

Administrative and Legal Committee

CAJ/78/2

**Seventy-Eighth Session
Geneva, October 27, 2021**

Original: English
Date: October 26, 2021

REPORT ON DEVELOPMENTS IN THE TECHNICAL COMMITTEE

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. The purpose of this document is to report on developments in the Technical Committee (TC) at its fifty-seventh session, held in Geneva on October 25 and 26, 2021, of relevance for the Administrative and Legal Committee (CAJ).
2. Matters in this document are reported for information purposes are not for consideration by the CAJ under any of the agenda items of its seventy-eight session.
3. The report of the TC is available in document TC/57/25 "Report".
4. The CAJ is invited to note developments at the fifty-seventh session of the Technical Committee, as reported in this document.
5. The structure of this document is as follows:

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6. The following abbreviations are used in this document:

BMT:	Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular
CAJ:	Administrative and Legal Committee
TC:	Technical Committee
TC-EDC:	Enlarged Editorial Committee
TWA:	Technical Working Party for Agricultural Crops
TWC:	Technical Working Party on Automation and Computer Programs
TWF:	Technical Working Party for Fruit Crops
TWM:	Technical Working Party
TWO:	Technical Working Party for Ornamental Plants and Forest Trees
TWV:	Technical Working Party for Vegetables
TWPs:	Technical Working Parties

DEVELOPMENT OF GUIDANCE AND INFORMATION MATERIALS

Matters for adoption by the Council in 2021

7. The TC noted that document TC/57/4 Rev. had been considered by correspondence (see document TC/57/25 "Report", paragraphs 15 to 18).

8. The TC noted that decisions on document TC/57/4 Rev. had been taken and the following documents had been approved by the TC by correspondence as provided in document TC/57/14, paragraphs 10 to 20:

UPOV/INF/16:	Exchangeable Software (Revision) (on the basis of document UPOV/INF/16/10 Draft 2)
UPOV/INF/17:	Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction ("BMT Guidelines") (Revision) (on the basis of document UPOV/INF/17/2 Draft 6)
UPOV/INF/22:	Software and Equipment Used by Members of the Union (Revision) (on the basis of document UPOV/INF/22/8 Draft 2)
UPOV/INF/23:	UPOV Code System (on the basis of document UPOV/INF/23/1 Draft 3)

9. The TC noted that comments on document UPOV/INF/23 had been received from the European Union in response to Circular E-21/122 of August 23, 2021, which had not resulted in a revision of the document.

10. The TC noted the report from the Office of the Union that the documents above had been approved by the CAJ and adopted by the Council on September 21, 2021, in the procedure by correspondence (see documents CAJ/78/12 “Outcome of consideration of documents by correspondence”, paragraph 35; and C/55/12 “Outcome of consideration of documents by correspondence”, paragraph 32).

Possible future revisions of guidance and information materials

11. The TC considered documents TC/57/5 and TC/57/5 Add.

(a) *Information documents*

Document UPOV/INF/12 “Explanatory Notes on Variety Denominations under the UPOV Convention”

Proposal to revise the denomination Class 201

12. The TC considered a proposal to revise document UPOV/INF/12/5, Annex I, Part II “Classes encompassing more than one genus” and agreed to propose the inclusion of genus *xTrititrigia* in the variety denomination Class 201, as follows (see document TC/57/25 “Report”, paragraph 34):

LIST OF CLASSES (Part II)

Classes encompassing more than one genus

	Botanical names	UPOV codes
Class 201	<i>Secale, Triticale, Triticum, xTrititrigia</i>	SECAL; TRITL; TRITI; <u>TRITI</u>

UPOV codes for Beta vulgaris

13. The TC agreed to amend the UPOV codes for *Beta vulgaris* L. subsp. *vulgaris*, as reproduced in Annex I to document TC/57/11 (see document TC/57/25 “Report”, paragraphs 71 to 73).

14. The TC agreed to append information to UPOV codes for *Beta vulgaris* L. subsp. *vulgaris* to establish the following groups:

- (i) Fodder beet group: Class 2.1 (“21FB”),
- (ii) Sugar beet group: Class 2.1 (“21SB”),
- (iii) Beetroot group: Class 2.2 (“22BR”),
- (iv) Leaf beet group: Class 2.2 (“22LB”).

