

Administrative and Legal Committee**CAJ/75/13****Seventy-Fifth Session
Geneva, October 31, 2018****Original:** English
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REPORT ON DEVELOPMENTS IN THE TECHNICAL COMMITTEE*Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

The purpose of this document is to report on developments in the Technical Committee (TC) at its fifty-fourth session, held in Geneva from October 29 to 30, 2018, of particular relevance for matters to be considered by the Administrative and Legal Committee (CAJ) at its seventy-fifth session, to be held in Geneva on October 31, 2018. Those developments are reported in the Annex to this document. The report of the TC is available in document TC/54/31 "Report".

[Annex follows]

Program for the development of TGP documents

CONCLUSIONS OF THE TECHNICAL COMMITTEE IN RELATION TO MATTERS
TO BE CONSIDERED BY THE ADMINISTRATIVE AND LEGAL COMMITTEE

AGENDA ITEM 4: TGP DOCUMENTS

TGP documents (document CAJ/75/2)

TGP/7: Development of Test Guidelines

1. The TC noted that the proposed revisions to document TGP/7 on “Drafter’s kit for Test Guidelines” and “Presentation of different types of example varieties”, agreed by the TC at its fifty-third session, would be proposed for adoption by the Council at its fifty-second ordinary session, to be held in Geneva on November 2, 2018, subject to approval by the CAJ, at its seventy-fifth session, to be held in Geneva on October 31, 2018, on the basis of document TGP/7/6 Draft 2.

TGP/5 Section 1: “Model administrative agreement for international cooperation in the testing of varieties”

2. The TC considered the proposed guidance on confidentiality of molecular information as set out in document TGP/5, Section 1/3 Draft 2: “Model administrative agreement for international cooperation in the testing of varieties”. The TC agreed with the TWPs that document TGP/5, Section 1, Articles 4 and 6 should be revised to read as follows:

“Article 4

“(1) The Authorities shall take all necessary steps to safeguard the rights of the applicant.

“(2) Except with the specific authorization of the Receiving Authority and the applicant, the Executing Authority shall refrain from passing on to a third person any material, including DNA, or molecular information, of the varieties for which testing has been requested.”

[...]

“Article 6

“Practical details arising out of this Agreement –regarding in particular the provisions relating to the considerations, application forms, technical questionnaires and requirements as to propagating material, testing methods, exchange of reference samples, exchange of molecular information, maintenance of reference collections and the presentation of the results– shall be specified in this Agreement or settled between the Authorities by correspondence.”

3. The TC noted that, subject to the agreement by the CAJ, at its session to be held on October 31, 2018, the proposed guidance on confidentiality of molecular information would be put forward for adoption by the Council, at its session in 2018.

Program for the development of TGP documents

4. The TC agreed the program for the development of TGP documents, as set out in the Appendix to this document.

AGENDA ITEM 8: JOINT PRESENTATION BY CIOPORA AND AIPH ON MINIMUM DISTANCE

Joint presentation by CIOPORA and AIPH on minimum distance (document CAJ/75/12)

5. The TC considered the agenda for its fifty-fourth session as presented in document TC/54/1 Rev. The TC agreed to postpone until its next session, to be held in 2019, the discussions session scheduled under item 15 [Discussion on minimum distance between varieties]. The TC adopted the agenda presented in document TC/54/1 Rev., with that amendment.

6. The TC considered discussions on minimum distances between varieties at the TWPs, at their sessions in 2017 and 2018, as set out in paragraphs 26 to 41 of document TC/54/3 "Matters arising from the Technical Working Parties".

7. The TC noted that a follow-up project based on field trials was being considered with the participation of breeders of protected varieties and agreed to include an agenda item for its fifty-fifth session for a report on developments.

AGENDA ITEM 10: VARIETY DENOMINATIONS

Variety denominations (documents CAJ/75/7 and CAJ/75/7 Add.)

8. The TC considered document TC/54/12.

9. The TC noted developments concerning a possible revision of document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention", as set out in document TC/54/12, paragraphs 6 to 10.

10. The TC noted that the WG-DEN, at its fourth meeting, had agreed that agenda item 4 "UPOV Denomination Similarity Search Tool" would be considered at a later meeting on the basis of the document presented at the second meeting.

