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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**TECHNICAL COMMITTEE**

**Forty-Sixth Session**  
**Geneva, March 22 to 24, 2010**

MATTERS ARISING FROM THE TECHNICAL WORKING PARTIES

*Document prepared by the Office of the Union*

1. This document summarizes certain matters arising from the 2009 sessions of the Technical Working Parties (TWPs) which are not expressly covered by specific agenda items. The matters arising are presented in two sections. The first section, “Matters for information and for a possible decision to be taken by the Technical Committee (TC)”, identifies matters raised by the TWPs, which may require a decision to be taken by the TC. The Office of the Union (Office) has highlighted aspects where the TC may wish to take a decision by introducing a proposed decision paragraph shown in italics. The second section, “Matters for information”, is provided for the information of the TC but does not require decisions at this stage.

2. The following abbreviations are used in this document:

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
TWO:	Technical Working Party for Ornamental Plants and Forest Trees
TWPs:	Technical Working Parties
TWV:	Technical Working Party for Vegetables

3. The following table of contents specifies the items covered in this document:

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I. MATTERS FOR INFORMATION AND FOR A POSSIBLE DECISION TO BE TAKEN BY THE TECHNICAL COMMITTEE

Matters arising after the grant of a breeder's right

4. At its forty-fifth session, the TC agreed to propose to the CAJ that, within its approach for the preparation of information materials concerning the UPOV Convention, a document be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty that are brought to the attention of an authority after the grant of a breeder's right (see document TC/45/16 "Report", paragraph 106).

5. The CAJ considered document CAJ/60/8 "Matters arising after the grant of a breeders' right", at its sixtieth session, held in Geneva on October 19 and 20, 2009. The CAJ expressed its support for the development of a document concerning matters arising after the grant of a breeder's right. The CAJ agreed that the Office of the Union should issue a circular inviting members of the Union to provide examples of matters that might be covered by the document. In the meantime, the CAJ agreed that the CAJ-AG should be invited to have a first exchange of views on the possible structure and content of such a document, at its fourth session, to be held on October 23, 2009. A report on the responses to the circular and the consideration by the CAJ-AG will be reported to the CAJ at its sixty-first session in March 2010, in order to determine how best to proceed with the development of a document.

*6. The TC is invited to note the developments in the CAJ with regard to a document concerning matters arising after the grant of a breeder's right.*

Matters raised by CIOPORA in relation to distinctness

7. The following concerns have been raised by CIOPORA in relation to Test Guidelines for the examination of distinctness.

*Exercise on color*

8. The Color Subsection, omitted from document TGP/14/1 Draft 9, and the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 "Color" ("TGP/14 Workshop"), held on May 30 and 31, 2008, and the related discussions by the TWPs at their sessions in 2008, were considered by the TWPs at their sessions in 2009 (see documents TWA/38/11 Rev., TWC/27/12, TWF/40/11, TWO/42/11 and TWV/43/12 "Document TGP/14: Sections for Separate Development"). A revised version of the Color Subsection, incorporating the comments of the TWPs at their sessions in 2009, will be considered by the TWPs at their sessions in 2010.

9. One of the conclusions of the TGP/14 Workshop included a proposal that the use of characteristics for "number of colors" should be avoided as the starting point for describing color distribution and patterns. Instead, it was agreed that the colors should first be described, followed by characteristics explaining the area, distribution, pattern etc. of each color. That approach to describing colors was also called the "Lisbon approach". In order to develop and test that approach to color characteristics the TWO agreed to conduct an exercise on color in

Alstroemeria, Canna and Phalaenopsis to see if characteristics based on that approach would be more effective than the traditional approach. The TWO agreed that Mr. Ton Kwakkenbos (European Union) should coordinate a subgroup to develop proposals for an exercise to be conducted, in which the “Lisbon approach” and the approach in the Test Guidelines would be evaluated. Experts from Australia, France, Germany, Japan, Mexico, the Netherlands, New Zealand, Republic of Korea, United Kingdom, the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) and the Office of the Union participated in the subgroup. Experts from the Netherlands provided photographs of Phalaenopsis and Alstroemeria varieties and experts from France provided photographs of Canna varieties. The photographs were circulated to the participants of the subgroup who were invited to describe the color characteristics of the flowers as contained in the relevant Test Guidelines, and according to the “Lisbon approach”. A full report on the exercise is presented in documents TWO/42/13 and TWO/42/13 Add..

10. Document TWO/42/13 “Exercise on Color” contains comments made by the participants in the subgroup. In the comments, it is stated that, in relation to the “Lisbon approach”, CIOPORA is “in general [...] worried that this system might lead to smaller minimum distances between varieties” (see document TWO/42/13, Annex VII, pages 3 and 4 and main document “Summary of the Comments”, paragraph 9).

11. With regard to document TWO/42/13, paragraph 9, third bullet point that “Breeders expressed the fear that the Lisbon approach would be too precise and this might lead to misinterpretations and smaller minimum distances between varieties”, the TWO, at its forty-second session, held in Angers, France, from September 14 to 18, 2009, agreed that it should be clarified that the “Lisbon approach” was an approach for describing color pattern and would not have any consequence for a decision on the distinctness of varieties (see document TWO/42/18, paragraph 67).

#### *Partial revision of the Test Guidelines for Mandarin*

12. At its fortieth session, held in Angers, France, from September 21 to 25, 2009, the TWF considered a proposal for a partial revision of the Test Guidelines for Mandarin (Citrus Group 1) (document TG/201/1). The subgroup considered document TWF/40/15 and a presentation at the session, a copy of which is provided as document TWF/40/15 Add. (see [http://www.upov.int/restrict/en/twf/index\\_twf40.html](http://www.upov.int/restrict/en/twf/index_twf40.html)). It was agreed that, in order to provide all interested experts with additional time to check the proposed partial revision, the proposal should be circulated to the TWF for agreement by correspondence. A circular (Circular E-1143) was issued by the Office of the Union with the proposed partial revision concerning a change to the states of expression for characteristic 25 “Anther: viable pollen” and the introduction of a new characteristic “Fruit: number of seeds (controlled manual cross-pollination)”.

