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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

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DRAFT

**GUIDELINES FOR DNA-PROFILING:
MOLECULAR MARKER SELECTION
AND
DATABASE CONSTRUCTION
("BMT GUIDELINES")**

prepared by the Office of the Union

to be considered by the

*Technical Committee at its forty-sixth session,
to be held in Geneva from March 22 to 24, 2010*

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Note for Draft version

Strikethrough (highlighted) indicates proposed* deletion from the text presented to the Council at its forty first ordinary session, held in Geneva on October 25, 2007 (document BMT Guidelines (proj.9)).

Underlining (highlighted) indicates proposed* insertion to the text presented to the Council at its forty first ordinary session, held in Geneva on October 25, 2007 (document BMT Guidelines (proj.9)).

Endnotes are for background information when considering this draft and will not appear in the final, published document.

*(*Proposed by the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT) at its eleventh session, held in Madrid, Spain, from September 16 to 18, 2008, unless otherwise indicated in endnote)*

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A. INTRODUCTION

The purpose of this document (BMT Guidelines) is to provide guidance for developing harmonized methodologies with the aim of generating high quality molecular data for a range of applications. The BMT Guidelines are also intended to address the construction of databases containing molecular profiles of plant varieties, possibly produced in different laboratories using different technologies. ~~This sets~~ In addition, the aim is to set high demands on the quality of the markers and on the ~~necessity of reproducing~~ desire for generating reproducible data using these markers in situations where equipment and/or reaction chemicals might change. ~~In addition, specific~~ Specific precautions need to be taken ~~regarding the to ensure~~ quality of data entered entry into a database.

^a ~~With regard to the possible use of molecular markers in the examination of Distinctness, Uniformity and Stability (DUS), the current situation within UPOV is explained in documents TC/38/14 CAJ/45/5 and TC/38/14 Add. CAJ/45/5 Add.~~

B. GENERAL PRINCIPLES

1. Selection of a Molecular Marker Methodology

1.1 ~~The most~~ Important criteria for choosing a methodology are:

- (a) reproducibility of data production between laboratories and detection platforms (different types of equipment);
- (b) repeatability over time;
- (c) discrimination power;
- (d) possibilities for databasing; and
- (e) accessibility of methodology.

1.2 As improvements in technology and new equipment become available, it is important for the continued sustainability of databases that the interpretation of the data produced are independent of the equipment used to produce them. This is, for example, the case with DNA sequencing data. Initially, radioactively labeled primers and sequencing gels were used to produce such data, whereas this can now be done using fluorescent dyes followed by separation on high throughput, largely automated, capillary gel electrophoresis systems.

1.3 ~~_____~~ Despite these differences, the data produced with the various techniques are consistent with each other and independent of the techniques used to produce them. This can also apply to data produced using, e.g. DNA microsatellites (simple sequence repeats, SSR) or Single Nucleotide Polymorphisms (SNPs). This repeatability and reproducibility is important in the construction, operation and longevity of databases and is very important in generating a centrally maintained database, populated with verified data from a range of sources. ~~Only in this way can a centrally maintained database, populated with verified data from a range of sources, be constructed in a cost effective way such that the significant investment required in its establishment is only made once.~~

1.34 The ~~kinds of~~ molecular techniques readily applicable for variety profiling are constrained by the requirement for the data to be repeatable, reproducible and consistent. Thus, while various multi-locus DNA profiling techniques have been successfully used for

research, co-dominance cannot easily be recorded in many of them, and the reproducibility of complex banding patterns between laboratories using different equipment can be problematic.

1.5 These factors ~~are viewed as presenting~~ difficulties in the context of variety profiling. Consequently, this document focuses on considerations and recommendations with regard to the well-defined and researched uses of SSRs (microsatellites) and, for the future, to sequencing information (i.e. single nucleotide polymorphisms, SNPs). Other techniques which rely on DNA sequence information, such as ~~CAPS (cleaved amplified polymorphic sequences) (CAPS) and SCARS (sequence-characterized amplified regions) (SCARs)~~ may also fulfill the above criteria but their use in DNA profiling of plant varieties has not yet been explored.