11. The TC noted that the WG-DEN, at its fourth meeting, had agreed that agenda item 5 "Expansion of the content of the PLUTO database" would be considered at a later meeting on the basis of the document presented at the second meeting.

12. The TC noted that the WG-DEN, at its fourth meeting, had agreed that agenda item 6 "Non-acceptable terms" would be considered at a later meeting on the basis of the document presented at the second meeting.

13. The TC noted that the fifth meeting of the WG-DEN would be held in Geneva, on October 30, 2018.

14. The TC noted the agenda of the fifth meeting of the WG-DEN, as set out in document TC/54/12, paragraph 18.

AGENDA ITEM 11: INFORMATION AND DATABASES

Electronic application form (document CAJ/75/8)

15. The TC considered document TC/54/7 and received a presentation by the UPOV Office, a copy of which would be made available as an Addendum to document TC/54/7.

16. The TC noted that for UPOV members following the UPOV Test Guidelines, where there were no UPOV Test Guidelines for a particular crop/species, a generic TQ was available. Alternatively, UPOV members could link these crop/species to a suitable UPOV TG. It was explained that it would not be appropriate to use national TGs for such crops/species because of the high level of maintenance that would result, the translation burden and lack of harmonization. However, it would be possible for UPOV members participating in UPOV PRISMA to agree a common TQ and thereby to retain harmonization and minimize translation work.

17. The TC agreed that it would be helpful for the UPOV Office, upon request, to generate a report for participating authorities on the extent to which their forms were harmonized with other UPOV members and the UPOV model application form. The TC noted that this was a matter that should be reported to the CAJ.

UPOV information databases (document CAJ/75/9)

UPOV code developments

18. The TC noted that 440 new UPOV codes had been created in 2017 and that a total of 8,589 UPOV codes are included in the GENIE database.

19. The TC noted that the Office of the Union had introduced in GENIE new UPOV codes for 191 forest tree species requested by the Directorate-General for Health and Food Safety of the European Commission (DG SANTE) , as set out in document TC/54/6, paragraph 8.

20. The TC noted that DG SANTE had proposed the establishment of an administrative arrangement between the Office of the Union and the European Commission to cover collaboration in scientific names of plant species present in each other's databases and, in particular, regarding the attribution of UPOV codes to plant species in FOREMATIS, as set out in document TC/54/6, paragraph 9.

UPOV code amendments

UPOV code "ZEAAA_MAY_SAC", "ZEAAA_MAY_EVE" and "ZEAAA_MAY_MIC"

21. The TC considered the deletion of the UPOV Codes for the subspecies sweet corn and popcorn, following their reclassification as synonyms of maize by GRIN.

22. The TC noted the requests of the TWA, at its forty-seventh session, and the TWV, at its fifty-second session, and agreed not to delete the UPOV Codes for sweet corn and popcorn, therefore creating an exception to the "Guide to the UPOV Code System". It agreed that this exception should be presented in an amendment to the "Guide to the UPOV Code System"

Mucuna genus

23. The TC agreed to amend the UPOV codes for subspecies in the *Mucuna* genus, as follows:

Current			Proposal		
UPOV code	Principal botanical name	Other botanical names	UPOV code	Principal botanical name	Other botanical names
n.a.	n.a.	n.a.	MUCUN_PRU_UTI	<i>Mucuna pruriens</i> (L.) DC. var. <i>utilis</i> (Wall. ex Wight) Baker ex Burck	<i>Mucuna aterrima</i> (Piper & Tracy) Holland; <i>Mucuna cochinchinensis</i> (Lour.) A. Chev. ; <i>Mucuna deeringiana</i> (Bort) Merr. ; <i>Stizolobium deeringianum</i> Bort
MUCUN_PRU_ATE	<i>Mucuna aterrima</i> (Piper & Tracy) Holland.	n.a.	[to delete]	n.a.	n.a.
MUCUN_PRU_COC	<i>Mucuna cochinchinensis</i> (Lour.) A. Chev.	n.a.	[to delete]	n.a.	n.a.
MUCUN_PRU_DEE	<i>Mucuna deeringiana</i> (Bort) Merr.	<i>Stizolobium deeringianum</i> Bort	[to delete]	n.a.	n.a.

