

Technical Committee

TC/56/11

**Fifty-Sixth Session
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to be considered by correspondence

COOPERATION IN EXAMINATION

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. The purpose of this document is to assist the Technical Committee (TC) in its discussions on possibilities to facilitate cooperation in DUS examination.
2. The TC is invited to:
 - (a) note that members of the Union have 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;
 - (b) consider the development of a package of compatible IT tools with the elements described in paragraph 19 of this document;
 - (c) note the potential for machine translation technology to reduce translation costs for UPOV documents in UPOV languages and to make UPOV materials in a wider range of languages;
 - (d) consider whether to revise document TGP/5, Section 6: “UPOV Report on Technical Examination and UPOV Variety Description”, to include additional information in DUS test reports, as proposed in paragraph 25 of this document; and
 - (e) consider whether to assess the impact of the proposed plan 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”.

3. The structure of this document is as follows:

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4. 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
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
TWV:	Technical Working Party for Vegetables
TWPs:	Technical Working Parties

BACKGROUND

5. At its fifty-second session, held in Geneva, from March 14 to 16, 2016, the TC, as a result of the discussion under agenda item 3 “Discussion on quality parameters for DUS examination”, noted that there may be obstacles to cooperation in examination, including exchange of DUS reports, and agreed to explore the situation further. As a starting point for discussion, the TC agreed that it would be useful for the Office of the Union to conduct a survey of the current situation of members of the Union and to report the results to the TC at its fifty-third session (see document TC/52/29 Rev. “Revised Report”, paragraph 207).

Survey on cooperation in DUS examination

6. At its fifty-fourth session, held in Geneva, from October 29 to 30, 2018, the TC considered document TC/54/25 “Cooperation in Examination” and the results of the survey of the current situation of members of the Union with regard to cooperation in examination, as set out in document TC/54/25, Annex.

7. The TC, at its fifty-fourth session, agreed that it would be useful for UPOV members to identify contact persons for international cooperation in DUS examination and make this information available via the UPOV website. The TC agreed to invite the TWPs to explore the technical concerns that prevented cooperation and to propose how to overcome the technical concerns raised. The TC agreed that the topic of international cooperation should be included in the preparatory workshops for the TWPs to explain the existing possibilities for cooperation between UPOV members (see document TC/54/31 Corr. “Report”, paragraphs 252 to 256).

Identification of contact persons for international cooperation in DUS examination

8. The TC, at its fifty-fifth session, noted the list of persons to be contacted for matters concerning international cooperation in DUS examination, provided in document TC/55/10, Annex, made available on the UPOV website at the following address: https://www.upov.int/databases/en/contact_cooperation.html (see document TC/55/25 “Report”, paragraphs 197 to 205).

9. The TC noted that UPOV members would be invited to update information on a person(s) to be contacted for matters concerning international cooperation in DUS examination every year 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”.

10. Updates on the list of person(s) to be contacted for matters concerning international cooperation provided on the UPOV website can be implemented at any time, at the request of the member of the Union concerned.

Technical concerns that prevent cooperation

11. The TC, at its fifty-fifth session, noted that the TWPs, at their sessions in 2019, had formed discussion groups to discuss the technical concerns that prevent cooperation in DUS examination and to propose how to overcome the technical concerns raised.

12. The TC considered the outcomes of discussions held at the TWO, TWV, TWF, TWA and TWC, at their sessions in 2019, as set out in document TC/55/10, paragraphs 19 to 26, reproduced as follows:

Technical and related administrative issues:

- Sufficient experience for conducting DUS examination of a particular crop / quality of examination performed
- Suitable variety collection
- Information on varieties included in DUS examination
- Different descriptions due to environmental influence on expression of characteristics
- Lack of assessment of or divergent protocols and nomenclature for disease resistance characteristics
- Requirement for a specific comparison variety to be described along with candidate
- Lack of information on quality controls for DUS at breeders' premises
- DUS test reports that do not conform to UPOV Test Guidelines (missing or different characteristics)
- Difficulty to complete variety collections (e.g. import / phytosanitary issues)
- Lack of global DNA database for selection of similar varieties
- Language barriers
- Difficulty to identify contact persons
- Lack of information on available DUS test reports

