

Administrative and Legal Committee

CAJ/79/2

**Seventy-Ninth Session
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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-eighth session, held in Geneva on October 24 and 25, 2022, of relevance for the Administrative and Legal Committee (CAJ).
2. The report of the TC is available in document TC/58/31 "Report".
3. The CAJ is invited to note developments at the fifty-eighth session of the TC, as reported in this document.
4. The structure of this document is as follows:

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5. 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 on Testing Methods and Techniques
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 2022

6. The TC considered document TC/58/4.

Information Materials

Revision of document UPOV/INF/16 “Exchangeable Software” (document UPOV/INF/16/11 Draft 1)

7. The TC considered the proposed revision of document UPOV/INF/16 “Exchangeable Software” on the basis of document UPOV/INF/16/11 Draft 1 and agreed with the recommendation from the TWM, at its first session, to propose including the PATHOSTAT application in document UPOV/INF/16, as follows:

“(d) DUS trial design and data analysis”

Date added	Program name	Programming language	Function (brief summary)	Source & contact details	Condition for supply	UPOV member(s) using the software	Application by user(s)
	PATHOSTAT	Excel	Decision support tool to integrate statistics for the analysis of pest resistance test results for vegetable species	France: Ms. Sophie Perrot e-mail: sophie.perrot@geves.fr and PATHOSTAT (geves.fr)	Available as a web service / not for download	FR	Vegetable species

8. The TC noted that, subject to agreement by the CAJ, an agreed draft of document UPOV/INF/16 would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraphs 13 and 14).

Revision of document UPOV/INF/22 “Software and Equipment Used by Members of the Union” (document UPOV/INF/22/9 Draft 1)

9. The TC agreed with the proposed revision of document UPOV/INF/22 “Software and Equipment Used by Members of the Union” on the basis of document UPOV/INF/22/9 Draft 1.

10. The TC noted that, subject to agreement by the CAJ, an agreed draft of document UPOV/INF/22 would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraphs 15 and 16).

Explanatory Notes

Explanatory Notes on Variety Denominations under the UPOV Convention (document UPOV/EXN/DEN)

11. The TC noted that, subject to agreement by the CAJ, the proposed revision of document UPOV/EXN/DEN/1 for including the genus “*xTrititrigia*” in variety denomination Class 201 would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraph 17).

TGP Documents

TGP/5: Experience and Cooperation in DUS Testing, Section 6: UPOV Report on Technical Examination and UPOV Variety Description (Revision) (document TGP/5: Section 6/4 Draft 1)

12. The TC noted that, subject to agreement by the CAJ, an agreed draft of document TGP/5: Section 6 would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraph 18).

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

13. The TC noted that, subject to agreement by the CAJ, the proposed revision of document TGP/8/4 for including guidance on “Different forms that variety descriptions could take and the relevance of scale levels” would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraph 19).

TGP/12: Guidance on Certain Physiological Characteristics (Revision)

14. The TC noted that, subject to agreement by the CAJ, the proposed revision of document TGP/12/2 to replace state of expression “moderately resistant” by “intermediate resistant” in the example of disease resistance characteristic with ‘1-3’ scale would be presented for adoption by the Council in 2022 (see document TC/58/31 “Report”, paragraph 20).

MOLECULAR TECHNIQUES

15. The TC considered documents TC/58/7.

Cooperation between international organizations

16. The TC noted the results of the surveys on the use of molecular marker techniques by members, per crop, as set out in the Annex to document TC/58/7.

17. The TC noted the draft joint document explaining the principal features of the systems of OECD, UPOV and ISTA.

18. The TC recalled the topics it had previously agreed for a future joint UPOV/OECD/ISTA workshop, as set out in document TC/58/7, paragraph 17, as follows:

- (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.

19. The TC noted the information from OECD and ISTA that there had been no significant developments to discuss at this time and that it would be advisable to plan a joint workshop in 2023, at the earliest.

20. The TC agreed that the Office of the Union should explore possibilities with OECD and ISTA to further elaborate the draft joint document explaining the principal features of the systems of OECD, UPOV and ISTA in relation to the use of molecular techniques (see document TC/58/31 “Report”, paragraphs 42 to 46).

Session to facilitate cooperation in relation to the use of molecular techniques

21. The TC noted the reports from the TWPs on the organization of discussion groups at their sessions in 2022. The TC agreed that the chairpersons should have flexibility to consider whether to organize discussion groups during TWP sessions to allow participants to exchange information on their work and explore areas for

cooperation on the use of biochemical and molecular techniques in DUS examination (see document TC/58/31 "Report", paragraph 47).

Confidentiality & ownership of molecular information

22. The TC noted discussions held at the TWPs, at their sessions in 2022, on "Confidentiality & Ownership of Molecular Information".

23. The TC noted the concerns expressed by breeders' organizations at the TWMs that molecular information provided for the examination of a variety should not be provided to others outside the authority that received the application without the permission of the breeder.

24. The TC agreed to invite members and observers to report existing policies on confidentiality of molecular information at the TWPs, at their sessions in 2023 (see document TC/58/31 "Report", paragraphs 48 to 50).

INTERNATIONAL COOPERATION IN EXAMINATION

25. The TC considered document TC/58/8.

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 (e-PVP) as reported in document TC/58/8 paragraphs 9 to 13.

28. The TC noted that e-PVP Asia was planned to be launched in early 2023.

29. The TC noted that there had been no developments concerning databases containing variety description information that members of the Union wished to list in a UPOV platform.