UPOV code for *Sesbania sesban*

24. The TC agreed to correct the UPOV Codes for *Sesbania sesban*, as follows:

Current			Proposal		
UPOV code	Principal botanical name	Other botanical name(s)	UPOV code	Principal botanical name	Other botanical name(s)
SENNA_SES	<i>Sesbania sesban</i> (L.) Merr.	n.a.	SESBA_SES	<i>Sesbania sesban</i> (L.) Merr.	n.a.

Brassica oleracea

25. The TC considered the proposal to amend the UPOV codes for *Brassica oleracea* and agreed that no changes should be implemented

26. The TC noted the opinion provided by the TWV, at its fifty-second session, and agreed not to delete the UPOV Codes for *Brassica oleracea*, therefore creating an exception to the “Guide to the UPOV Code System”. It agreed that this exception should be presented in an amendment to the “Guide to the UPOV Code System”.

UPOV codes for *Epichloe* species and *Neotyphodium* species

27. The TC considered the UPOV codes for *Epichloe* species and *Neotyphodium* species, in conjunction with the comments by the TWV, at its fifty-second session, and agreed the changes as follows:

Current			Proposal		
UPOV code	Principal botanical name	Other botanical name(s)	UPOV code	Principal botanical name	Other botanical name(s)
NEOTY	<i>Neotyphodium</i>	n.a.	EPICH	<i>Epichloe</i> (Fr.) Tul. & C. Tul.	<i>Neotyphodium</i> Glenn, C.W. Bacon & Hanlin; <i>Cordyceps</i> subgen. <i>Epichloe</i> Fr.
NEOTY_ACR	<i>Neotyphodium acremonium</i>	<i>Acremonium</i>	[to delete]	n.a.	n.a.
NEOTY_COE	<i>Neotyphodium coenophialum</i>	n.a.	EPICH_COE	<i>Epichloe coenophiala</i> (Morgan-Jones & W. Gams) C.W. Bacon & Schardl	<i>Acremonium coenophialum</i> Morgan-Jones & W. Gams; <i>Neotyphodium coenophialum</i> (Morgan-Jones & W. Gams) Glenn, C.W. Bacon & Hanlin; <i>Epichloe typhina sensu</i> Neill
NEOTY_LOL	<i>Neotyphodium lolii</i>	n.a.	[ELSIN_LOL]	<i>Elsinoe lolii</i> [once published in a Code compliant form]	<i>Neotyphodium lolii</i> (Latch, M.J. Chr. & Samuels) Glenn, C.W. Bacon & Hanlin
NEOTY_UNC	<i>Neotyphodium uncinatum</i> (W. Gams, Petrini & D. Schmidt) Glenn, C.W. Bacon & Hanlin	n.a.	EPICH_UNC	<i>Epichloe uncinata</i> (W. Gams, Petrini & D. Schmidt) Leuchtm. & Schardl	<i>Acremonium uncinatum</i> W. Gams, Petrini & D. Schmidt; <i>Neotyphodium uncinatum</i> (W. Gams, Petrini & D. Schmidt) Glenn, C.W. Bacon & Hanlin

PLUTO database

28. The TC noted the summary of contributions to the PLUTO database from 2014 to 2017 and the current situation of members of the Union on data contribution, as presented in document TC/54/6, Annex II.

29. The TC noted that the WG-DEN, at its fourth meeting, had agreed that matters under agenda item 5 “Expansion of the content of the PLUTO database” would be considered at its fifth meeting.

Exchange and use of software and equipment (document CAJ/75/10)

Document UPOV/INF/16 “Exchangeable Software”

Adoption of document UPOV/INF/16/7

30. The TC noted that the Council, at its fifty-first ordinary session, held in Geneva, on October 26, 2017, had adopted document UPOV/INF/16/7 “Exchangeable Software”.

Revision of document UPOV/INF/16/7

31. The TC agreed to propose a revision of document UPOV/INF/16/7 to incorporate the information on the use of GAIA software currently contained in document UPOV/INF/22/4, as presented in document UPOV/INF/16/8 Draft 1.