13. In response to Circular E-1143, the Office of the Union received a letter from CIOPORA, addressed to the TWF, a copy of which is reproduced as Annex I to this document.

14. In accordance with the request of CIOPORA, the letter received from CIOPORA was circulated to the TWF. In addition, the Office of the Union wrote to CIOPORA to explain the procedure that would be followed on the basis of the comments received in response to Circular E-1143 and also clarifying that the basis for considering characteristics in the Test Guidelines was set out in document TG/1/3 “General Introduction to the Examination of

Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants” (General Introduction), Chapter 4.2 and Chapter 4.8 as follows:

#### **“4.2 Selection of Characteristics**

“4.2.1 The basic requirements that a characteristic should fulfill before it is used for DUS testing or producing a variety description are that its expression:

“(a) results from a given genotype or combination of genotypes (this requirement is specified in Article 1(vi) of the 1991 Act of the UPOV Convention but is a basic requirement in all cases);

“(b) is sufficiently consistent and repeatable in a particular environment;

“(c) exhibits sufficient variation between varieties to be able to establish distinctness;

“(d) is capable of precise definition and recognition (this requirement is specified in Article 6 of the 1961/1972 and 1978 Acts of the UPOV Convention, but is a basic requirement in all cases);

“(e) allows uniformity requirements to be fulfilled;

“(f) allows stability requirements to be fulfilled, meaning that it produces consistent and repeatable results after repeated propagation or, where appropriate, at the end of each cycle of propagation.

“4.2.2 It should be noted that there is *no* requirement for a characteristic to have any intrinsic commercial value or merit. However, if a characteristic that is of commercial value or merit satisfies all the criteria for inclusion it may be considered in the normal way.

“4.2.3 For inclusion in the Test Guidelines, further criteria are set out in section 4.8, “Functional Categorization of Characteristics” and in document TGP/7, “Development of Test Guidelines.” The characteristics included in the individual Test Guidelines are not necessarily exhaustive and may be expanded with additional characteristics if that proves to be useful and the characteristics meet the conditions set out above.”

[...]

#### **“4.8 Functional Categorization of Characteristics**

“The following table categorizes the way in which characteristics can be used in the examination and the appropriate criteria.

**“TABLE. FUNCTIONAL CATEGORIES OF CHARACTERISTICS**

Type	Function	Criteria
“Standard Test Guidelines Characteristic	1. Characteristics that are accepted by UPOV for examination of DUS and from which members of the Union can select those suitable for their particular circumstances.	1. Must satisfy the criteria for use of any characteristic for DUS as set out in Chapter 4, section 4.2. 2. Must have been used to develop a variety description by at least one member of the Union. 3. Where there is a long list of such characteristics and, where considered appropriate, there may be an indication of the extent of use of each characteristic.
[...]		

*15. The TC is invited to consider the comments made by CIOPORA in relation to the use of characteristics in examination of distinctness.*

### Experiences with new types and species

#### *Background*

16. At the thirty-ninth session of the Technical Working Party for Fruit Crops (TWF), held in Lisbon, Portugal, from June 2 to 6, 2008, the TWF noted the explanation in paragraph 2.4.2 of document TGP/13/1 Draft 12 and discussed the need to consider practical issues of access to wild populations in order to determine if they might constitute varieties of common knowledge. It also discussed the issue of how to determine the boundary of populations. It was agreed that it could be helpful to encourage breeders to provide parent material or representative plants of the original population to assist in the DUS examination of new varieties. The TWF agreed that it would not be possible to provide detailed guidance on those matters in document TGP/13, but concluded that it would be of assistance to hear reports from experts on their particular experiences with new types and species. On that basis, the TWF agreed to add an item for such presentations at its fortieth session in 2009 and invited experts to prepare such reports. It also agreed that breeders might be invited to explain developments with regard to new types and species. The TWO, at its forty-first session, held in Wageningen, Netherlands, from June 9 to 13, 2008, agreed to add an item for reports from experts on their particular experiences with new types and species at its forty-second session, in 2009 and invited experts to prepare such reports. It also agreed that breeders might be invited to explain developments with regard to new types and species (see document TC/45/5, paragraph 19).

17. At its forty-fifth session, the TC noted that the TWF and TWO, at their sessions in 2009, would invite reports from experts on their particular experiences with new types and species (see document TC/45/16 “Report”, paragraph 122).

*Information presented to the TWO*

18. The TWO, at its forty-second session, held in Angers, France, from September 14 to 18, 2009, received a presentation from Mr. Nik Hulse (Australia), a copy of which is provided as Annex IV to document TWO/42/18 "Report".

19. Ms. Urszula Braun-Mlodecka (European Union) reported that, each year, the Community Plant Variety Office of the European Union (CPVO) received applications for about 50 new species, of which 80% were ornamentals. Firstly, the species name was verified and the UPOV code introduced. In some cases, the UPOV code was already available from the GENIE database, on the UPOV website. However, in most cases, the Office of the Union was asked to create a new UPOV code. Thereafter, the CPVO informed applicants of the procedure to be followed for the application(s) concerned: Council Regulation (EC) 2100/94 in its Article 55 specified that:

"1. Where the Office has not discovered any impediment to the grant of a Community plant variety right on the basis of the examination pursuant to Articles 53 and 54, it shall arrange for the technical examination relating to compliance with the conditions laid down in Articles 7, 8 and 9 to be carried out by the competent office or offices in at least one of the Member States entrusted with responsibility for the technical examination of varieties of the species concerned by the Administrative Council, hereafter referred to as the 'Examination Office or Offices'.

"2. Where no Examination Office is available, the Office may, with the consent of the Administrative Council, entrust other appropriate agencies with responsibility therefore or establish its own sub-offices for the same purposes. For the purpose of the provisions of this Chapter, such agencies or sub-offices shall be considered as Examination Offices. They may avail themselves of facilities made available by the applicant."