15. The TC agreed that information on denomination classes in document UPOV/INF/12 would need to be updated as follows:

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 2.1	<i>B. vulgaris</i> L. ssp. <i>vulgaris</i> (synonym to <i>B. vulgaris</i> L. var. <i>alba</i> DC.), <i>B. vulgaris</i> L. ssp. <i>vulgaris</i> (synonym to <i>B. vulgaris</i> L. var. <i>altissima</i>)	BETAA_VUL_VUL_21FB; BETAA_VUL_VUL_21SB
Class 2.2	<i>Beta vulgaris</i> ssp. <i>vulgaris</i> var. <i>conditiva</i> Alef. (synonym to <i>B. vulgaris</i> L. var. <i>rubra</i> L.), <i>B. vulgaris</i> L. var. <i>cicla</i> L., <i>B. vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>vulgaris</i>	BETAA_VUL_VUL_22BR; BETAA_VUL_VUL_22LB
Class 2.3	<i>Beta</i> other than classes 2.1 and 2.2.	other than classes 2.1 and 2.2

Document UPOV/INF/23 “UPOV Code System”

16. The TC considered a proposal to clarify the maximum number of characters to be used in the appended element to UPOV codes, as set out in document UPOV/INF/23 “UPOV Code System”, and agreed to request the Office of the Union to develop a proposal for consideration by the TWPs and the TC, at their sessions in 2022 (see document TC/57/25 “Report”, paragraphs 35).

(b) *TGP documents*

Document TGP/5 Section 6: UPOV Report on Technical Examination and UPOV Variety Description

Testing facility and location

17. The TC agreed to revise document TGP/5 Section 6, chapters “UPOV Report on Technical Examination” and “UPOV Variety Description”, to read as follows (see document TC/57/25 “Report”, paragraph 22):

- Chapter: UPOV Report on Technical Examination

13. Testing station facility(ies) and place location(s)

[...]

16. Date and document number of UPOV Test Guidelines

17. Date and/or document number of Reporting Authority’s test guidelines

- Chapter: UPOV Variety Description

Item 11 to read “Testing station facility(ies) and place location(s)”

Document TGP/8: Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (Revision)

Data processing for the production of variety descriptions for measured quantitative characteristics

18. The TC considered documents TC/57/6 and TC/57/6 Add. (see document TC/57/25 “Report”, paragraphs 26 to 28).

19. The TC agreed to include guidance on “Different forms that variety descriptions could take and the relevance of scale levels” in document TGP/8 Part I Section 2 “Data to be recorded” as new Section 2.5, as set out in the Annex to document TC/57/6.

20. The TC agreed to invite members of the Union to propose the inclusion of software incorporating their methods for converting observations into notes in document UPOV/INF/16 or document UPOV/INF/22, as appropriate, with a reference to the availability of such methods in document TGP/8 Part I, new Section 2.5.

Document TGP/12 ‘Guidance on certain physiological characteristics’

Use of disease resistance characteristics

21. The TC agreed to amend document TGP/12/2, Section 2.3.2, to replace state of expression “moderately resistant” by “intermediate” in the example of disease resistance characteristic with ‘1-3’ scale, to read as follows (see document TC/57/25 “Report”, paragraphs 44 and 45):

“Example with “1–3” scale: Resistance to *Sphaerotheca fuliginea* (*Podosphaera xanthii*)
“(Powdery mildew) in Melon (UPOV Test Guidelines: TG/104/5)

	English	Example Varieties	Note
70. VG	Resistance to <i>Sphaerotheca fuliginea</i> (<i>Podosphaera xanthii</i>) (Powdery mildew)		
(+)			
70.1	Race 1		
QN	susceptible	[...]	1
	moderately resistant intermediate	[...]	2
	highly resistant	[...]	3

22. The TC noted that the word “highly” was only used for the resistant state of expression and agreed to invite the TWV to consider the example further.

Program for the development of relevant information materials

23. The TC agreed the program for the development of TGP documents and relevant information materials, on the basis of Annexes I and II to document TC/57/5 and its conclusions at the session (see document TC/57/25 “Report”, paragraphs 46 and 47).