32. The TC noted that the comments of the TC, at its fifty-fourth session, concerning the use of software by members of the Union, would be reported to the CAJ at its seventy-fifth session, to be held in Geneva on October 31, 2018, and if agreed by the CAJ, a draft of document UPOV/INF/16/8 would be presented for adoption by the Council at its fifty-second ordinary session, to be held on November 2, 2018, on that basis.

Document UPOV/INF/22 “Software and equipment used by members of the Union”

Adoption of document UPOV/INF/22/4

33. The TC noted that the Council, at its fifty-first ordinary session, held in Geneva, on October 26, 2017, had adopted document UPOV/INF/22/4 “Software and equipment used by members of the Union”.

Revision of document UPOV/INF/22/4

34. The TC agreed to propose to include the information on the use of software by members of the Union, as presented in document UPOV/INF/22/5 Draft 1, in document UPOV/INF/22.

35. The TC noted that the proposals of the TC, at its fifty-fourth session, concerning the revision of document UPOV/INF/22 would be reported to the CAJ at its seventy-fifth session, and if agreed by the CAJ, a draft of document UPOV/INF/22/5 would be presented for adoption by the Council at its fifty-second ordinary session, to be held on November 2, 2018.

Availability in a searchable form

36. The TC recalled that, at its fifty-third session, it had agreed that the information in documents UPOV/INF/16 and UPOV/INF/22 should be made available in a searchable form on the UPOV website and that the Office of the Union would investigate a tool for that purpose.

37. The TC received a demonstration by the Office of the Union on how the information in documents UPOV/INF/16 and UPOV/INF/22 could be made available in a searchable format on the UPOV website and agreed that the approach demonstrated was a suitable basis.

AGENDA ITEM 12: MOLECULAR TECHNIQUES

Molecular techniques (document CAJ/75/11)

38. The TC considered documents TC/54/11 and TC/54/11 Add.

Developments at the Technical Working Parties in 2017

39. The TC noted the developments at the Technical Working Parties in 2017.

Developments at the sixteenth and seventeenth sessions of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular

Papers presented

40. The TC noted the papers presented under each of the agenda items of the sixteenth and seventeenth sessions of the BMT.

Review of document UPOV/INF/17 “Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction (‘BMT Guidelines’)”

41. The TC noted the proposal by the BMT to introduce a new chapter concerning cooperation in the exchange of data and construction of databases in document UPOV/INF/17.

42. The TC noted that the BMT, at its seventeenth session, had considered proposals for the revision of document UPOV/INF/17. The TC agreed with the proposal by the BMT for the European Union, France and the Netherlands to prepare a new draft of document UPOV/INF/17 for consideration at the eighteenth session of the BMT, as set out in document TC/54/11 Add., paragraph 45.

International guidelines on molecular methodologies including cooperation between the OECD, UPOV, ISTA and ISO

43. The TC noted that practical workshops on “DNA Techniques and Variety Identification” had been held in Roelofarendsveen, Netherlands, from May 8 to 10, 2017, and from September 20 to 22, 2017.

44. The TC noted that the BMT had agreed that consideration of possible harmonization of terms and methodologies used for different crops and the possible development of standards, might be advanced through a further international practical workshop, to be jointly coordinated by OECD, UPOV and ISTA and supported by Naktuinbouw and/or another partner with the relevant facilities, as set out in document TC/54/11, paragraph 23.

45. The TC noted that ISTA was not in a position to agree to the proposed joint activities with UPOV and OECD at the seventeenth session of the BMT, as set out in document TC/54/11 Add., paragraph 49. The TC agreed to invite ISTA to join the initiatives when in a position to do so.

46. The TC agreed that UPOV and OECD should make progress on the matters previously agreed by the TC, as set out in document TC/54/11 Add., paragraph 49, namely:

(a) to develop a joint document explaining the principal features of the systems of the OECD, UPOV and ISTA;

(b) to develop an inventory on the use of molecular marker techniques, by crop, with a view to developing a joint OECD/UPOV/ISTA document containing that information, in a similar format to UPOV document UPOV/INF/16 “Exchangeable Software”, subject to the approval of the Council and in coordination with OECD and ISTA; and

(c) the proposal for the BMT to develop lists of possible joint initiatives with OECD and ISTA in relation to molecular techniques for consideration by the TC.