Policy or legal issues:

- Requirement of formal agreement for cooperation
- Obligation for DUS examination to be conducted by the authority granting the rights
- Non-acceptance of breeder-based DUS test reports
- Wish from breeders to use (or not) existing DUS reports

Proposals for the development of a plan addressing concerns raised

13. The TC, at its fifty-fifth session, agreed to invite the UPOV Office to develop a coherent plan, based on the following proposals, to address the concerns raised by the TWPs and to propose how to assess the impact of the plan:

- GENIE Database: practical experience and cooperation in examination;
- Publication of contact persons for DUS cooperation on UPOV website
- PLUTO Database: create search function to find DUS test reports
- Multilingual online tool for requesting DUS test reports
- TWP sessions: invite presentations on DUS testing procedures
- Amend document TGP/5 Section 6 to report the varieties considered in the examination (not only similar varieties)
- Amend document TGP/5 Section 6 to provide data from field observations along with DUS test report for each variety
- Translate the Model Agreement for Cooperation in Testing Varieties into other relevant languages (doc. TGP/5 Sec.1)
- Develop common database with morphological and molecular information for selected crops/species
- Publishing quality assurance procedures for variety testing
- Survey and review of UPOV members use of UPOV Test Guidelines

Reporting policy or legal issues to the CAJ

14. The TC, at its fifty-fifth session, agreed to report to the CAJ the related policy or legal issues presented in document TC/55/10, paragraphs 27 and 28, reproduced below:

- Requirement of formal agreement for cooperation
- Obligation for DUS examination to be conducted by the authority granting the rights
- Non-acceptance of breeder-based DUS test reports
- Wish from breeders to use (or not) existing DUS reports

15. The matters agreed by the TC to be reported to the CAJ will be presented in document CAJ/77/2 "Report on developments in the Technical Committee". Document CAJ/77/2 will be considered by the CAJ at its seventy-seventh session, to be held in October 28, 2020.

Using the TWPs for increasing cooperation

16. The TC, at its fifty-fifth session, noted that TWP sessions could provide an opportunity for experts to enhance collaboration and exchange of information and agreed that TWP sessions should be used to develop cooperation among members to a greater extent.

PROPOSALS TO OVERCOME TECHNICAL CONCERNS IN RELATION TO COOPERATION

17. The TC, at its fifty-fifth session, agreed to invite the UPOV Office to develop a coherent plan, based on the proposals set out in paragraph 12, above, to address the concerns raised by the TWPs and to propose how to assess the impact of the plan.

18. The technical and related administrative issues might be grouped as follows:

- (a) Increase confidence in DUS examination through greater transparency:
 - (i) experience of conducting DUS examination of a particular crop/species
 - (ii) experience of cooperation in DUS examination
 - (iii) information on quality assurance procedures for DUS examination
 - (iv) information on quality assurance procedures for DUS examinations conducted at breeders' premises
 - (v) information on varieties included in the variety collection
 - (vi) information on the description of specified varieties of common knowledge included in the DUS examination
 - (vii) application of UPOV Test Guidelines
 - (viii) information on environment in which the DUS examination was conducted (to address concerns about environmental influence on expression of characteristics)
 - (ix) protocol and nomenclature for disease resistance characteristics
- (b) Communication barriers
 - (i) difficulty to identify contact persons
 - (ii) lack of information on available DUS test reports
 - (iii) language barriers
- (c) Obstacles for completing variety collection
 - (i) difficulty to complete variety collections (e.g. import / phytosanitary issues)
 - (ii) lack of global DNA database for selection of similar varieties

IT Tools

19. Since the fifty-fifth session of the TC, the Office of the Union has explored the development of a package of compatible tools, subject to available resources, that would provide coherent and comprehensive assistance in the implementation of the UPOV system of plant variety protection, some or all of which could be used by

UPOV members, as considered appropriate. The following elements of that package would be a basis of a plan to address the matters raised in paragraph 12.