20. In order to entrust examination offices, calls for tenders were launched at least twice a year. Descriptions of the new species were published on the restricted area of the CPVO website which was accessible for the Technical Liaison Officers. Based on the replies from examination offices, proposals were elaborated. A number of elements was taken into account when preparing the proposals, for example willingness to carry out the DUS testing experience and geographical origin of a given variety. The proposals were presented to the Administrative Council of the CPVO, being the body appointing the examination offices for given species. If there was no examination office within the member States of the European Union with adequate experience, other appropriate agencies could be entrusted. In the case of ornamentals, such a situation had happened for example for water lily. For that species, the examination office in Japan presented competence to conduct the DUS testing and was later entrusted by the Administrative Council.

21. The expert from Germany recalled the importance of reference to botanical gardens for information on varieties of common knowledge for new genera and species.

22. The TWO agreed that members of the Union should be encouraged to indicate practical experience for a new type or species at an early stage, and not necessarily waiting for a DUS examination to be completed before notifying the Office of the Union, because it would be helpful for other members of the Union to have an indication that another member of the Union had already started work. In that respect, it was agreed that the Office of the Union should invite members of the Union to indicate practical experience when requesting a new UPOV code.

*Information presented to the TWF*

23. The TWF, at its fortieth session, held in Angers, France, from September 21 to 25, 2009, received a presentation from Mr. Nik Hulse (Australia), a copy of which is provided as Annex VII to document TWF/40/17 “Report”.

*Information to be presented to the TWPs in 2010*

24. The TWF, TWO and TWV have proposed to include an item “Experiences with new types and species (oral reports by participants)” in the agenda for their sessions in 2010.

25. *The TC is invited to:*

*(a) note the information provided at the TWO and TWF sessions in 2009;*

*(b) note that the proposal to invite members of the Union to indicate practical experience when requesting a new UPOV code (see paragraph 22) will be considered under agenda item 9 “UPOV information databases”; and*

*(c) note that an item for “Experiences with new types and species (oral reports by participants)” will be included in the agenda of the TWF, TWO and TWV sessions in 2010.*

Bioversity / Germplasm Information on Germplasm Accessions (GIGA) project

26. On April 3, 2009, the Office of the Union received an e-mail from Mrs. Adriana Alercia, Bioversity (formerly the International Plant Genetic Resources Institute (IPGRI)), which explained as follows:

“The GIGA (Germplasm Information on Germplasm Accessions) project, which we are working on, aims at defining a minimum set of characterization and evaluation standards for 22 crops of major economic importance. This, in support of the global conservation system, and more specifically in support of adequate and common documentation systems which eventually should promote the use of germplasm. In time we hope to make it possible to access any information (people wish to share) through a common plant genetic resources portal that links back to numerous other systems such as EURISCO, USDA GRIN Global, and SINGER.

“The purpose of an initial strategic set of crop descriptors listed in ANNEX 1 of the International treaty [International Treaty on Plant Genetic Resources for Food and Agriculture] is to target utilization. This minimal set will become the foundation information to be made available to researchers in a global accession level information system supported by the Global Crop Diversity Trust.



“The ultimate aim of this project is, by focusing on a manageable set of descriptors and traits, to support a facility that assists researchers to identify custom sets of accessions for further research and evaluation.

“Since I believe that common documentation systems will benefit both organizations, I am seeking your valuable assistance in helping us identify crop specific experts from UPOV. They would be involved as reviewers during the definition of the minimum set of descriptors for a few crops through online surveys.

“I hope this will be acceptable to you and would very much appreciate if you could provide experts' names and email contacts for the following crops: Bean (*Phaseolus vulgaris*); Faba bean; Cultivated potato; Yam; Rice; Cowpea; Chickpea; Maize; Pearl millet; Pigeon pea; Sorghum; Sweet potato; Finger millet; Lentil.

“Thanking you in advance for your valuable collaboration, I look forward hearing from you soon.”

27. Subsequent to the initial contact from Mrs. Alercia, the Office of the Union was informed that the survey for Faba bean, Bean (*Phaseolus vulgaris*), Cultivated potato and Yam had been closed and, for that reason, it was not appropriate to provide UPOV experts.

28. After consultation with the Chairmen of the TC and the Technical Working Parties, the Office of the Union provided a list of experts (normally the Leading Experts for the relevant Test Guidelines) with the following explanation:

“As a background to the contribution by UPOV experts, it might be helpful to clarify that the UPOV Test Guidelines already represent a harmonized set of characteristics and, within the Test Guidelines, the asterisked characteristics represent what are considered to be the minimum set of characteristics for internationally harmonized variety descriptions for UPOV’s purposes, i.e. the examination of Distinctness, Uniformity and Stability (“DUS”) and production of harmonized variety descriptions for the purposes of plant breeders’ rights. It should be borne in mind that the characteristics in the UPOV Test Guidelines are not selected on the basis of their indication of the value or merit of a variety and there may well be other characteristics that are of importance with regard to the GIGA project. However, there is a clear benefit for UPOV and Bioversity to seek harmonization in the characterization of variety descriptions as far as that is achievable and, in that spirit, UPOV very much appreciates the opportunity to contribute to the GIGA project.”

29. The list of experts provided by UPOV to Bioversity was as follows:

Crop (Bioversity list)	Relevant UPOV Test Guidelines	Leading Expert
Rice ( <i>Oryza sativa</i> L.)	<i>Oryza sativa</i> L. (TG/16/8)	Mr. Luis Salaices (Spain)
Cowpea ( <i>Vigna unguiculata</i> L.)	<i>Vigna unguiculata</i> (L.) Walp. subsp. <i>sesquipedalis</i> (L.) Verdc.)	Mr. Yuji Niwa (Japan), Mr. Mitsuo Yuasa (Japan)
Chickpea ( <i>Cicer arietinum</i> L.)	<i>Cicer arietinum</i> L. (TG/143/4)	Mr. François Boulineau (France)
Maize ( <i>Zea mays</i> L.)	<i>Zea mays</i> L. (TG/2/7)	Mr. Joël Guiard (France)
Pearl millet ( <i>Pennisetum glaucum</i> L.)	<i>Pennisetum glaucum</i> (L.) R. Br.	Mr. Luis Pacheco (Brazil)
Pigeon pea ( <i>Cajanus cajan</i> (L.) Millsp.)	-	No UPOV expert