24. The TC noted that the program for the development of TGP documents and information materials would be considered by the Administrative and Legal Committee, at its seventy-eighth session, to be held in Geneva on October 27, 2021, in conjunction with the conclusions of the TC at its fifty-seventh session.

COOPERATION IN EXAMINATION

25. The TC considered document TC/57/9 (see document TC/57/25 “Report”, paragraphs 54 to 60).

26. The TC noted that members of the Union had the possibility to update information on a person(s) to be contacted for matters concerning international cooperation in DUS examination by:

(i) updating information when invited to provide information for document TC/[xx]/4 “List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability”; and/or

(ii) notifying the Office of the Union by sending an e-mail to upov.mail@upov.int

27. The TC noted the development of a package of compatible IT tools to address the technical and related administrative concerns that prevent cooperation in DUS examination, as reported in paragraphs 9 to 14 of document TC/57/9.

28. The TC noted that the development of a platform for UPOV member databases containing variety description information would depend on UPOV members indicating which databases they would wish to share.

29. The TC noted that the use of machine translation technology would be considered within a review of UPOV’s policy on translation.

30. The TC noted that the CAJ, at its seventy-eighth session would consider:

(i) the policy or legal barriers identified by the TC as preventing international cooperation in DUS examination and possible measures to address those barriers; and

(ii) proposals for developing guidance to encourage members of the Union, on a voluntary basis, to take-over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues.

31. The TC noted that the impact of the proposed measures would be assessed on the basis of the number of cooperation agreements reported by members of the Union, as presented in document C/[xx]/INF/5 "Cooperation in examination".

UPOV INFORMATION DATABASES

32. The TC considered document TC/57/11 (see document TC/57/25 "Report", paragraphs 67 to 70 and 74 to 82).

Amending the UPOV code system to provide information on variety groups or types

33. The TC noted that the TWPs, at their sessions in 2021, had agreed with the proposal for amending the UPOV code system, as set out in document UPOV/INF/23/1 Draft 2.

Proposals for amending UPOV codes

34. The TC noted that the proposals for amending UPOV codes presented in document TC/57/11 were made on the basis that they would be made in conjunction with the adoption of document UPOV/INF/23/1.

35. The TC noted that members of the Union and contributors of data to the PLUTO database would be informed of the changes to UPOV codes and the date of the changes by means of a circular in advance.

UPOV codes for Brassica oleracea

36. The TC agreed to amend the botanical names for *Brassica oleracea* in accordance with GRIN, with the consequent changes to the UPOV codes in relation to groups, as provided in the Appendix to Annex II of document TC/57/11.

37. The TC agreed appending information to the UPOV code for *Brassica oleracea* L. var. *capitata* L. (BRASS_OLE_GC) to create variety groups or types for White and Red Cabbage, as follows:

- (i) White Cabbage: 1W (e.g. BRASS_OLE_GC_1W)
- (ii) Red Cabbage: 2R (e.g. BRASS_OLE_GC_2R)

UPOV codes for Citrus

38. The TC agreed to append information to UPOV code CITRU_AUM to create groups "1MA" for mandarins; and "2OR" for oranges.

39. The TC agreed to amend the UPOV code CITRU_AUM, following the reclassification of *Citrus clementina* hort. ex *Tanaka* (UPOV code: CITRU_CLE) as a synonym of *Citrus aurantium* L. (UPOV code: CITRU_AUM), as set out in Annex III to document TC/57/11.

40. The TC agreed with the proposal from the TWF for partial revision of the Test Guidelines for Citrus to move obsolete species from the "principle botanical names" box to the "alternative botanical names".

UPOV codes ZEAAA_MAY_SAC, ZEAAA_MAY_EVE and ZEAAA_MAY_MIC

41. The TC agreed to delete the UPOV Codes ZEAAA_MAY_SAC, ZEAAA_MAY_EVE and ZEAAA_MAY_MIC, that would be covered by the UPOV code ZEAAA_MAY_MAY.