- a) Platform for:
 - i) exchange of existing DUS reports for:
 - (1) UPOV members to post and receive existing DUS reports and arrange payment, as appropriate
 - (2) PVP applicants to request use of existing DUS reports and make payments, as appropriate
 - ii) UPOV members to make their documented DUS procedures and information on their quality management systems available to other members of the Union
- b) Tool to provide information on cooperation in DUS examination between UPOV members to PVP applicants in a user-friendly form, using information contained in the GENIE database
- c) Module for UPOV members to use the web-based TG Template and database of characteristics to develop individual authorities' test guidelines (IATG) in their language
- d) Platform for UPOV member databases containing variety description information

20. The above tools would be developed in conjunction with UPOV PRISMA and the GENIE and PLUTO databases.

21. In addition to the above initiatives, rapid advances in machine translation technology provide new opportunities to reduce translation costs for UPOV documents in UPOV languages and to make UPOV materials in a wider range of languages.

22. It is anticipated that the tools above, where supported by contribution of relevant information by members of the Union, would be able to address the technical and related administrative issues identified in paragraph 18, except for the following:

- (a) Increase confidence in DUS examination through greater transparency:
 - (v) information on varieties included in the variety collection
 - (vi) information on the description of specified varieties of common knowledge included in the DUS examination
 - (viii) information on environment in which the DUS examination was conducted (to address concerns about environmental influence on expression of characteristics)
- (c) Obstacles for completing variety collection
 - (i) difficulty to complete variety collections (e.g. import / phytosanitary issues)

23. Possible measures to address the remaining matters above are considered in the following sections.

Information to be provided in conjunction with DUS reports

24. The following matters concern information that could be provided with DUS reports:

- (a) Increase confidence in DUS examination through greater transparency:
 - (v) information on varieties included in the variety collection
 - (vi) information on the description of specified varieties of common knowledge included in the DUS examination
 - (viii) information on environment in which the DUS examination was conducted (to address concerns about environmental influence on expression of characteristics)

25. These matters could be addressed by means of a revision of document TGP/5 "Experience and Cooperation in DUS Testing", Section 6: UPOV Report on Technical Examination and UPOV Variety Description, to:

- provide information on varieties included in the variety collection
- report the varieties considered in the examination (not only similar varieties)
- provide data from field observations with the DUS test report for each variety
- information on environment in which the DUS examination was conducted

Obstacles for completing variety collection

26. Difficulties to complete variety collections because of constraints such as import procedures and quarantine/ phytosanitary issues are beyond the scope of UPOV. Furthermore, these constraints are a clear demonstration of the benefits of enhanced cooperation between UPOV members.

Impact assessment

27. The TC, at its fifty-fifth session, agreed to invite the Office of the Union to propose how to assess the impact of the plan developed to address the concerns raised by the TWPs on issues that prevented cooperation in DUS examination, as proposed in paragraphs 18 to 26 of this document.

28. It is proposed to assess the impact of the proposed plan 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" and contained in the GENIE database.

29. *The TC is invited to:*

(a) *note that members of the Union have 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;*

(b) *consider the development of a package of compatible IT tools with the elements described in paragraph 19 of this document;*

(c) *note the potential for machine translation technology to reduce translation costs for UPOV documents in UPOV languages and to make UPOV materials in a wider range of languages;*

(d) *consider whether to revise document TGP/5, Section 6: "UPOV Report on Technical Examination and UPOV Variety Description", to include additional information in DUS test reports, as proposed in paragraph 25 of this document; and*

(e) *consider whether to assess the impact of the proposed plan 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".*

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