Crop (Bioversity list)	Relevant UPOV Test Guidelines	Leading Expert
Sorghum (Sorghum bicolor (L.) Moench)	Sorghum bicolor L. (TG/122/3)	Mr. Joël Guiard (France)
Sweet potato (Ipomoea batatas)	Ipomoea batatas (L.) Lam. (TG/SWEETPOT(proj.3))	Mr. Keun-Jin Choi (Republic of Korea)
Finger millet (Eleusine coracana (L.) Gaertn)	-	No UPOV expert
Lentil (Lens culinaris Medik)	Lens culinaris Medik. (TG/210/1)	Mr. François Boulineau (France)

30. On September 1, 2009, Mrs. Alercia confirmed that the relevant UPOV experts had participated in the surveys for the crops in the table above, except for Sorghum and for Sweet potato, for which the surveys had not been started at that time.

*31. The TC is invited to note the involvement of UPOV experts in the GIGA (Germplasm Information on Germplasm Accessions) project of Bioversity.*

#### Statistical methods for visually observed characteristics

32. At its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009, the TWC considered document TWC/27/14 “Statistical Methods for Visually Observed Characteristics”, presented by Mr. Kristian Kristensen (Denmark). The introduction to that document states:

“1. Visual observation of characteristics usually results in a note (often on a 1-9 scale). The note is usually regarded as being either nominal or ordinal. In some cases, an interval scale may be assumed and, only in that case, it could be reasonable to analyze the mean characteristic as a continuous variable. When the scale is either nominal or ordinal, other methods are needed. This paper describes some methods that may be appropriate for such data.”

33. An expert from France noted that the method would make it easier than for Chi-square to check that differences between varieties was consistent over years.

34. The TWC agreed that it would be useful to provide an overview of VS characteristics in UPOV Test Guidelines where the method could be appropriate.

35. For possible future development, Mr. Kristensen agreed to consider the introduction of an indicator (e.g. F3) for variety to observe variation between years and to consider the possible use of a gamma distribution for the variety-by-year interaction. He also agreed to provide the method with SAS code and to consider how to deal with combining categories where zeros were present in initial categories (see document TWC/27/21, paragraphs 56 to 59).

*36. The TC is invited to note that this method will be considered for inclusion in the revision of document TGP/8/1, if considered appropriate.*

### Searching documents on the UPOV website

37. During discussions at the forty-fifth session of the TC on the “Database to research TWC working documents”, the Office of the Union explained that it planned to provide a facility to search the documents on the UPOV website (see document TC/45/16 “Report”, paragraph 113). At present, the search tool on the UPOV website searches only those documents that are placed in the freely-accessible area of the UPOV website. The Office of the Union has organized for the IT Program Support Service of WIPO to develop a search tool that will enable searching of all documents placed in the restricted areas of the UPOV website. It is anticipated that the search facility will be available by the second half of 2010.

*38. The TC is invited to note the plans for the development of a search tool for documents placed in the restricted areas of the UPOV website.*

## II. MATTERS FOR INFORMATION

### Combination of lines or varieties

39. At its forty-fifth session, the TC considered document TC/45/11 “Combination of Lines or Varieties”. The TC noted the information presented on combinations of lines or varieties at the thirty-seventh session of the TWA, held in Nelspruit, South Africa, from July 14 to 18, 2008, and the discussions that took place, as set out in document TC/45/11 (see document TC/45/16 “Report”, paragraphs 176 to 178).

40. The TWA, at its thirty-eighth session, held in Seoul, Republic of Korea, from August 31 to September 4, 2009, an expert from the Republic of Korea reported on a case in the Republic of Korea concerning a combination of three near-isogenic rice lines that differed only with respect to disease resistance (see also documents TWA/37/7, paragraph 6 and TWA/36/8, paragraphs 13 and 14). It was explained that two of the lines had been protected, but that the third line was not distinct. The TWA noted, however, that the third line would be covered by the protection of the line from which it was not distinct (see document TWA/38/17 “Report”, paragraphs 76 and 77).

### Development of regional sets of example varieties for the Test Guidelines for Rice

41. At its thirty-second session, held in Tsukuba, Japan, from September 8 to 12, 2003, the subgroup for the Test Guidelines for Rice welcomed the comments made by Mr. Edwin Javier (International Rice Research Institute (IRRI)), as contained in document TWA/32/5 “Preliminary Comparison of the UPOV Test Guidelines for Rice and IRRI Descriptors for Rice”, and noted that this summarized the high degree of harmonization which had been achieved between the UPOV Test Guidelines and the IRRI Descriptors for Rice. The subgroup considered the presentation of example varieties in the Test Guidelines on the basis of document TWA/32/6 “Example Rice Varieties for East Asia”. It noted that regional sets of example varieties were not available at that time and that the development of a set of example varieties for East Asia was likely to take between two and three years to develop. The

subgroup agreed, therefore, that the Test Guidelines should be submitted to the TC for adoption on the basis of a minimal set of example varieties which had been verified by the leading expert and on the basis that regional sets of example varieties would be incorporated as these became available. Experts from China, Japan and the Republic of Korea agreed to develop a regional set of example varieties for East Asia (see document TWA/32/11 “Report”, paragraphs 40 and 41).

42. A regional set of example varieties for North-East Asia for the Test Guidelines for Rice (document TG/16/8 Annex), developed by experts from China, Japan and the Republic of Korea, was adopted by the TC at its forty-fourth session.