47. The TC agreed to invite the BMT and the TWPs to develop an inventory on the use of molecular marker techniques, by crop, with a view to developing a joint OECD/UPOV/ISTA document containing that information, in a similar format to UPOV document UPOV/INF/16 “Exchangeable Software”.

48. The TC agreed to request the BMT to develop a joint document explaining the principal features of the systems of the OECD, UPOV and ISTA.

49. The TC noted the information provided by the representative of OECD that a joint ISTA/UPOV/OECD workshop was anticipated to be organized in conjunction with the ISTA Seed Congress to be held in India in 2019.

Report of work on molecular techniques in relation to DUS examination

50. The TC agreed that the following text from document UPOV/INF/18/1 should be introduced in document TGP/15 to clarify that it was the responsibility of the authority to decide on the reliability of the link between the gene and the expression of the characteristic:

“3.1.4 In considering the model and example, as presented in Annex 1 of this document, the TC emphasized the importance of meeting the assumptions. In that regard, it clarified that it is a matter for the relevant authority to consider if the assumptions are met (see document TC/45/16 “Report”, paragraph 152).”

51. The TC considered the proposal by the BMT and agreed to include an explanation in document TGP/15 that it would be the responsibility of the respective TWP and the TC to assess whether the reliability of the link between the gene and the expression of the characteristic was satisfied in order to include a method in the Test Guidelines.

52. The TC noted that the BMT, at its seventeenth session, had considered document BMT/17/21 “Do resistance markers for tomato fulfil the requirements of TGP/15” and received a presentation by Ms. Amanda van Dijk-Veldhuizen (Netherlands), a copy of was provided as document BMT/17/21 Add..

53. The TC agreed with the proposal by the BMT that a new example be added to document TGP/15 to illustrate a situation where the characteristic-specific marker did not provide complete information on the state of expression of a characteristic, on the basis of the proposal by the Netherlands presented in document BMT/17/21. The TC agreed to invite the experts from the Netherlands to prepare a proposal to be presented to the TWPs and BMT and agreed that the resultant proposal should be presented to the TC, at its fifty-fifth session.

The use of molecular techniques in variety identification

54. The TC noted the offer from Mr. Barry Nelson (Corteva™ Agriscience) to explore the possibility to make available to others for further development a software tool for marker selection using the “traveling salesman” algorithm, as set out in document TC/54/11 Add., paragraph 53.

55. The TC noted that further developments on this matter would be reported to the BMT at its eighteenth session.

Session to facilitate cooperation

56. The TC noted that discussion groups had been formed at the sixteenth session of the BMT for: agricultural crops; fruit crops; ornamental plants and forest trees; and vegetables, for BMT participants to exchange information on their work and explore areas for cooperation.

57. The TC noted that, at the seventeenth session of the BMT, discussion groups had been formed for: maize and soybeans; other agricultural crops; fruit crops and forest trees; ornamental plants; and vegetables, for BMT participants to exchange information on their work and explore areas for cooperation.

58. The TC noted that the BMT had plans to discuss, at its eighteenth session, issues concerning cooperation between partners and service providers, including confidentiality, access to data and material, authorization for work to be performed and availability of results and information to partners.

59. The TC agreed that the results of the coordination session in the BMT be reported to the other Technical Working Parties (TWPs). The TC agreed to invite the TWPs to undertake a similar session to build on the BMT outcomes and feed into the future work of the BMT. The TC agreed that discussion groups should be formed for the main crops at each TWP to allow participants to exchange information on their work and explore areas for cooperation.

60. The TC further agreed that the discussion groups could also consider issues concerning cooperation in DUS examination, to explore technical concerns that prevented cooperation and to consider how to overcome the technical concerns raised, as discussed under agenda item 7 “Cooperation in Examination.

