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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL WORKING PARTY FOR FRUIT CROPS

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UPOV INFORMATION DATABASES

Document prepared by the Office of the Union

1. The purpose of this document is to provide an update on developments concerning the GENIE database, the UPOV Code System and the Plant Variety Database (UPOV-ROM) and to consider certain proposals concerning the Plant Variety Database.

GENIE DATABASE

2. It is recalled that the GENIE database has been developed to provide, for example, online information on the status of protection (see document C/41/6), cooperation in examination (see document C/41/5), experience in DUS testing (see document TC/44/4), and existence of UPOV Test Guidelines (see document TC/44/2) for different GENera and specIEs (hence GENIE), and will also be used to generate the relevant Council and Technical Committee (TC) documents concerning that information. In addition, the GENIE database is the repository of the UPOV codes and also provides information concerning alternative botanical and common names.

3. A test version of the GENIE database (English only) was launched on the first-restricted area of the UPOV website (see <http://www.upov.int/genie/en>) in November 2007. The GENIE database will be launched in all four UPOV languages on the freely available area of the UPOV website in 2008. Some further functionalities will be added to the test version of the database before its public launch including, in particular, the addition of a multiple search function and the possibility to generate customized reports.

UPOV CODE SYSTEM

4. The basis for the UPOV Code System is published on the same webpage as the GENIE database (see http://www.upov.int/genie/en/upov_code.html).

Flexibility in the species element of the UPOV code

5. At its forty-third session, held in Geneva, from March 26 to 28, 2007, the TC requested the Technical Working Parties (TWPs) to consider the possibility of allowing flexibility in the species element of the UPOV code in order to cover a classification into, for example, subgenera and/or sections, between the genus and species level of classification, taking into account the example in document TC/43/6, paragraph 8 (see below) and the grouping classification for Brassica and Beta, set out in document TC/43/6, Annex, Section 2.3.

“[document TC/43/6] 8. The UPOV code is constructed on the basis of a genus element, species element and sub-species element (see Annex, Section 2.1.1). In the case of the sub-species element, the UPOV code is used in a more flexible way to contain more than one level of ranking, thereby avoiding the need for extra elements in the UPOV code (see Annex, Section 2.1.5). Discussions in relation to the development of Test Guidelines for *Camellia* (see document TWA/35/12 “Report”, paragraph 45 “Cover page”) and *Eucalyptus* (see document TG/EUCAL(proj.3), Chapter 1) have indicated that it may become necessary to also allow flexibility in the species element of the UPOV code in order to cover a classification into, for example, subgenera and/or sections, between the genus and species levels of classification. For example, GRIN classifies *Eucalyptus* into Subgenus and Section between the genus and species levels. The UPOV code could then be, for example:

Example: *Eucalyptus acaciiformis* H. Deane & Maiden

Genus: Eucalyptus (UPOV code / genus element: EUCAL)

Sub-genus: Symphyomyrtus (UPOV code / species element: first letter)

Section: Exsertaria (UPOV code / species element: second letter)

Species: acaciiformis (UPOV code / species element: third letter)

UPOV code: EUCAL_SEA”

6. At its thirty-sixth session, held in Budapest, Hungary, from May 28 to June 1, 2007, the Technical Working Party for Agricultural Crops (TWA) agreed that, where necessary, it would be appropriate to consider the possibility of allowing flexibility in the species element of the UPOV code in order to cover a classification into, for example, subgenera and/or sections, between the genus and species level of classification. At its forty-first session, held in Nairobi, Kenya, from June 11 to 15, 2007, the Technical Working Party for Vegetables (TWV) agreed with the TWA conclusion.

7. At its fortieth session, held in Kunming, China, from July 2 to 6, 2007, the Technical Working Party for Ornamental Plants and Forest Trees (TWO) concluded that there was no immediate need for the possibility of allowing flexibility in the species element of the UPOV code in order to cover a classification into, for example, subgenera and/or sections, between the genus and species level of classification. At its thirty-eighth session, held in Jeju, Republic of Korea, from July 9 to 13, 2007, the Technical Working Party for Fruit Crops (TWF) agreed with the conclusion of the TWO.

8. At its forty-fourth session, held in Geneva from April 7 to 9, 2008, the TC noted that there was no immediate need to allow flexibility in the species element of the UPOV code in order to cover a classification into, for example, subgenera and/or sections, between the genus and species level of classification.

Advice on botanical classification

9. At its fortieth session, the TWO requested the Office of the Union (Office) to contact GRIN to investigate if GRIN would be willing to provide advice to members of the Union on the botanical classification of varieties under examination on the basis of suitable photographs to be provided by the relevant authorities. The Office investigated that possibility with GRIN, but was informed that, for the time-being, there was no possibility for GRIN to provide such a service. With regard to advice for members of the Union on the botanical classification of varieties under examination, Mr. Kees van Ettehoven (Netherlands), President of the International Association for Cultivated Plant Taxonomy (IACPT) informed the TC at its forty-fourth session that the IACPT might be able to provide assistance in such matters and suggested that experts raise any requests via their website (www.iacpt.net).

