

Technical Committee

TC/53/14

**Fifty-Third Session
Geneva, April 3 to 5, 2017**

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ORGANIZATION OF THE UPOV SESSIONS

Document prepared by the Chairperson of the TC and the Office of the Union

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EXECUTIVE SUMMARY

1. The Consultative Committee, at its ninety-second session, held in Geneva on October 27, 2016, agreed to consider, at its ninety-third session, to be held on April 6, 2017, whether to organize a single set of sessions from 2018, in the period mid- to late November, with a more specific proposal for timing being developed after taking into account the views of the Technical Committee.

2. The purpose of this document is to provide background information to assist the Technical Committee (TC) in formulating its views.

3. The TC is invited to:

(a) comment on the proposal to organize the TC session in the period mid- to late November;

(b) consider possible measures to accommodate TC sessions in the period mid- to late November, if so decided by the Council, including the timing of TWP sessions, adoption of documents by correspondence and arrangements for TC-EDC meetings, as presented in paragraphs 15 to 17; and

(c) consider the contingency measures for 2018, as presented in paragraphs 21 and 22, subject to the Council deciding that the TC should hold its fifty-fourth session in November 2018.

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
TC: Technical Committee
TC-EDC: Enlarged Editorial Committee
TWC: Technical Working Party on Automation and Computer Programs
TWP(s): Technical Working Party(ies)

BACKGROUND

6. The Consultative Committee, at its ninetieth session, held in Geneva on October 28 and 29, 2015, requested the Office of the Union to prepare a document with options and possible impacts of holding the sessions of the bodies that meet in Geneva consecutively, only once a year. It was anticipated that the main incentive for changing to a single set of sessions would be to deliver significant time and cost savings for members of the Union. At the same time, it was noted that organizing a single set of sessions would reduce the number of opportunities for members of the Union to meet.

7. The Consultative Committee, at its ninety-second session, agreed to consider, at its ninety-third session, whether to organize a single set of sessions from 2018, according to the following proposal, subject to comments from the TC, as follows (see document C/50/17 "Report by the Vice-President on the Work of the Ninety-Second Session of the Consultative Committee; Adoption of Recommendations, if any, Prepared by that Committee", paragraphs 62 and 63):

(a) after 2017, to hold a single set of sessions of UPOV bodies in the period mid- to late November, with a more specific proposal for timing being developed after taking into account the views of the TC, which would be invited to consider the matter at its fifty-third session, to be held in Geneva from April 3 to 5, 2017;

(b) an arrangement for the scheduling of the UPOV bodies, on the following basis:

Friday	Working Group (if appropriate)
Saturday	Working Group (if appropriate) / Enlarged Editorial Committee
Sunday	Working Group (if appropriate) / Enlarged Editorial Committee
Monday	Technical Committee
Tuesday	Technical Committee
Wednesday	Administrative and Legal Committee
Thursday	Consultative Committee
Friday	Council
Saturday	Symposium /Seminar/Working Group (if appropriate)

8. The Consultative Committee requested the Office of the Union to prepare proposals concerning:

(i) opportunities for members of the Union to meet and exchange information in conjunction with the UPOV sessions;

(ii) the nature and content of session documents in order to make the sessions as efficient as possible; and

(iii) the examination of laws of future members.

9. In preparation for discussions at its ninety-second session, the Consultative Committee requested the Office of the Union to prepare a document with options and possible impacts of holding the sessions of the bodies that meet in Geneva consecutively, only once a year. The following information is provided in order to assist the TC to consider possible impacts in relation to the TC, Technical Working Parties (TWPs) and Enlarged Editorial Committee (TC-EDC). For information purposes, the terms of reference of the TC, TWPs and TC-EDC are attached as an Annex to this document.

POSSIBLE IMPACTS FOR THE TC, TWPS AND TC-EDC

10. The TC holds only one session per year. Therefore, the impact would be related to the change of timing of the TC and any reduction in the time for the TC session. With regard to the latter, the main consideration would be the requirement to prepare documents transmitting proposals from the TWPs to the TC, including Test Guidelines proposed for adoption, sufficiently in advance of the TC session.