[Appendix follows]

Program for the development of TGP documents

Title of document	Current approved documents	2018					2019					2020				
		TC-EDC	TWPs	TC/55	CAJ/75	C/52	TC-EDC	TWPs	TC/55	CAJ/76	C/53	TC-EDC	TWPs	TC/56	CAJ/77	C/54
TGP/0	List of TGP Documents and Latest Issue Dates	TGP/0/9 ADOPTED														TGP/0/11 Adopt
TGP/1	General Introduction with Explanations	-														
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/2 ADOPTED														
TGP/3	Varieties of Common Knowledge	C(Extr.)/19/2 Rev.														
TGP/4	Constitution and Maintenance of Variety Collections	TGP/4/1 ADOPTED														
TGP/5	Experience and Cooperation in DUS Testing	ADOPTED														
	Confidentiality of molecular information (Drafter: Office of the Union)	TGP/5 SECTION 1/2	TC-EDC/Mar18/10			x		TGP/5 S.1/3 Adopt								
TGP/6	Arrangements for DUS Testing	ADOPTED														
TGP/7	Development of Test Guidelines	TGP/7/4 ADOPTED														
	Drafter's Kit for Test Guidelines (Drafter: Office of the Union)		TC-EDC/Mar18/10			x		TGP/7/6 Adopt								
	Duration of tests (Drafter: Office of the Union)		TC-EDC/Mar18/12	TWP/2/9	TC/54/14				x	x	x	x				TGP/7/7 Adopt
	Characteristics which only apply to certain varieties (Drafter: Office of the Union)		TC-EDC/Mar18/13		TC/54/15				x	x	x	x				TGP/7/7 Adopt
	Procedure for the adoption of Test Guidelines by correspondence (Drafter: Office of the Union)		TC-EDC/Mar18/10		TC/54/16				x	x	x	x				TGP/7/7 Adopt
TGP/8	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability	TGP/8/2 ADOPTED														
	Method of Calculation of COYU (Drafter: Adrian Roberts (GB))		TC-EDC/Mar18/14	TWC/36/4	TC/54/17				x	x	x		x	x	x	TGP/8/5 Adopt
	Examining DUS in Bulk Samples (Drafter: Office of the Union)								x	x	x	x				TGP/8/4 Adopt
	Data Processing for the Assessment of Distinctness and for Producing Variety Descriptions (Drafter: Office of the Union)		TC-EDC/Mar18/15	TWC/36/2	TC/54/18				x	x	x	x				TGP/8/5 Adopt
	Uniformity assessment on the basis of off-types: Method for more than one single test (year) (Drafter: Office of the Union)		TC-EDC/Mar18/16	TWP/2/10	TC/54/19				x	x	x	x				TGP/8/5 Adopt
TGP/9	Examining Distinctness	TGP/9/2 ADOPTED														
TGP/10	Examining Uniformity	TGP/10/1 ADOPTED														
	Assessing Uniformity by Off-types on the Basis of More than One Growing Cycle or on the Basis of Sub-Samples (Drafter: Office of the Union)		TC-EDC/Mar18/17	TWC/36/7	TC/54/20				x	x	x	x				TGP/10/2 Adopt
TGP/11	Examining Stability	TGP/11/1 ADOPTED														
TGP/12	Guidance on Certain Physiological Characteristics	TGP/12/2 ADOPTED														
TGP/13	Guidance for New Types and Species	TGP/13/1 ADOPTED														
TGP/14	Glossary of Terms Used in UPOV Documents	TGP/14/3 ADOPTED														
	Illustrations for shape and ratio characteristics (Drafter: Office of the Union)		TC-EDC/Mar18/18	TWP/2/11	TC/54/21				x	x	x	x				TGP/14/4 Adopt
	UPOV color groups (Drafter: Andrea Menne (DE))		TC-EDC/Mar18/19	TWP/2/112	TC/54/22				x	x	x	x				TGP/14/4 Adopt
TGP/15	Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)	TGP/15/1 ADOPTED														
	Combining Phenotypic and Molecular Distances in the Management of Variety Collections (Drafter: René Mathis (FR))		TC-EDC/Mar18/10	TWA	TC/54/11 Add.											
	Genetic selection of similar varieties for the first growing cycle (Drafter: Amanda van Dijk (NL))		TC-EDC/Mar18/10	TWV	TC/54/23				x	x	x	x				TGP/15/2 Adopt
	New example: Characteristic-specific marker with incomplete information on state of expression (Drafter: Amanda van Dijk (NL))				TC/54/11 Add.				x	x	x	x				TGP/15/2 Adopt