2. Selection of Molecular Markers

2.1 General Criteria

The following general criteria for choosing a specific marker or set of markers are intended to be appropriate for molecular markers irrespective of the use of the markers, although it is recognized that specific uses may impose certain additional criteria:

- (a) useful level of polymorphism ~~(indicated, for example, by PIC (polymorphism information content: see Glossary) value obtained on a set of representative varieties);~~
- (b) repeatability within, and reproducibility between, laboratories in terms of scoring data;
- (c) known distribution of the markers throughout the genome (i.e. map position), which whilst not being essential, is useful information and helps to avoid the selection of markers that may be linked; and
- (d) the avoidance, as far as possible, of markers with “null” alleles (i.e. an allele whose effect is an absence of a PCR product at the molecular level), which again is not essential, but advisable.

2.2 Criteria for specific types of molecular markers

2.2.1 Microsatellite Markers (SSRs)

2.2.1.1 The analysis of simple sequence repeats (SSRs or microsatellites: see Glossary) using the polymerase chain reaction (PCR) is now widely used and has several advantages.

2.2.1.2 SSR markers are expressed co-dominantly, are generally easy to score (record) and can readily be mapped. ~~They have been shown to be capable of analysis in different laboratories, and (given sufficient attention to experimental conditions) are robust and repeatable~~ They have been used and analyzed in different laboratories, and under specific experimental conditions are generally robust and repeatable. In addition, they can be analyzed using automated, high throughput, non-radioactive DNA sequencers, based either on gel electrophoresis or capillary electrophoresis, and several can be analyzed simultaneously (multiplexing).

2.2.1.3 For effective microsatellite analysis, selecting high quality markers is essential. This includes a consideration of, *inter alia*:

- (a) the degree of “stuttering” (production of a series of one or more bands, differing by 1 repeat unit in size);
- (b) (n+1) peaks; Taq-polymerase often adds 1 bp to the end of a fragment. This can be prevented by using “pigtailed” primers (see Glossary);
- (c) the size of the amplification product;
- (d) effective separation between the various alleles in ~~different~~ suitable detection systems;
- (e) reliable and reproducible scoring of the alleles in different detection systems;
- (f) the level of polymorphism (~~number of alleles detected~~) between varieties (note that this requires analysis of a significant number of varieties);
- (g) avoidance of linkage.

2.2.1.4 For scoring SSRs in different laboratories and using different detection equipment, it is crucial that reference alleles (i.e. sets of varieties) are defined and included in all analyses. These reference alleles are necessary because molecular weight standards behave differently in the various detection systems currently available and are therefore not appropriate for allele identification.

2.2.1.5 Primers used in a particular laboratory should be synthesized by an assured supplier, to reduce the possibility of different DNA profiles as a result of using ~~being produced from~~ primers synthesized through different sources.

2.2.2 *Single nucleotide polymorphism (SNP)*

Single nucleotide polymorphisms (SNPs: see Glossary) can be detected via DNA sequencing, a routine technique which generally shows very high levels of repeatability over time and reproducibility between laboratories. However, detection of specific SNPs is currently can be carried out with a range of techniques, many of which are not yet routine. By their nature, SNPs have only two allelic states in diploid plants, although this may vary in polyploids where there will be dosage effects. That The simple makeup of SNPs makes the scoring of SNPs relatively straightforward and reliable ~~and should reduce or remove many of the problems noted above~~. It also means that a large number of markers may need to be analyzed, either singly or in multiplexes, to allow the efficient and effective profiling of a particular genotype.

3. Access to the Technology

Some molecular markers and materials are publicly available. However, a large investment is likely to be necessary to obtain, for example, high quality SSR markers and consequently markers and other methods and materials may be covered by intellectual property rights. UPOV has developed guidance for the use of products or methodologies which are the subject of intellectual property rights (see document TGP/7/1 Annex 3, GN 14) and this guidance should be followed for the purposes of these guidelines and this guidance should be followed for the purposes of these guidelines^b. It is recommended that matters concerning intellectual property rights should be addressed at the start of any developmental work.