42. The TC agreed to append information on variety types or groups to the UPOV code ZEAAA_MAY_MAY to establish the following variety types or groups:

- (i) Corn; Maize: "1MA",
- (ii) Sweet Corn: "2SW",
- (iii) Popcorn: "3PO".

Additional proposals for amending UPOV codes considered by the TWPs in 2021

UPOV code for Aloe aristata

43. The TC agreed to delete the UPOV Code ALOEE_ARI, as set out in paragraph 37 of document TC/57/11.

UPOV code for Dicentra species

44. The TC agree to delete the UPOV Code DICEN_SPE, as set out in paragraph 41 of document TC/57/11.

MOLECULAR TECHNIQUES

45. The TC considered document TC/57/8 by correspondence. The TC noted that decisions on document TC/57/8 had been taken by the TC by correspondence as provided in document TC/57/14, paragraphs 21 to 24, and reproduced below (see document TC/57/25 "Report", paragraphs 48 to 53):

"21. The TC considered document TC/57/8.

"22. The TC noted that on October 16, 2020, the Office of the Union issued Circular E-20/189 inviting members to complete the survey on the use of molecular marker techniques, by December 15, 2020, and noted the results of the survey on the use of molecular marker techniques by members, per crop as set out in the Annex I to document TC/57/8.

"23. The TC requested the Office of Union to inform OECD of the result of the survey and to report on the developments at the TC, at its fifty-eighth session.

"24. The TC approved the draft joint document explaining the principal features of the systems of OECD, UPOV and ISTA, as set out in Annex II to document TC/57/8 and to inform OECD and ISTA accordingly."

46. The TC noted that comments had been received from the European Union in response to Circular E-21/122 of August 23, 2021, that had not resulted in a revision of the document

47. The TC considered document TC/57/8 Add..

Cooperation between international organizations

Lists of possible joint initiatives with OECD and ISTA in relation to molecular techniques

48. The TC agreed to propose the following topics for a future joint UPOV/OECD/ISTA workshop:

- (i) providing information on the use of molecular techniques in each organization;
- (ii) procedure for approval of biochemical and molecular methods in each organization; and
- (iii) possibilities for harmonizing terms, definitions and methods between UPOV, OECD and ISTA.

49. The TC agreed to request the Office of the Union to contact OECD and ISTA to explore suitable dates for a future joint workshop, such as in conjunction with the first session on the TWM, to be held in September 2022.

50. The TC agreed to continue the survey on the use of molecular markers to obtain information from a greater number of members and to investigate the reasons for members not responding to the first survey.

INCREASING PARTICIPATION IN THE WORK OF THE TC AND THE TWPS

51. The TC considered document TC/57/10 (see document TC/57/25 "Report", paragraphs 61 to 66).

Participation at the TC and TWP meetings by electronic means

52. The TC noted the participation at the TWP sessions in 2021, as presented in Annex I to document TC/57/10.

Possible measures for physical and virtual participation at TWP meetings

53. The TC noted the comments by the TWPs, at their sessions in 2021, on possible measures for physical and virtual participation at TWP meetings, as presented in Annex II to document TC/57/10.

Proposals for increasing participation in the work of the Technical Working Parties

54. The TC agreed the following measures for physical and virtual participation at TWP meetings, as set out in paragraphs 11 to 13 of document TC/57/10:

(a) Virtual preparatory workshops prior to the TWPs

- The virtual preparatory workshops would be organized as a series of webinars.
- The content of the virtual preparatory workshops would be agreed by the TC under agenda item "Preparatory Workshops".
- The content would be organized according to themes (e.g. drafting of Test Guidelines, molecular techniques in DUS testing, DUS testing methods, image analysis).
- Arrangements for the webinars would be finalized by the Office of the Union in coordination with the chairpersons of the TC and TWPs (e.g. dates, number of webinars required to cover content, speakers and panelists).
- The virtual preparatory workshops would replace the preparatory workshops held before each individual TWP. The series of webinars would open for experts from all TWPs.
- The webinars would be recorded and maintained online until replaced by an updated version. The Office of the Union would organize a webpage to host the videos (e.g. UPOV YouTube channel).