43. At its thirty-eighth session, held in Seoul, Republic of Korea, from August 31 to September 4, 2009, the TWA received a report from Mr. Edilberto Redoña, IRRI, concerning the development of a set of example varieties for rice for South-East Asia. A copy of the presentation made by Mr. Redoña is provided as Annex VI to document TWA/38/17 “Report”. He recalled that the focus of the project was to develop a set of example varieties for the asterisked characteristics in the UPOV Test Guidelines. Mr. Luis Salaices (Spain), Leading Expert for the adopted Test Guidelines for Rice thanked Mr. Redoña for his work and congratulated him on the success that he had achieved. He confirmed the importance of the project for UPOV. Mr. Redoña explained that the work on the development of example varieties would continue in 2009, but requested guidance on whether further work would be required beyond that time, for example to develop a set of example varieties for all 65 characteristics in the UPOV Test Guidelines. The TWA agreed that, as a first step, it would be appropriate to consider the data that had been collected in the project, before deciding how best to continue. The TWA thanked Mr. Redoña for his report and agreed to invite him to present the full results for consideration at its thirty-ninth session.

#### Development of a set of example varieties for North East Asia for the Test Guidelines for Strawberry

44. At its fortieth session, held in Angers, France, from September 21 to 25, 2009, the TWF received the final report on the possible development of a regional set of example varieties for North and East Asia for the Test Guidelines for Strawberry from Mr. Kiyofumi Nakamura (Japan). A copy of that report is presented as Annex VI to document TWF/40/17 “Report”. Mr. Nakamura confirmed the conclusion, reported at the thirty-ninth session of the TWF, that it would not be possible to develop a regional set of example varieties for the time being (see document TWF/40/17 “Report”, paragraph 52).

#### Guidance for drafters of Test Guidelines

45. At the sessions of the TWA, TWF, TWO and TWV in 2009, the Office of the Union made a presentation of the latest version of the “Practical guide for drafters (Leading Experts) of UPOV Test Guidelines”, a copy of which is provided as the Annex II to this document. The TWF and TWO agreed that a similar presentation should be made at each session, if time allowed.

## Development of COY

### *A comparison of COYU and a method based on Bennett's Test for coefficients of variation*

46. Document TWC/27/10 "Oil Seed Rape - Comparison of Uniformity Decisions Based on COYU and Bennett's Methods", considered by the TWC at its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009 explains the following:

"2. In documents TWC/23/9 "A Comparison of COYU and a Method Based on Bennett's Test for Coefficients of Variation", TWC/24/7 "Further Comparison of Decisions on Uniformity of Rye Varieties Based on COYU Approach and on Bennett's Test", and TWC/25/8 "Comparison of COYU and a Method Based on Bennett's Test for Coefficients of Variation", the conclusions concerning uniformity of rye varieties based on the UNIF (COYU) approach and on the Bennett's test were compared. The conclusions were generally similar, but in some cases differences appeared.

"3. During the discussions at the twenty-fourth session of the TWC, held in Nairobi, Kenya, from June 19 to 22, 2006, it was proposed to make additional comparisons of these two methods in order to investigate if there was a relationship between the degree of correlation between level of expression of characteristic and log transformed values of standard deviations and decisions concerning uniformity supported by the two mentioned methods. It was also suggested to apply McNemar's (McNemar, 1947) test instead of a test of independence. This problem was initially discussed at the twenty-fifth session of the TWC (see document TWC/25/8) and - in conclusion - it was also suggested to compare these two methods of testing uniformity using results of another species. In this document these problems are addressed again with the use of DUS data for oilseed rape varieties."

47. At its twenty-seventh session, the TWC considered document TWC/27/10 "Oil Seed Rape - Comparison of Uniformity Decisions Based on COYU and Bennett's Methods", presented by Mr. Wiesław Pilarczyk (Poland).

48. Experts from United Kingdom suggested the use of simulated data would allow a better analysis of the proposed method; in particular, simulated data would facilitate an increase in the number of candidate varieties. The Chairman agreed that the proposed hypothesis for the McNemar test should be that the number of cases with contradictory conclusions be equal in the Bennett method and COYU, but he added that it should tend to be zero. Mr. Pilarczyk replied that the most interesting thing to observe was the number of positive and negative decisions. The expert from Germany asked whether the proposed Bennett method contained the same biases observed in COY. Mr. Pilarczyk considered that, because there was no conversion of data in the Bennett method, it most probably did not contain such a bias.

49. The TWC agreed that a new document be prepared for its twenty-eighth session (see document TWC/27/21, paragraphs 45 to 47).

### *Adjustment to COYD for grouping characteristics*

50. The TWC, at its twenty-seventh session, considered document TWC/27/18 "An Adjustment of the COYD Method When Varieties are Grouped Within the DUS Trial", presented by Mr. Adrian Roberts (United Kingdom).

51. The expert from Poland asked whether the variety grouping considered in the analysis was also reflected in the design of the field trial. Mr. Vincent Gensollen (France), co-author of the document, confirmed that there was grouping in the field trial. The Chairperson asked Mr. Gensollen, for his crops, what the benefits of this method were in respect to a normal COYD. Mr. Gensollen explained that it was not always easy to allocate varieties to the correct group; therefore, the method provided the possibility to analyze varieties which were grouped in the field in order to place the most similar varieties in close proximity. If it became evident that varieties from different groups were similar, it would still be possible to compare them. He explained that inter-specific hybrids were less uniform than the species; therefore, varieties of the parental species could not be used as reference varieties. The Chairman explained that, for the case of grasses, it was common to use quantitative characteristics for grouping and, therefore, overlaps between groups was common. Mr. Roberts explained that, in the case of grouping by a continuous factor, the possibility of using the interaction with the covariate could be taking into account. Another expert from the United Kingdom explained that grasses were not grouped in the United Kingdom. The expert from Germany asked what the minimum number of varieties in a group by the proposed method could be. Mr. Roberts explained that the minimum number of varieties per group was one.

52. Mr. Roberts reported that a “COYDG” module was under development within DUSTNT.

53. The TWC agreed that a new document be presented for its twenty-eighth session and requested the authors to include a definition of reference variety (see document TWC/27/21, paragraphs 48 to 51).