4. Material to be Analyzed

The source and type of the material and how many samples need to be analyzed are the main issues with regard to the material to be analyzed.

4.1 Source of plant material

The plant material to be analyzed should be an authentic, representative sample of the variety and, where possible, should be obtained from the sample of the variety used for examination for the purposes of Plant Breeders' Rights or for official registration. Use of samples of material submitted for examination for the purposes of Plant Breeders' Rights or for official registration will require the permission of the relevant authority, breeder and/or maintainer, as appropriate. ~~Where appropriate, the individual plants from which the samples are taken should be traceable in case some of the plants subsequently prove not to be representative of the variety. The plant material from which the samples are taken should be traceable in case some of the samples subsequently prove not to be representative of the variety.~~

4.2 Type of plant material

The type of plant material to be sampled and the procedure for sampling the material for DNA extraction will, to a large extent, depend on the crop or plant species concerned. For example, in seed-propagated varieties, seed may be used as the source of DNA, whereas, in vegetatively propagated varieties, the DNA may be extracted from leaf material. Whatever the source of material, the method for sampling and DNA extraction should be standardized and documented. Furthermore, it should be verified that the sampling and extraction methods produce consistent results by DNA analysis.

4.3 Sample size

It is essential that the samples taken for analysis are representative of the variety. ~~With regard to being representative of the variety, consideration should be given to the features of propagation (see the General Introduction). The size of the sample should be determined taking into account suitable statistical procedures.~~

~~4.3.1 *Vegetatively propagated varieties*~~

~~In principle, a single sample could be analyzed for vegetatively propagated varieties, as all individuals should be identical. However, it is advisable in all cases to analyze at least duplicate samples. If any differences are found, additional samples should be analyzed.~~

~~4.3.2 *Self pollinated and mainly self pollinated varieties*~~

~~It is not always appropriate to assume that self-pollinated and mainly self-pollinated varieties are homozygous at all loci, including SSR or SNP loci. Heterogeneity can arise from, for example, residual heterozygosity, cross-pollination or physical admixture. For this reason, it is generally recommended that a number of single seeds be analyzed, as this will reveal any such heterozygosity. However, there may be reasons, including cost, to analyze a bulk sample of an agreed number of individuals to represent the DNA profile of a variety.~~

4.3.3 *Cross pollinated varieties*

Similar considerations apply in principle to varieties of cross pollinated species. It is generally recommended that individual seeds/plants are analyzed because differences between varieties may be the result of differences in allele (or band) frequencies, as well as the presence or absence of particular alleles/bands. However, there may be reasons, including cost, to analyze a bulk sample of an agreed number of individuals to represent the DNA profile of a variety.

4.3.4 *Hybrids*

The appropriate method for ensuring that samples taken for analysis of hybrids are representative of the variety will depend on the type of hybrid. It should be recognized that hybrid varieties will be heterozygous at the loci coding for DNA markers, but could still be phenotypically uniform. The number of samples chosen for analysis will depend on the precise issue being addressed and the type of hybrid variety being assessed. The information concerning different types of hybrid varieties, provided 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” (see Chapter 6.4.3), should be considered in that respect.

4.4 DNA reference sample

It is recommended that a DNA reference sample collection should be created from the plant material sampled according to sections 4.1 to 4.3. This has the benefit that the DNA reference samples can be stored and supplied to others laboratories. The DNA samples should be stored in such a way as to prevent degradation.

5. **Standardization of Analytical Protocols**

5.1 Introduction

This document is not intended to provide detailed technical protocols for the production of DNA profiles of varieties. In principle, any suitable analytical methodology can be used, but it is important that the methodology is validated in an appropriate way. This may be via an internationally recognized method of validation, or by developing a performance-based approach. In either case, there are some useful general considerations.