30. The TC noted that matters concerning a proposal on the revision of the GENIE database were presented in document TC/58/18 "Survey on the needs of members and observers in relation to the TWPs";

31. The TC noted that the CAJ, at its seventy-ninth session would be invited to consider:

(i) the proposed questions for the survey of members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination;

(ii) the information provided by breeders' organizations to clarify the issues concerning the wish of breeders to use, or not to use, existing DUS reports; and

(iii) whether to postpone the development of explanatory notes of Article 12 of the UPOV Convention ("Examination of the Application") until information from the survey of members of the Union and from breeders' organizations is available and considered by the CAJ; and

32. 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".

33. The TC noted the explanation provided by the Office of the Union that it could be envisaged that a fee would be charged for using the DUS exchange platform and that it would be a matter for decision by the members in relation to information to be uploaded to the platform (see document TC/58/31 "Report", paragraphs 51 to 59).

INCREASING PARTICIPATION OF NEW MEMBERS OF THE UNION IN WORK OF THE TC AND THE TWPS

The TC considered document TC/58/18.

Results of the survey

34. The TC noted the report of the interviews of UPOV members and observers on ways in which UPOV could improve its support for DUS examination, as presented in Annex III to document TC/58/18.

35. The TC noted the summary of issues identified by participants in the interviews (see document TC/58/31 "Report", paragraphs 60 and 61).

Options to address issues raised

36. The TC noted the initiatives proposed to address the issues raised and needs identified by participants in the interviews.

37. The TC noted there were concerns raised by members in relation to the proposals that would require further discussion and clarification.

38. The TC agreed to establish a Working Group with the following terms of reference:

"TERMS OF REFERENCE OF THE "WORKING GROUP ON DUS SUPPORT (WG-DUS)

"PURPOSE:

"The purpose of the WG-DUS is to make recommendations to the Technical Committee at its fifty-ninth session on the proposals presented in TC/58/18 "Survey on the needs of members and observers in relation to TWPs".

"COMPOSITION:

"(a) the following members of the Union and observers that expressed an interest to be part of the WG-DUS: Argentina; Australia, Belarus, Brazil; Canada, Chile, China, Czech Republic, European Union, France, Germany, Ghana, Hungary, Japan, Kenya, Morocco, Netherlands, New Zealand; Republic of Korea; Romania, Slovakia, South Africa, Spain, United Kingdom, United Republic of Tanzania, United States of America, CIOPORA, CropLife International, ISF and SAA.

"(b) other members of the Union would be free to participate at any meeting of the WG-DUS; and

"(c) meetings to be chaired by the Vice Secretary-General

"MODUS OPERANDI:

"(a) The WG-DUS to:

- (i) draft recommendations on the proposals presented in TC/58/18 "Survey on the needs of members and observers in relation to TWPs", including the possibility to present new proposals that would address the issues identified by participants in the interviews;
- (ii) specify the objectives of each of the recommended proposals and identify performance indicators that would enable an objective measurement of the success of those proposals;
- (iii) clarify the role of the Office of the Union, as appropriate, in each of the proposals;
- (iv) present draft recommendations at the Technical Working Parties at their meetings in 2023; and
- (v) present recommendations to the Technical Committee at its fifty-ninth session.

“(b) the WG-DUS to meet at a time and frequency to address its mandate, by physical and/or virtual means, as agreed by the WG-DUS; and

“(c) the documents of the WG-DUS to be made available to the TC.”

(see document TC/58/31 “Report”, paragraphs 62 to 64)

INCREASING PARTICIPATION OF NEW MEMBERS OF THE UNION IN WORK OF THE TC AND THE TWPS

39. The TC considered document TC/58/9.

Participation at TWP meetings by electronic means

40. The TC noted the satisfaction survey conducted with participants at the hybrid meeting of the TWA, as presented in document TC/58/9, Annex I.

41. The TC noted the participation at TWP sessions in 2022, as presented in document TC/58/9, Annex II (see document TC/58/31 “Report”, paragraphs 66 and 67).

Measures agreed by the TC for physical and virtual participation at TWP meetings

42. The TC reviewed the measures implemented for the TWP sessions in 2022 and agreed to repeat the same approach in 2023.

43. The TC agreed to issue the same participant satisfaction survey issued for the TWA for the 2022 for the TWPs that would be held as in-person meetings in 2023 (see document TC/58/31 “Report”, paragraphs 68 and 69).

INFORMATION AND DATABASES

(a) UPOV information databases

44. The TC considered document TC/58/10.

Proposals for amending the UPOV code system

45. The TC agreed that the cross-references to document UPOV/INF/12 “Explanatory Notes to Variety Denominations under the UPOV Convention” should be corrected and replaced by UPOV/EXN/DEN in paragraphs 4.2 and 4.3 of document UPOV/INF/23 (see document TC/58/31 “Report”, paragraph 71).

Proposals for creating variety groups

46. The TC agreed to invite the TWA and TWV, at their sessions in 2023, to consider the proposal to create variety groups for UPOV codes for *Beta vulgaris* L. ssp. *vulgaris*, as set out in document TC/58/10, paragraph 18.

47. The TC agreed to invite the TWV, at its session in 2023, to consider the proposal to create variety groups for UPOV codes for *Brassica oleracea* var. *capitata* L., as set out in document TC/58/10, paragraph 19.

48. The TC agreed to invite the TWA and TWV, at their sessions in 2023, to consider whether to create variety groups for the UPOV code ZEAAA_MAY_MAY, as set out in document TC/58/10, paragraph 21.

49. The TC agreed to delete the UPOV codes HYLOC, HYLOC_COS, HYLOC_GUA, HYLOC_GUN, HYLOC_POL and HYLOC_UND, as set out in document TC/58/10, paragraph 27.

50. The TC agreed to delete the UPOV codes CALAT_CRO, CALAT_LOE, CALAT_LRO, CALAT_ROS and CALAT_WAR, as set out in document TC/58/10, paragraph 30 (see document TC/58/31 “Report”, paragraphs 72 to 76).

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

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