11. With regard to the submission of Test Guidelines from the TWPs to the TC, document TGP/7 “Development of Test Guidelines” requires that (see Chapter 2.2.6):

- “Where the TWP has specified amendments to be made to the draft prior to submission to the TC and the amendments requested by the TWP require further information to be provided to the Office by the Leading Expert, this should be provided within six weeks of the TWP session, or according to a deadline agreed by the Chairperson of the TWP in conjunction with the Office of the Union. In general, if the Leading Expert is unable to provide the agreed information within the specified deadline, the Test Guidelines would be re-presented at the following TWP session.
- “After translation into all the UPOV languages, the Test Guidelines are issued, by the Office of the Union, to members of, and observers to, the TC. In general, the Test Guidelines are to be issued at least four weeks prior to the relevant session of the Technical Committee.”

12. In accordance with document TGP/7, and assuming a period of four weeks is allowed for translation, the date of the TC should be no earlier than 14 weeks after the final TWP session. If the UPOV sessions were held in mid-November, for example, this would mean that the latest date for a TWP session should be the end of July.

13. The timing of TWP sessions is, in part, determined by the desire to visit growing trials or relevant crops/species at an appropriate stage (see document TC/51/37 “Possible ways of improving the effectiveness of the TC, TWPs and Preparatory Workshops”).

14. The following table summarizes the scheduling of TWPs between 2000 and 2016:

Month	Total number of sessions (%) (2000-2016)	Hosting UPOV Member
April	3 (4%)	AU, CN, NZ
May	7 (9%)	BR, FR, HR, HU, KE, JP, MA
June	33 (41%)	BR, CA, CH, CN, CZ, DK, FI, HU, IT, JP, KE, KR, MD, MX, NL, PL, PT, QZ, SE, SK, UA, US
July	12 (15%)	BG, CN, DE, HU, JP, KR, MX, US, ZA
August	5 (6%)	BR, KR, ZA
September	12 (15%)	BR (TWA), CA (TWF; TWO), FR (TWF), GB (TWO), JP (TWA; TWF; TWO; TWV), KR (TWC; TWO), MX (TWA; TWF; TWO), QZ (TWO), RO (TWC)
October	2 (3%)	ES (TWF), NZ (TWA)
November	6 (8%)	AR (TWA; TWF), EC (TWO), JP (TWF; TWO), QZ (TWF)

POSSIBLE MEASURES TO ACCOMMODATE TC SESSIONS IN MID- TO LATE NOVEMBER

Timing of TWP sessions

15. With regard to options to accommodate a TC in mid- to late November, the following might be considered in relation to the scheduling of TWP sessions:

Option 1: Move forward the schedule of TWP sessions by 4 months

Move the window for TWP sessions to: January – July.

Option 2: Move forward the schedule of TWP sessions by 2½ months

Move the window for TWP sessions to: January – mid September.

For sessions in September, this would require that the TWPs would only submit Test Guidelines for which further information was not required to be provided to the Office of the Union by the Leading Expert, thereby reducing the time for preparation by 6 weeks. This option would still also allow for documents containing proposals from the TWPs to the TC to be published at least four weeks before the TC session.

Option 3: No change to scheduling of TWP sessions

In order to accommodate the TC in mid- to late November, a process of adoption of documents by correspondence could be used to avoid lengthy delays in the adoption process.

Adoption of documents by correspondence

16. The Council, at its forty-third ordinary session, held in Geneva on October 22, 2009, endorsed the practice whereby Test Guidelines are adopted by the TC on behalf of the Council on the basis of the program of work approved by the Council, without the individual Test Guidelines being submitted to the Council for review. In the overwhelming majority of cases, the TC makes no amendments to Test Guidelines beyond those recommended by the TC-EDC (see below). Therefore, for those Test Guidelines that could not be prepared in time for adoption by the Technical Committee at its session, a procedure for adoption by correspondence could be considered.

17. UPOV information and guidance materials that are approved by the TC are required to be adopted by the Council (e.g. UPOV/INF document series, Explanatory notes on the UPOV Convention and TGP documents). Therefore, in general, the approval by the TC by correspondence of UPOV information and guidance materials would not accelerate their adoption if the TC were to be held in the same week as the Council.

TC-EDC

18. In considering the possible measures in paragraphs 15 to 17, the TC may also wish to take into account the need for the TC-EDC to review Test Guidelines and documents proposed for approval by the TC, particularly Test Guidelines and TGP documents.