Any method used for genotyping and the construction of databases should be technically simple to perform, reliable and robust, allowing easy and indisputable scoring of marker profiles in different laboratories. This requires a level of standardization, for instance in the selection of markers, reference alleles and allele calling/scoring.

5.2 Quality criteria

5.2.1 It is important to agree on certain consider quality criteria concerning, for example:

- (a) the quality of DNA;
- (b) methods of DNA extraction
- (~~bc~~) the primer sequences;

- (ed) the polymerase to be used in PCR-based methodologies;
- (de) for PCR-based methodologies, the amount/concentration of each PCR component and other components; and
- (ef) PCR cycling conditions.

5.2.2 The detailed methodology should be set out in a protocol.

5.3 Evaluation Phase

5.3.1 *Introduction*

In order to select suitable markers and produce acceptable laboratory protocols for a given species, a preliminary evaluation phase involving more than one laboratory (i.e. an internationally recognized method of validation, e.g. a ring test according to internationally agreed standards) is recommended. This phase should be mainly concerned with selecting a set of markers, and will usually involve the evaluation of existing markers, either published or available via other means. The number of markers to be evaluated will vary and depends on the possibilities presented by different species. The markers should derive from reliable sources (e.g. peer-reviewed publications) and be sourced from assured suppliers. The final choice of a number to be evaluated will be a balance between costs and the requirement to produce a satisfactory set of agreed markers at the end of the process. The objective is to produce an agreed set of markers that can be reliably and reproducibly analyzed, scored and recorded in different laboratories, potentially using different types of equipment and different sources of chemical reagents, etc.

5.3.2 *Variety choice*

An appropriate number of varieties, based on the genetic variability within the species and type of variety concerned, should be selected as the basis for the evaluation phase. The choice of varieties should reflect an appropriate range of diversity and where possible should include some closely related and some morphologically similar varieties, to enable the level of discrimination in such cases to be assessed.

5.3.3 *Interpretation of results*

The next evaluation stage should, if possible, include an internationally recognized method of validation to assess the whole methodology in an objective way. Any marker which causes difficulties in any of the laboratories involved in this evaluation phase should be rejected for subsequent use. ~~Ideally, as from empirical experience~~ As most errors in the analysis of large variety collections seem to arise from scoring errors, construction of databases should be based on duplicate samples (e.g. different sub-samples of seed from the same variety), analyzed ~~in different laboratories~~ by more than one laboratory. Since the sub-samples (or DNA extracts from them) can be exchanged in the event of any discrepancy, this approach is very effective in highlighting sampling errors, or those due to heterogeneity within the samples, and eliminates possible laboratory artifacts ~~(systematic errors)~~.

5.4 Scoring of molecular data

A protocol for allele/band scoring should be developed in conjunction with the evaluation phase. The protocol should address how to score the following:

- (a) rare alleles (i.e. those at a specific locus which appear with a frequency below an agreed threshold (commonly 5-10%) in a population);
- (b) null alleles (an allele whose effect is an absence of PCR product at the molecular level);
- (c) “faint” bands (i.e. bands where the intensity falls below an agreed threshold of detection, set either empirically or automatically, and the scoring of which may be open to question);
- (d) missing data (i.e. any locus for which there are no data recorded for whatever reason in a variety or varieties);
- (e) monomorphic bands (those alleles/bands which appear in every variety analyzed, i.e. are not polymorphic in a particular variety collection).

