provide information to an authority as a part of an

8. In addition to the Linear Blank Form for PBR Applications being published as Annex II to document TGP/5, Section 2/3, the intention of the Office of the Union had been to make the Linear Blank Form for PBR Applications available in Word and Excel formats. However, the discussions at the TWF and subsequent discussions with the International Seed Federation (ISF) have indicated that there could be considerable benefit in developing a Linear Blank Form for PBR Applications with additional functionality. In that regard, it is recalled that the following information was presented in document CAJ/61/5 and document TC/46/13:

“2. On January 18, 2007, the Office of the Union (Office) received a letter from the International Seed Federation (ISF) proposing that UPOV should consider the development of an electronic version of the UPOV model application form and technical questionnaire [...]. It was noted that such an approach would allow a standard application form and technical questionnaire to be completed in a language of the applicant’s choice and then converted electronically to the language of the member of the Union where an application was to be made. [...].

“3. The Office received a letter from the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) on January 19, 2007, supporting the proposal made by ISF. [...] The Office also received a letter from the European Seed Association (ESA) on January 30, 2007, expressing its support for the proposal made by ISF.”

9. On that basis, the Office of the Union developed a proposal for the Linear Blank Form for PBR Applications to be developed with the following features:

(a) users² could select the language in which the items in the Linear Blank Form for PBR Applications would be presented (Input Template language);

(b) users could select (a) language(s) in which the completed Linear Form for PBR Applications could be downloaded (Output Template language);

(c) users could choose the format in which to download the completed Linear Form for PBR Applications: Word, Excel, XML and/or PDF;

(d) users could choose to store the input data in an associated database (hosted by UPOV), in order, for example, to allow further downloading in different languages and/or formats. The data would be password protected and the password would only be issued to the user concerned; and

(e) a disclaimer that the use of the information associated with the Linear Blank Form for the filing of an application for a breeder’s right with the authority of a member of the Union would be the responsibility of the user.

10. The languages in which the Linear Blank Form for PBR Applications would be developed would be prioritized on the basis of discussions with the international breeders’ organizations and according to available resources. In the case of languages other than

application for a breeder’s right is considered in Section III of this document “Use of Information Provided in an Electronic Version of the UPOV Model Application Form and UPOV Model TQ”.

² The term “user” is used instead of “applicant” or “breeder”, in order to avoid any implication that the use of the Linear Blank Form for PBR Applications might indicate that an application is being filed for a plant breeder’s right.

English, French, German and Spanish, interested members of the Union would be consulted before the relevant language versions were made available on the UPOV website. In addition, there would be an explanation that the translations had not been adopted by the Council.

11. ISF has indicated in informal consultations that, in principle, it would be willing to contribute financial resources to the development of the Linear Blank Form for PBR Applications on the basis of the concept set out above.

12. The TC, at its forty-seventh session held in Geneva from April 4 to 7, 2011, noted that it was planned that the Linear Blank Form for PBR Applications be developed with the features set out in paragraph 9 of this document (see document TC/47/26 “Report on the Conclusions”, paragraph 43).

13. The CAJ, at its sixty-third session held in Geneva on April 7, 2011, expressed its support to develop a Linear Blank Form for PBR Applications with the features set out in paragraph 9 of this document (see document CAJ/63/9 “Report on the Conclusions”, paragraph 49).

14. The TC, at its forty-seventh session, and the CAJ at its sixty-third session, noted that the languages in which the Linear Blank Form for PBR Applications would be developed would be prioritized on the basis of discussions with the international breeders’ organizations and according to available resources. In the case of languages other than English, French, German and Spanish, interested members of the Union would be consulted before the relevant language versions were made available on the UPOV website. In addition, there would be an explanation that the translations had not been adopted by the Council (see document TC/47/26 “Report on the Conclusions”, paragraph 44 and document CAJ/63/9 “Report on the Conclusions”, paragraph 50).

15. The TC, at its forty-seventh session, and the CAJ, at its sixty-third session, noted that the International Seed Federation (ISF) would be willing to contribute financial resources to the development of the Linear Blank Form for PBR Applications on the basis of the concept set out above (see document TC/47/26 “Report on the Conclusions”, paragraph 43 and document CAJ/63/9 “Report on the Conclusions”, paragraph 51).

16. The TC, at its forty-seventh session, noted that the European Union was working with two of its member States on the use of the Community Plant Variety Office of the European Union (CPVO) electronic application system. The Delegation of the European Union offered to provide information on its experiences on that project. The TC agreed the report on developments should be made at its forty-eighth session (see document TC/47/26 “Report on the Conclusions”, paragraph 46).

II. STANDARD REFERENCES FOR THE TECHNICAL QUESTIONNAIRE (TQ)

17. At its sixty-first session, held in Geneva on March 25, 2010, the CAJ agreed with the conclusion of the Technical Committee (TC) at its forty-sixth session, held in Geneva from March 22 to 24, 2010, that the development of standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes III and IV of document TC/46/13 (document CAJ/60/5), would benefit from discussion in the Technical Working Parties (TWPs) and the TC and should not be included in document TGP/7/2, but should be

considered for a future revision of document TGP/7 (document TGP/7/3) (see document CAJ/61/11 “Report on the Conclusions”, paragraph 47).

18. The TC, at its forty-seventh session, agreed to delay consideration of the approach for providing standard references for the UPOV Model Technical Questionnaire and for the characteristics in the Test Guidelines, as set out in Annexes I and II to document TC/47/18, with a view to a future revision of document TGP/7, pending the outcome of work on the Linear Blank Form for PBR Applications (see document TC/47/26 “Report on the Conclusions”, paragraph 68).

19. The CAJ, at its sixty-third session, noted that the TC, at its forty-seventh session, had agreed to delay consideration of the approach for providing standard references for the UPOV Model Technical Questionnaire and for the characteristics in the Test Guidelines, as set out in Annexes I and II to document TC/47/18, with a view to a future revision of document TGP/7, pending the outcome of work on the Linear Blank Form for PBR Applications (see document CAJ/63/9, paragraph 52).

III. USE OF INFORMATION PROVIDED IN AN ELECTRONIC VERSION OF THE UPOV MODEL APPLICATION FORM AND UPOV MODEL TQ

Proposal 2:
Use of Information Provided in an
Electronic Version of the UPOV Model Application Form and UPOV Model TQ

This proposal is based on an approach whereby the applicant would use the UPOV Model Application Form and possibly the UPOV Model TQ, to provide information to an authority as a part of an application for a breeder’s right. It would be a matter for each authority to decide if it could accept such information as a part of the application and, if appropriate, the procedure to be followed.

The basis for such an approach would be to use the “linear blank forms” in Annexes II and IV to this document as the basis for the applicant to provide information to an authority as a part of an application for a breeder’s right.

20. At its sixty-first session, the CAJ noted the responses to Circular E-1141 concerning Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ”, as presented in document CAJ/60/5, paragraphs 36 and 37 and Annexes II and IV to that document (see document CAJ/61/11 “Report on the Conclusions”, paragraph 48).

21. The CAJ agreed that, in relation to Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ”, it would be beneficial to await developments concerning the possibility of the Community Plant Variety Office of the European Union (CPVO) online application system being made available to members of the Union, as explained by the Delegation of the European Union, and decided to continue deliberations on electronic application systems, as considered appropriate by the CAJ (see document CAJ/61/11 “Report on the Conclusions”, paragraph 50).

22. The CAJ, at its sixty-third session, recalled the latest situation concerning Proposal 2 “Use of information provided in an electronic version of the UPOV Model Application Form and UPOV Model TQ”, as set out in paragraph 21 of this document.

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