Checking of UPOV codes

10. The Excel file provided as the Annex to this document provides information on new UPOV codes added to the GENIE database and UPOV code amendments, for checking by the relevant authorities according to the procedure set out in Section 3.3 of the Guide to the UPOV Code System (see http://www.upov.int/genie/en/upov_code.html).

11. The Excel file contains two spreadsheets. The file will open on the spreadsheet with UPOV code amendments (“Amendments”): for each change, the old entry is highlighted in the row in red and the changes to the entry are found in the line immediately below that highlighted row (they have the same number in the first column). The second spreadsheet “New_UPOV_codes or information”, contains the new UPOV codes or new information added for existing UPOV codes. Highlighting in grey indicates that the UPOV code or name has not been changed.

12. In each spreadsheet of the Excel file, the column headers highlighted in yellow indicate the relevant Technical Working Party (TWP) and Authority(ies) which are requested to check the information. Comments on the additions and amendments are requested to be provided to the Office by August 30, 2008.

PLANT VARIETY DATABASE

Improvements to the UPOV-ROM

13. At its forty-second session, held in Geneva, from April 3 to 5, 2006, the TC noted that, with regard to the program to improve the Plant Variety Database, priority was focused on improvements which could equally be realized in both the UPOV-ROM and web-based formats, namely:

- (a) introduction of the UPOV code;

(b) improving the ease of contributing data to the UPOV-ROM through the development of a data submission table allowing data to be provided without the use of TAG format;

(c) providing training in the use of the UPOV-ROM.

14. Progress in relation to those improvements is as follows:

(a) introduction of the UPOV code

15. In relation to the UPOV code, a number of members of the Union now include the UPOV codes in their UPOV-ROM data.

(b) improving the ease of contributing data to the UPOV-ROM

16. The Office, in conjunction with the IT Division of the World Intellectual Property Organization (WIPO IT Division), has been working on the development of a data submission table to improve the ease of submission of data to the UPOV-ROM. The basis for that work has been the data submission table developed by the Community Plant Variety Office of the European Community (CPVO) and provided to UPOV under the “Memorandum of Understanding between UPOV and the CPVO” (MoU). The need for the data submission table to perform automatic checks on the data, in order to ensure that the Office does not incur significant extra work, has meant that the finalization of the data submission table is dependent on the resources available from the WIPO IT Division and is not yet complete.

17. In the meantime, the Office has been contacted by the CPVO with a view to making more substantial progress in the quantity and quality of data included in the UPOV-ROM. The CPVO has reported to the Office its experiences in providing variety denomination data to the UPOV-ROM for all official registers kept by authorities of the Member States of the European Union, official registers kept by authorities of the European Economic Area (EEA) and Switzerland and the European Union Common Catalogues. It is recalled that the MoU currently states that:

“3.2.2 Maintenance of Data

“The responsibility for providing data would be as follows:

“(a) subject to the agreement of the countries and owners of other registers concerned, CPVO is to be responsible for variety denomination data for all official registers kept by authorities of the Member States of the European Union, official registers kept by authorities of the European Economic Area (EEA) and Switzerland, the European Union Common Catalogues and other relevant registers, such as the Dutch database PLANTSCOPE;

“(b) UPOV is to be responsible for variety denomination data for all official registers kept by authorities of members of the Union which are not mentioned in Section 3.2.2(a). UPOV is also to be responsible for data from international organizations (e.g. Organisation for Economic Co-operation and Development (OECD)); and

“(c) for other data, to be agreed by the Parties on a case-by-case basis.”

18. In addition, the CPVO has been involved in cooperation with Croatia, Israel, Japan and Turkey. On the basis of that experience, the CPVO has concluded that the introduction of a data submission table alone will not be sufficient to facilitate the contribution of data by members of the Union which do not currently contribute to the UPOV-ROM. In particular, their experience has demonstrated that a substantial amount of additional assistance is required.

19. The CPVO is aware of the limited resources of the Office and, on that basis, has offered its assistance in the collection of data for all contributors on behalf of which it does not currently provide data (see MoU, Section 3.2.2(b), above). That assistance would include, in particular, options for providing data in various formats, which the CPVO would transform as required for inclusion in the UPOV-ROM, and assistance in allocating UPOV codes to all entries.

20. Subject to the agreement of the members of the Union, the most effective approach would be to invite the CPVO to collect all data for the UPOV-ROM and provide that data directly to Jouve for production of the UPOV-ROM. In order for such an approach to be practical, it would be necessary for the members of the Union to agree that they would coordinate with the CPVO, rather than the Office, with regard to any queries on the data provided. All background information concerning the data included in the UPOV-ROM, in particular the information in the "Content.pdf" document, would also be maintained by the CPVO.

21. At the same time, in order to maximize efficiency, the various general information documents which are currently provided and regularly updated in the UPOV-ROM would no longer be included, on the basis that that information is now readily available elsewhere, for example from the UPOV website and the UPOV Gazette and Newsletter.

22. It is recognized that, in certain cases, members of the Union might still wish to submit data directly to the Office, or that there may be particular requirements which could not easily be accommodated by the CPVO. Such options would remain open and would be considered on a case-by-case basis.