[Annexes follow]

**Communauté Internationale des Obtenteurs de Plantes  
Ornementales et fruitières de Reproduction Asexuée**



**Via e-mail**  
INTERNATIONAL UNION FOR THE PROTECTION OF  
NEW VARIETIES OF PLANTS (UPOV)  
**Technical Working Party for Fruit Crops (TWF)**

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Internet: [www.ciopora.org](http://www.ciopora.org)

Hamburg, 04 January 2010

**E-1143: Test Guidelines for Mandarin (Citrus Group 1): Proposal for a Partial Revision**

Dear members of the TWF,

Making reference to the E-mail of 30 November 2009 and the before mentioned proposal CIOPORA asks to postpone the decision to put forward the partial revision to the Technical Committee and instead to discuss the matter again in the TWF meeting in Cuernavaca in 2010.

CIOPORA was not yet able to finally evaluate the justification of the partial revision of the TG/201/1. However, members in particular have expressed concern that the proposed change could lead to too small minimum distances between varieties, which would make the exclusive right of the title holder of the first variety worthless.

Against the background of the potentially significant negative consequences of a change in the test guideline CIOPORA is of the opinion that the proposed revision should be studied further.

Respectfully yours,

CIOPORA

Dr. Edgar Krieger  
Secretary General

## ANNEX II

PRACTICAL GUIDE FOR DRAFTERS (LEADING EXPERTS)  
OF UPOV TEST GUIDELINES

**TEST GUIDELINES FOR DISCUSSION AT THE TECHNICAL WORKING PARTY**

## (a) Test Guidelines to be re-discussed by the TWP

- Please use the Word version of the draft Test Guidelines prepared by the Office for the TWP session as the starting point for the subsequent year's draft (it will be correctly formatted) and incorporate all agreed changes as recorded in the TWP report; then repeat the process in (b) and (c) below
- The necessary information is provide in the UPOV website at [http://www.upov.int/restricted\\_temporary/tg/index.html](http://www.upov.int/restricted_temporary/tg/index.html)

Unless otherwise agreed at the TWP session, or thereafter by the TWP Chairperson, the timetable for the consideration of draft Test Guidelines by the Technical Working Parties is as follows:

## (b) Draft for circulation to the subgroup of interested experts

<i>Timing:</i>	The deadline for circulation by the Leading Expert to the Interested Experts (Subgroup) is provided in an <b>Annex to the TWP report</b>	
<i>Circulation of Subgroup draft by Leading Expert</i>	14 weeks before TWP session	
<i>Format:</i>	Draft Test Guidelines should be prepared using the <b>Electronic TG Template</b> ( <a href="http://www.upov.int/restrict/en/tg-rom_word/index.html">http://www.upov.int/restrict/en/tg-rom_word/index.html</a> )	
<i>Sources of information:</i>	<b>Drafter's webpage</b> ( <a href="http://www.upov.int/restricted_temporary/tg/index.html">http://www.upov.int/restricted_temporary/tg/index.html</a> ): – adopted TGs in Word format & Word versions of TWP drafts – TGP/7 Annex 4 “Collection of Approved Characteristics” – Subgroup of Interested Experts	
<i>Circulation and comments:</i>	The Leading Expert (not the Office) circulates the draft to the Interested Experts. The list of Interested Experts is provided in an <b>Annex to the TWP report and on the Drafter's webpage</b> . A deadline for comments to be made by the subgroup of Interested Experts is provided in the same <b>Annex to the TWP report</b> .	
<i>Comments to be received from Subgroup:</i>	10 weeks before TWP session	



(c) Draft for the TWP session

<i>Timing:</i>	The deadline for the draft to be submitted to the Office of the Union (Office) is provided in the <b>Annex to the TWP report</b>
<i>Sending of draft to the Office by the Leading Expert</i>	6 weeks
<i>Format:</i>	<p>Draft Test Guidelines should be prepared with the <b>Electronic TG Template</b> (<a href="http://www.upov.int/restrict/en/tg-rom_word/index.html">http://www.upov.int/restrict/en/tg-rom_word/index.html</a>)</p> <p>All characteristics in the Table of Characteristics should be numbered in sequence without letters (i.e. 1, 2, 3, not 1, 2, 2(a), 3) (previous numbering can be shown in brackets, e.g. “5. (old 4.)”</p> <p><b>Revisions (track change) mode should not be used:</b></p> <p><u>Additions</u> can be indicated (manually) by highlighting &amp; underlining</p> <p><u>Deletions</u> can be indicated (manually) by highlighting &amp; strikethrough</p> <p>Different colored text should <b>not</b> be used to indicate comments / changes</p> <p>Illustrations should be inserted as shown on the following page</p>
<i>Posting of draft on the website by the Office</i>	4 weeks
<i>“Final” drafts:</i>	Drafts at the “final” stage should have no missing information from any chapter of the Test Guidelines and should include, for example, explanations of characteristics contained in the Table of Characteristics and an appropriate set of example varieties.

In cases where *either* of the deadlines for circulation of the Subgroup draft or for the sending of the draft to the Office by the Leading Expert is not met, the Test Guidelines would be withdrawn from the TWP agenda and the Office would inform the TWP accordingly at the earliest opportunity (i.e. not later than 4 weeks before the TWP session). In those cases where draft Test Guidelines are withdrawn from the TWP agenda because of failure by the Leading Expert to meet the relevant dates, it would be possible for specific matters concerning those Test Guidelines to be discussed at the TWP session. However, to consider specific matters it would be necessary for a document to be provided to the Office at least 6 weeks before the TWP session.