(b) Comments and questions on TWP meeting documents to be provided in advance of the sessions

- Participants would be invited to provide written comments on meeting documents in advance of the sessions, in the same way as in 2020 and 2021.
- The compilation of written comments would be circulated to registered participants one week prior to the session.
- Comments received in advance would be included in the discussions on the respective agenda item during the session.

(c) Alternating one year of physical meeting with one year of virtual meeting

- The TWP sessions would be scheduled one year as a virtual meeting and the following year as a physical meeting (e.g. 2023: virtual; 2024: physical).
- There would be at least two virtual TWP meetings in a calendar year, thereby ensuring that experts would be able to participate electronically in all discussions on Test Guidelines, TGP and TWP documents.

- Technical visits via virtual means: there would be an open invitation for any UPOV member to make a presentation on aspects of their testing systems through presentations, videos or live online demonstrations (e.g. DUS examination for particular crops, testing procedures, image analysis, trial layout).
- The timing of a particular virtual TWP session would be discussed by the TWP when planning the agenda for the forthcoming session.

(d) Electronic participation at physical TWP sessions

- The TWP host or the Office of the Union should provide a meeting platform for electronic participation in Test Guidelines subgroup meetings at physical TWP sessions. This measure should enable participation of crop experts otherwise not attending TWP sessions.
- The hosts of TWP physical meetings should participate in deciding how to organize virtual participation in Test Guidelines subgroup discussions.

(e) Technical Working Party on Testing Methods and Techniques (TWM)

- The TWM will meet electronically in 2022 and will assess the need to meet physically in the future, according to the range of topics to be covered.

(f) Reporting and review of measures

55. The TC agreed to invite the Office of the Union to report on the measures adopted for review and consideration by the TC, at its fifty-eighth session.

56. The TC agreed to request the Office of the Union to conduct a survey on the needs of members and observers in relation to TWPs and report to the TC at its fifty-eighth session.

57. The CAJ is invited to note developments at the fifty-seventh session of the Technical Committee, as reported in this document.

[Annexes follow]

ANNEX II – PROGRAM FOR THE DEVELOPMENT OF RELEVANT INFORMATION MATERIALS

	Title of document	Current approved documents	2021					2022					2023				
			TC-EDC	TWPs	TC/57	CAJ/78	C/55	TC-EDC	TWPs	TC/58	CAJ/79	C/56	TC-EDC	TWPs	TC/59	CAJ/80	C/57
C(Extr.)/19/2 Rev.	The Notion of Breeder and Common Knowledge	C(Extr.)/19/2 Rev. ADOPTED															
INF/5	UPOV Model Plant Breeders' Rights Publication	INF/5/2 ADOPTED															
INF/12	Explanatory Notes on Variety Denominations under the UPOV Convention	INF/12/5 ADOPTED				CAJ/78/11	EXN/DEN/1 Adopt										
	Inclusion of <i>x Trititrigia</i> in class 201 (Drafter: Office of the Union)			TWP/5/6	TC/57/5						X	EXN/DEN/2 Adopt					
	Updating UPOV Codes for Beta (Drafter: Office of the Union)			TWP/5/4	TC/57/5						X	EXN/DEN/2 Adopt					
INF/16	Exchangeable Software	INF/16/9 ADOPTED		TWP/5/5	TC/57/5	CAJ/78/3	INF/16/10 Adopt	X	X	X	X	INF/16/11 Adopt		X	X	X	INF/16/12 Adopt
INF/17	Guidelines for DNA-Profiling: Molecular Marker Selection and Database Construction ("BMT Guidelines")	INF/17/1 ADOPTED		TWP/5/5	TC/57/5	CAJ/78/3	INF/17/2 Adopt										
INF/18	Possible use of Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)	INF/18/1 ADOPTED															
INF/22	Software and equipment used by members of the Union	INF/22/7 ADOPTED		TWP/5/5	TC/57/5	CAJ/78/3	INF/22/8 Adopt		X	X	X	INF/22/9 Adopt		X	X	X	INF/22/10 Adopt
INF/23	UPOV Code System	New		TWP/5/5	TC/57/5	CAJ/78/3	INF/23/1 Adopt										
	Appended element: Maximum number of characters (Drafter: Office of the Union)								X	X			X			X	INF/23/2 Adopt

[End of Annex II and of document]