23. At its forty-fourth session, the TC noted the offer of the CPVO for assistance in the collection of data for all UPOV-ROM contributors, including those contributors for which it does not currently provide data (see "Memorandum of Understanding between UPOV and the CPVO" (MoU)). It was recognized that further practical guidance on how to submit data under such an arrangement would need to be provided. The TC noted that all background information concerning the data included in the UPOV-ROM, in particular the information in the "Content.pdf" document, would also be maintained by the CPVO in such an approach. With regard to the general information documents which would no longer be included in the UPOV-ROM, the TC agreed that the Office should specify which documents would no longer be included. The TC and the CAJ, at its fifty-seventh session, agreed that the proposal explained above and a draft revised "Memorandum of Understanding between UPOV and the CPVO" (MoU), based on that proposal, be prepared for consideration by the Consultative Committee at its seventy-sixth session, to be held in Geneva on October 29, 2008.

(c) providing training in the use of the UPOV-ROM

24. With regard to the provision of training in the use of the UPOV-ROM, the Office ensures that information on the UPOV-ROM is included in relevant UPOV workshops and

has integrated an explanation of the UPOV-ROM in the Distance Learning Course DL-205 “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”. DL-205 participants are issued with a sample UPOV-ROM and are required to undertake searches using the UPOV-ROM as a part of the exam. A section on the use of the UPOV-ROM in checking variety denominations is also planned to be included in the advanced distance learning course “Examination of Applications for Plant Breeders’ Rights”, which is currently under development by the Office.

Date of commercialization

25. At its forty-first session, the TWV agreed to propose that the TC consider the introduction of a field in the UPOV-ROM Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories as provided in the UPOV Model Form for the Application for Plant Breeders’ Rights (see document TGP/5: Section 2/2 Draft 1, item 8.)

26. The TC, at its forty-fourth session, noted that the introduction of a field in the Plant Variety Database to indicate the dates on which a variety was commercialized for the first time in the territory of application and other territories as provided in the UPOV Model Form for the Application for Plant Breeders’ Rights (see document TGP/5: Section 2/2 Draft 1, item 8.) was primarily a matter for the CAJ. Some delegations explained the benefits of including such information in the UPOV-ROM, whilst some delegations expressed concerns with regard to the data which would be included. It was noted that data on commercialization would, in most cases, need to be based on information provided by the applicant and the TC agreed this aspect should be taken into account when considering such an approach.

27. The CAJ will consider this matter at its fifty-eighth session, to be held in Geneva on October 27 and 28, 2008.

Development of a web-based Plant Variety Database

28. At its forty-second session, the TC was informed that the schedule for the development of an initial prototype of the web-based Plant Variety Database would depend on the resources (i.e. of the Office and the WIPO IT Division) needed to advance the three priorities set out in paragraph 12, above. The Office explained that the prototype web-based Plant Variety Database, once developed, would be presented with proposals concerning the fields to be included and proposals for which fields might be considered to be mandatory, as requested by the TC at its fortieth session. The frequency of updating of the web-based Plant Variety Database would be considered in conjunction with the presentation of the prototype together with consideration of the establishment of links to relevant websites for variety denomination checking purposes. At its forty-second session, the TC also heard that the Office would investigate the potential for the development of a common search platform to be provided for certain databases relevant for variety denomination searching purposes.

29. At its forty-first session, the TWV welcomed the plans to investigate the potential for the development of a common search platform to be provided for certain databases relevant for variety denomination searching purposes. At the fortieth session of the TWO, the representative of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) welcomed the initiative to investigate the potential for the development of a common search platform to be provided for certain databases relevant for variety denomination searching purposes. An expert from the

European Community emphasized the importance of raising awareness of the existence of the Plant Variety Database in order to increase its use by breeders.

30. With regard to potential partners in the development of a common search platform, the Office has had discussions with the Assistant Director General of WIPO responsible for the Sector of Trademarks, Industrial Designs and Geographical Indications. In addition, the matter was discussed at the 5th International Symposium on the Taxonomy of Cultivated Plants, held in Wageningen, Netherlands, from October 15 to 19, 2007 (<http://www.istcp2007.wur.nl>). At that symposium, Mr. Kees van Ettehoven (Netherlands) was elected as President of the International Association for Cultivated Plant Taxonomy (IACPT) (see document TC/44/8, paragraph 3 and www.iacpt.net) and has agreed to organize a meeting with relevant partners to discuss the development of a common search platform. It is also recalled that, at the forty-second session of the TC, the representative of OECD indicated that the OECD website containing the List of Varieties Eligible for Certification would be a relevant database for the purposes of a common search platform.

31. The Office has had initial discussions with the WIPO IT Division concerning the development of an internet based version of the Plant Variety Database (UPOV-ROM). The WIPO IT Division has also agreed to participate in technical discussions with potential partners concerning the development of a common search platform.

32. At the forty-fourth session of the TC, Mr. Kees van Ettehoven (Netherlands), President of the IACPT reported that the organization of a meeting with relevant partners, including UPOV, to discuss the development of a common search platform was a high priority for IACPT in 2008.

[End of document: Annex (Excel spreadsheet) posted on website]