**TEST GUIDELINES TO BE SUBMITTED TO THE TECHNICAL COMMITTEE (TC)**

- |   |
|---|
| <ul style="list-style-type: none"> <li>• The <b>Office will prepare the draft</b> Test Guidelines for the TC.</li> <li>• Please provide all missing information requested in the TWP report by the date specified in the <b>Annex to the TWP report</b>, but please <b>do not</b> provide that information in the form of revised Test Guidelines containing that information.</li> </ul> |
|---|

## INSERTING IMAGES INTO THE TEST GUIDELINES

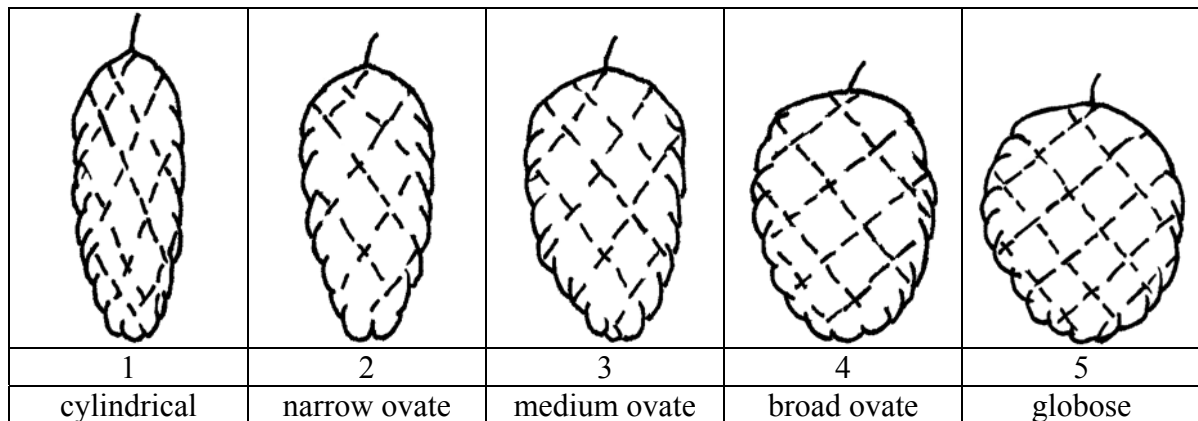
In order to avoid distortions of the illustrations and to minimize the size of the files, please:

(a) – **Use:** JPG, JPEG or PNG format to reduce the size of the images.

**Please do not use:** TIF, TIFF, BMP, TGA, PCX or JP2.

(b) – Insert the illustration for each individual state into an individual cell of a table (e.g. by using the command edit; copy and then “paste” or “paste special”). Please see Annex for further guidance.

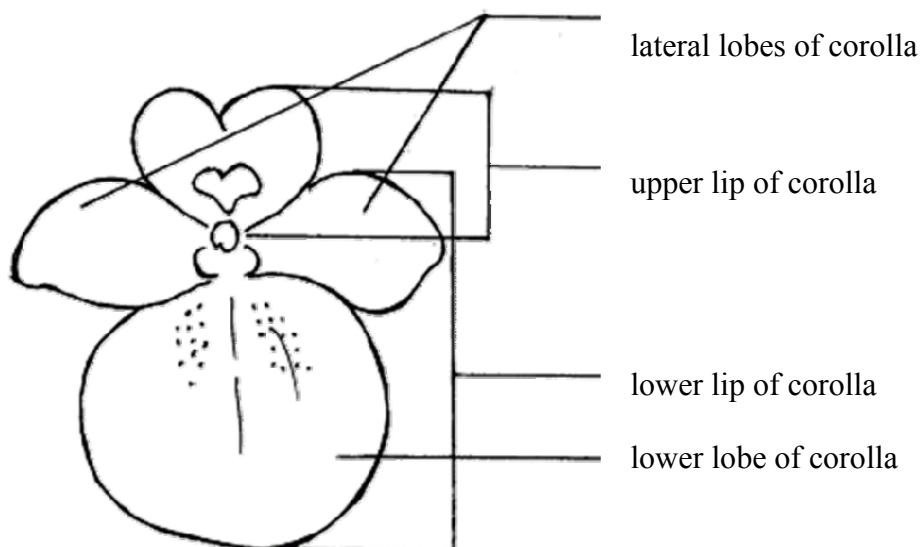
Example



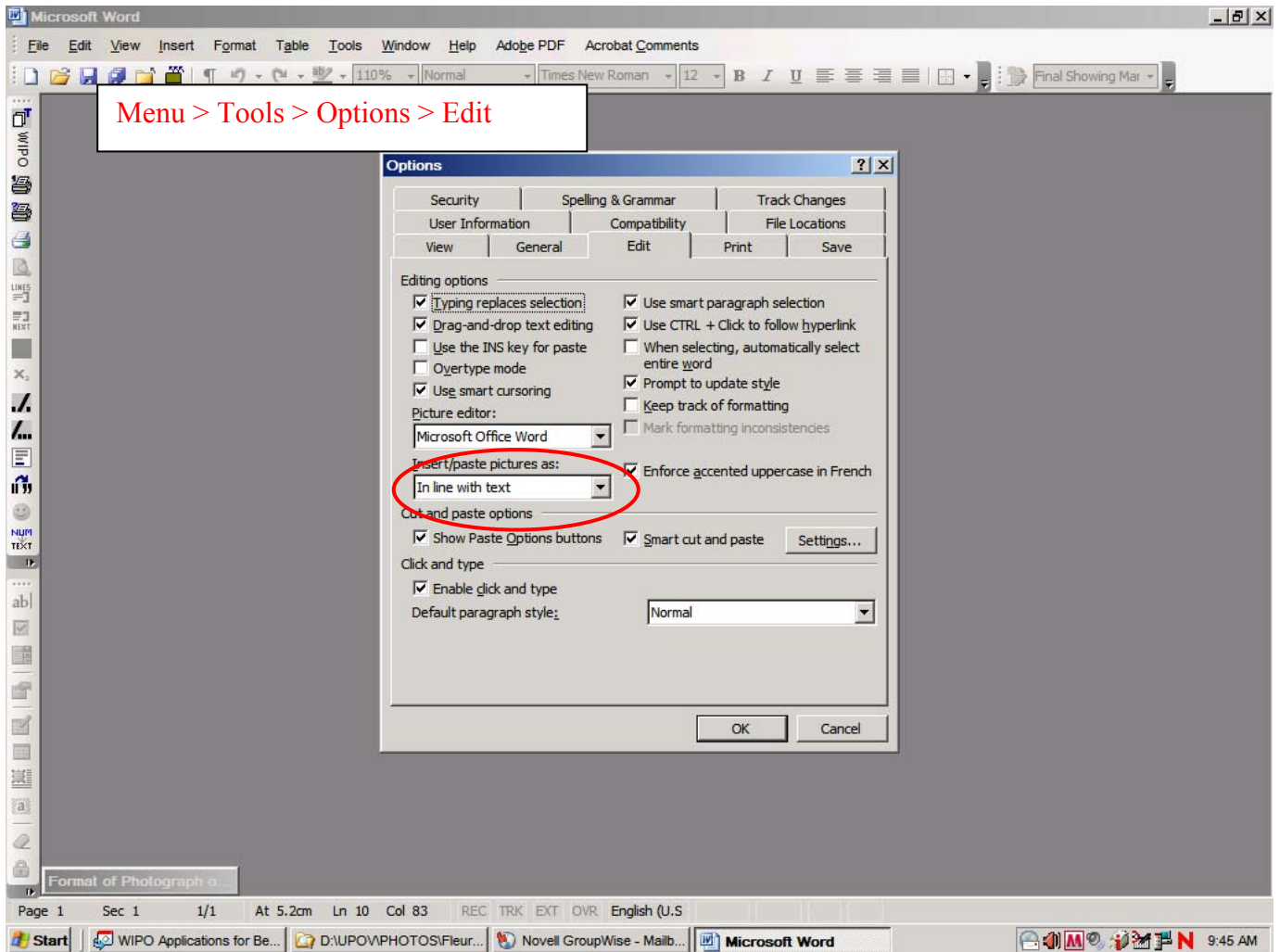
(c) – When an illustration contains several elements (e.g. drawings, arrows, figures, text, etc.) please, fix them in place, by “grouping” or by incorporating them into an image (e.g. by using the command edit; copy and inserting it using “paste special” and PNG format).