19. In recent years, in recognition of the extent of the editorial work involved in reviewing documents, the TC-EDC has met both in January and in conjunction with the TC session in March/April. The TC may wish to consider how the work of the TC-EDC might be organized if the TC session were to be held in the period mid- to late November.

20. If the TC were to hold its session in November, the TC-EDC could continue to meet in conjunction with the TC session. In order to consider all Test Guidelines prepared for adoption at the TC session. If the TC and the Council were to agree that Test Guidelines that were not available for consideration by the TC at its November session could be considered by correspondence, the TC-EDC would need to meet to consider the Test Guidelines at an appropriate time. One possibility would be for the TC-EDC to meet in March/April during the week that the TC session would normally have been scheduled. Other UPOV *Ad hoc* working groups could also meet during the same week, if appropriate.

CONTINGENCY FOR 2018

21. Subject to consideration of the matters above and to the Council deciding that the TC should hold its fifty-fourth session in November 2018, the TC may wish to consider the following approach for 2018:

- (a) For Test Guidelines proposed for adoption in 2018, to agree a procedure for adoption by correspondence as follows:
 - Draft Test Guidelines would be prepared as agreed by the TWPs and circulated with the recommendations of the TC-EDC;
 - In the absence of any objections to the draft Test Guidelines with amendments recommended by the TC-EDC, the Test Guidelines would be adopted;
 - In the case of objections, the objections would be referred to the relevant TWP for consideration at its 2018 session, and the Test Guidelines considered for adoption by the TC at its fifty-fourth session, in November 2018;
 - TC-EDC to meet on March 26 and 27, 2018, and in conjunction with the TC at its fifty-fourth session, in November 2018, if necessary.
- (b) For TGP documents, to invite the TC-EDC to consolidate comments made by the TWPs at their sessions in 2017 and, in the absence of consensus between the TWPs, formulate proposals for further consideration by the TWPs at their sessions in 2018;
- (c) All other matters to be considered at the fifty-fourth session of the TC in November 2018 in the normal way.

22. With regard to timing of sessions in November 2018, the TC may wish to indicate to the Council if it would consider the week of [November 12-16]/[November 26-30] to be a suitable week.

23. *The TC is invited to:*

(a) comment on the proposal to organize the TC session in the period mid- to late November;

(b) consider possible measures to accommodate TC sessions in the period mid- to late November, if so decided by the Council, including the timing of TWP sessions, adoption of documents by correspondence and arrangements for TC-EDC meetings, as presented in paragraphs 15 to 17; and

(c) consider the contingency measures for 2018, as presented in paragraphs 21 and 22, subject to the Council deciding that the TC should hold its fifty-fourth session in November 2018.

[Annex follows]

TERMS OF REFERENCE

Technical Committee (TC)

The Council, at its fifth session, on October 15, 1971, adopted the following resolution concerning the establishment of the Technical Steering Committee (the complete resolution can be found in document UPOV/C/V/31):

"Considering the need for a common approach to the concepts of distinctness, uniformity and stability for the different plant species and in particular for harmonizing the different Guidelines,"

"Decides:

"1. that a Technical Steering Committee shall be established;

"2. that this Committee shall consist of one member nominated by each member State, who preferably shall be the Head of the examining authority in the member States, and

"3. that the Chairman of the Committee shall be appointed by the Council for a period of three years, and that he shall act on behalf of the Committee in coordinating the work of the Technical Working Parties and ensuring that this work proceeds in accordance with policy decisions of the Council;

"4. that the other tasks of the Committee shall be as follows:

"(a) to review the technical documents prepared by the Working Parties and to ensure that they are generally based on the same philosophy and that any differences represent real technical differences in the requirements of different species;

"(b) to review proposals from the Technical Working Parties;

"(c) to present to Council, after approval by it, the technical documents and proposals from the Technical Working Parties;

"(d) to undertake such other tasks as may from time to time be referred to it by Council."

Document UPOV/C/V/28 Report of the fifth session of the Council, Geneva, October 13 to 15, 1971 (paragraph 57)

Working document as amended by the Council: UPOV/C/V/31

"19. The [Consultative] Committee held a lengthy discussion on the list of Committees or other bodies of UPOV. It finally decided to propose a reorganization of the activities of the UPOV bodies in the following manner:

[...]

"(ii) Matters of a technical nature would be dealt with by the Technical Steering Committee—whose name it was proposed to change to 'Technical Committee' in view of its enlarged activities—and by the Technical Working Parties under the guidance and supervision of the first-mentioned Committee. [...]"