Ad. 21: Corolla: reflexing of lateral lobes

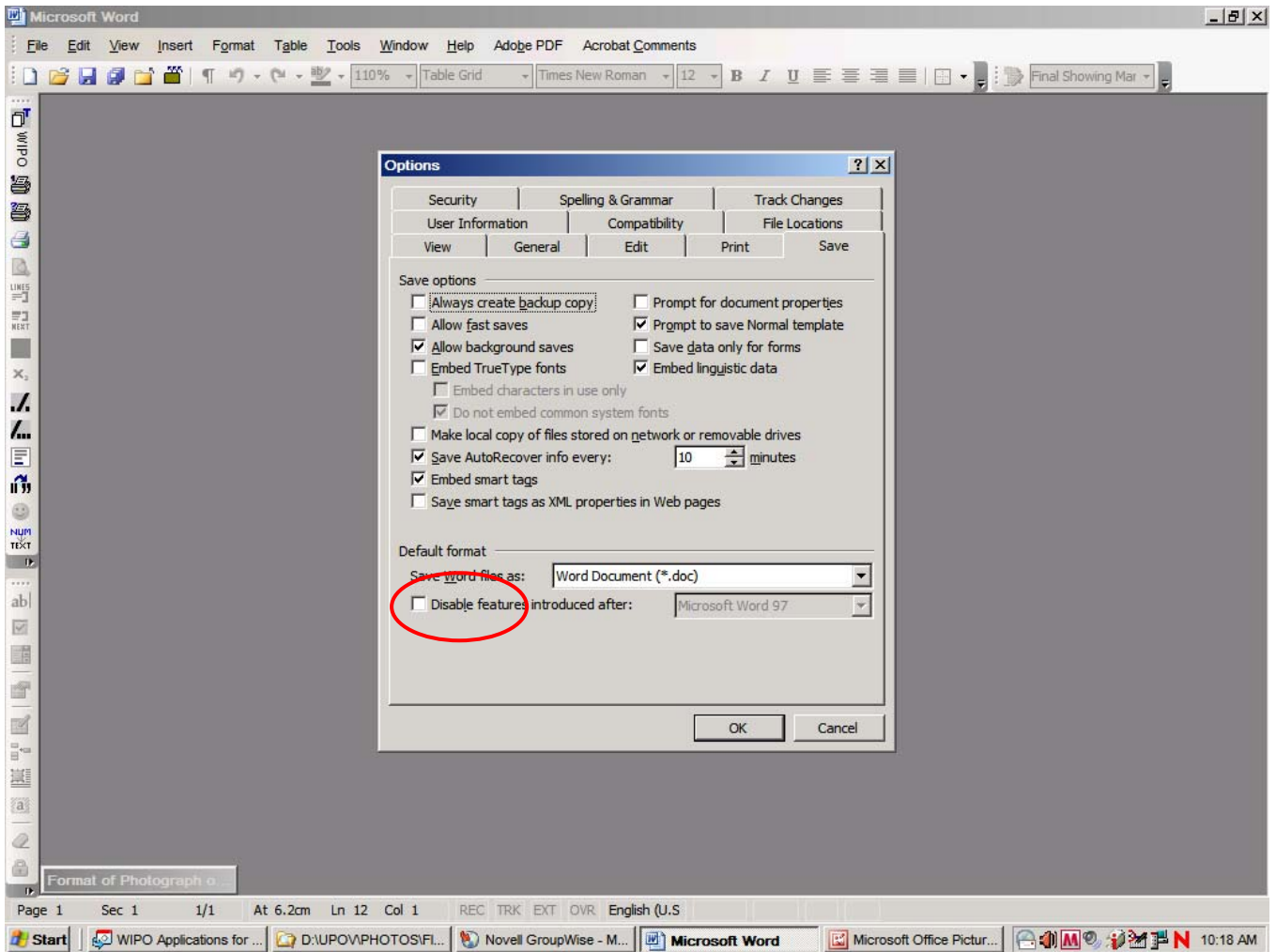
Ad. 22: Corolla: length in relation to width



**IN WORD 2003 (AND ALIKE), CHECK THAT THE FOLLOWING SETTINGS  
ARE ACTIVATED:**



and



Once the cursor is inside the table, insert the picture (Menu > insert > picture > from file >...).

If the picture is already in a Word document, cut and paste it in the table.

In previous versions of Word (Word 6.0 1995, or Word 97), use “Paste special” and uncheck the option “floating over text” on the right hand in order to paste the picture inside the table.

[End of Annex II and of document]