Document CC/XVI/5 Report of the sixteenth session of the Consultative Committee, Geneva, December 5 and 9, 1977 (paragraph 19)

The above recommendation was adopted by the Council at its eleventh ordinary session on December 9, 1977.

Document C/XI/21 Report of the eleventh ordinary session of the Council, Geneva, December 6 to 9, 1977 (paragraph 58)

Enlarged Editorial Committee

The Editorial Committee (EC) was originally established by the Technical Committee (TC) to ensure consistency across the different Test Guidelines produced by the various Technical Working Parties (TWPs) and to check the alignment of texts across all the official UPOV languages before these were put forward for adoption by the TC. In that role, its membership was selected from within the membership of the TC both to provide broad experience of the UPOV system and also to represent the original three UPOV languages – English, French and German – later expanded also to include Spanish. The EC Chair is provided by the Office of the Union.

In 1996, the TC began the task of revising the General Introduction to the Guidelines for the Conduct of Tests for Distinctness, Homogeneity and Stability of New Varieties of Plants (document TG/1/2), and the membership of the EC was enlarged to assist with that work. As a result, its membership was extended to include the Chairmen of the Technical Working Party for Agricultural Crops (TWA), the Technical Working Party for Fruit Crops (TWF), the Technical Working Party for Ornamental Plants and Forest Trees (TWO), the Technical Working Party for Vegetables (TWV), the Technical Working Party on Automation and Computer Programs (TWC), and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT). The Chairman and Vice-Chairman of the TC are also members of this “Enlarged” Editorial Committee (hereinafter referred to as the TC-EDC). Since 1996, the review and re-drafting tasks of the TC-EDC have also taken an important role in the refinement of documents for consideration by the TC.

Summarized from working document TC/38/9 (paragraphs 1 to 5)

“The TC agreed with the proposal made by the Chairman of the TC in document TC/38/9, that the composition of the Editorial Committee, comprising the four language experts, should remain unchanged and that the Enlarged Editorial Committee (TC-EDC) should continue to include the Chairman and Vice Chairman of the TC, the Chairmen of the TWPs and the Chairman of the BMT. It agreed that, in addition, a small number of additional members could be included in the TC-EDC, where and when necessary, to ensure that there is an appropriate range of expertise and experience. The need for additional members is to be identified by the TC, or by the TC-EDC itself. If these needs are agreed by the TC, nominations for additional members from within the TC, each for a period of three years to coincide with the terms of the Chairmen of the TWPs, would be the responsibility of the TC.”

Extract from document TC/38/16 (paragraph 178) Report of the thirty-eighth session of the TC, Geneva, April 15 to 17, 2002

Technical Working Parties

Based on the proposals in document CPU Doc. 1 (reproduced below), the Council decided, at its second meeting on February 12, 1969, to establish five Technical Working Parties (TWPs).

CPU Min. 2 Report of the second meeting of the Council, Berne, February 11 to 12, 1969 (page 14)

“Proposals for continuing consultations on technical matters

“1. In the period which preceded the coming into force of the Convention and the establishment of the Council informal technical discussions have taken place between signatory and other States, and some progress has been made in reaching a common understanding of some of the technical problems of plant breeders’ rights. A report by Dr. Wellington, the Chairman of the Technical Group concerned, is available for circulation if desired. It has been suggested, subject to Council agreement, that these consultations should continue. Taking advantage of experience to date, this paper sets out for discussion a possible structure and method of working.

“2. Technical problems in relation to plant breeders’ rights arise in the main from the interpretation by member States of the criteria (distinctness, stability and uniformity) laid down in national laws on the basis of Articles 6 and 7 of the Convention, and their application to the different genera and species. Consultations between member States and with the Office of the Union established under Article 15 will be largely concerned with these matters. The purpose of such consultations would presumably be to seek agreement on such matters as plant characters, standards, trial techniques and technical procedures generally, wherever possible to incorporate any such agreement in the national practices of member States, and so to achieve in due course a uniform assessment of cultivars in relation to the criteria outlined in the Convention. This would provide the necessary basis for collaboration between member States and with the Office of the Union in pursuit of the objectives set out in Article 30 of the Convention

and the Recommendation concerning the international organization of the preliminary examination made by the Conference of interested States held in Paris in December 1961.

"3. For the technical work of assessing distinctness, uniformity and stability of new cultivars special skills are required for different groups of plant species. It would therefore seem necessary to convene different groups of specialists to discuss the particular problems of these groups. The separate groups will require to be brought together and to receive overall guidance from some central body responsible to the Council.

"4. It is suggested that the Technical Working Parties be established. Five such working parties would cover most needs:

Agricultural crops – Self-fertilized (including potatoes) [TWA]

Agricultural crops – Cross fertilized [TWA]

Horticultural vegetable crops [TWV]

Fruit crops [TWF]

Decoratives [TWO]"

In the first session of the "Technical Working Party for horticultural vegetable crops" the name was changed to "Technical Working Party for Vegetables" (TWV).

Working document CPU Doc. 1 (paragraphs 1 to 4)

The Council at its sixth session, from November 7 to 10, 1972, decided to merge the TWP's on Self-fertilized and Cross-fertilized agricultural crops to cover all agricultural crops thus becoming the "Technical Working Party for Agricultural Crops" (TWA), and decided to establish a "Technical Working Party for Forest Trees."

Document UPOV/C/VI/12 Report of the sixth session of the Council, November 7 to 10, 1972 (paragraphs 18 to 21)

The Council, at its sixteenth ordinary session, on October 13 to 15, 1982, approved the incorporation of the "Technical Working Party for Forest Trees" in the "Technical Working Party for Ornamental Plants" thus becoming the "Technical Working Party for Ornamental Plants and Forest Trees." (TWO)

Document C/XVI/20, Report of sixteenth ordinary session of the Council, Geneva, October 13 to 15, 1982 (paragraph 16) TC/XVII/5 (paragraph 11)

The TC at its eighteenth session, from November 17 to 19, 1982, established the Technical Working Party on Automation and Computer Programs (TWC):

"The first task of the Working Party would be to prepare an inventory of the existing programs and methods of data processing. Thereafter it would concentrate on the following two topics:

"(i) A study of the problem of codification and standardization of entries, in order to make an exchange of information compatible;

"(ii) The preparation of a comparative analysis of the methods used for cross fertilized plants in the testing of distinctness, homogeneity and stability and in the statistical interpretation of the data obtained and of a proposal for an improved common solution."

Document TC/XVIII/13 Report of the eighteenth session of the TC, Geneva, November 17 to 19, 1982 (paragraph 32)

The Council at its seventeenth ordinary session, on October 14, 1983 approved the establishment by the TC of the TWC.

Document C/XVII/15 Report of the seventeenth ordinary session of the Council, Geneva, October 12 to 14, 1983 (paragraph 116)

Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT)

The Council at its twenty-sixth ordinary session, on October 29, 1992 agreed to establish the Working Group on Biochemical and Molecular Techniques, DNA-Profiling in Particular (BMT).

Document C/26/15 Report of the twenty-sixth ordinary session of the Council, Geneva, October 29, 1992 (paragraph 27)

The TC at its thirty-eighth session, from April 15 to 17, 2002, agreed the future role of the BMT as follows:

The BMT is a group open to DUS experts, biochemical and molecular specialists and plant breeders, whose role is to:

- (i) Review general developments in biochemical and molecular techniques;
- (ii) Maintain an awareness of relevant applications of biochemical and molecular techniques in plant breeding;
- (iii) Consider the possible application of biochemical and molecular techniques in DUS testing and report its considerations to the TC;
- (iv) If appropriate, establish guidelines for biochemical and molecular methodologies and their harmonization and, in particular, contribute to the preparation of document TGP/15, "New Types of Characteristics." These guidelines to be developed in conjunction with the Technical Working Parties;
- (v) Consider initiatives from TWPs, for the establishment of crop specific subgroups, taking into account available information and the need for biochemical and molecular methods;
- (vi) Develop guidelines regarding the management and harmonization of databases of biochemical and molecular information, in conjunction with the TWC;
- (vii) Receive reports from Crop Subgroups and the BMT Review Group;
- (viii) Provide a forum for discussion on the use of biochemical and molecular techniques in the consideration of essential derivation and variety identification.

Document TC/38/16 Report of the thirty-eighth session of the TC, Geneva, April 15 to 17, 2002 (paragraph 204)

[End of Annex and of document]