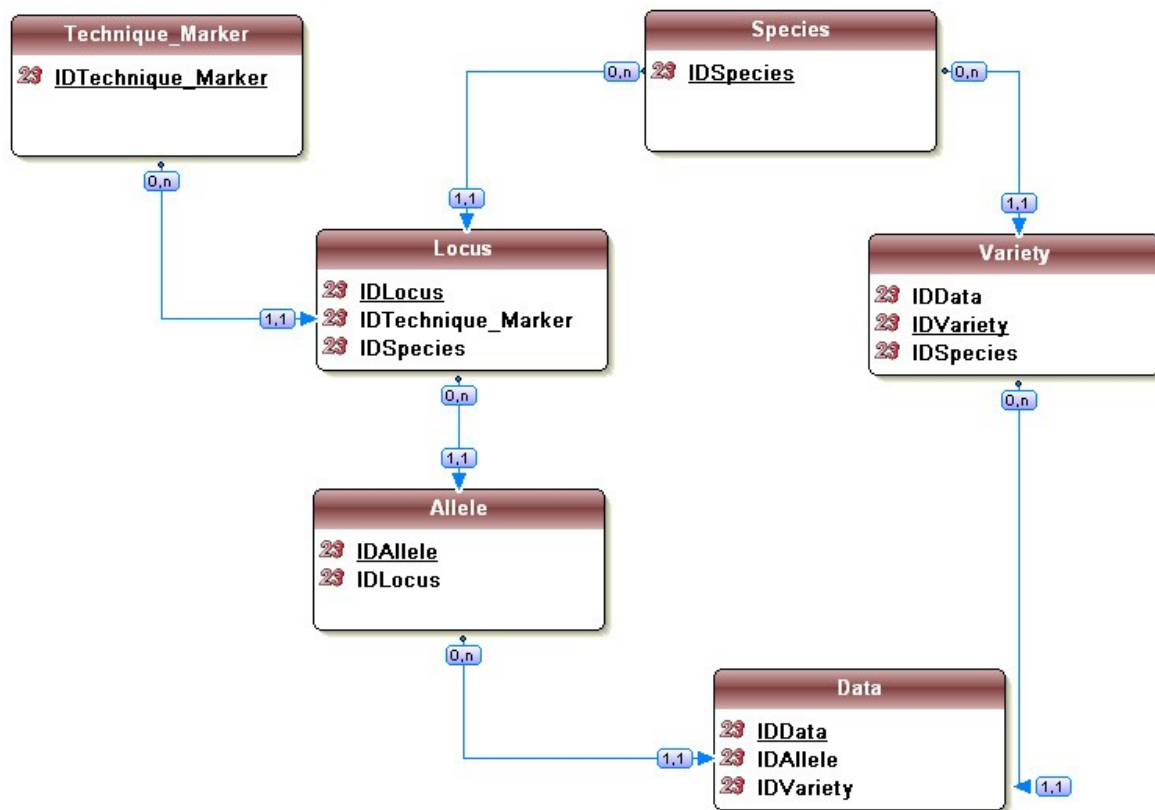
6. Databases

6.1 Type of database

There are many ways in which molecular data can be stored, therefore, it is important that the database structure is developed in a way which is to be compatible with all intended uses of the data.

6.2 Database model

The database model should be defined by IT database experts in conjunction with the users of the database. As a minimum the database model should contain six core objects: Species; Variety; Technique; Marker; Locus; and Allele.



6.3 Data Dictionary

6.3.1 In a database, each of the objects becomes a table in which fields are defined. For example:

(a) Technique/Marker code:

indicates the code or name of the technique or type of marker used, *e.g. SSR, SNP, etc.*

(b) Locus code:

indicates name or code of the locus for the species concerned, *e.g. gwm 149, A2, etc.*

(c) Allele code:

indicates name or code of the allele of a given locus for the species concerned, *e.g. I, 123, etc.*

(d) Data value:

indicates a data value for a given sample on a given locus-allele, *e.g. 0 (absence), 1 (presence), 0.25 (frequency) etc.*

(e) Variety:

the variety is the object for which the data have been obtained.

(f) Species:

the species is indicated by the botanical name or the national common name, which sometimes also refers to the type of variety (e.g. use, winter/spring type etc.). The use of the UPOV code would avoid problems of synonyms and would, therefore, be beneficial for coordination.

6.3.2 In each table, the number of fields, their name and definition, the possible values and the rules to be followed, need to be defined in the “data dictionary”.

6.4 Table Relationship

6.4.1 The links between the tables are an important aspect of the database design. The links between tables can be illustrated as follows:

Table	Link	Table	Description
Woman	0 or 1 to n (0, n)	Child	0: A woman may have no child 1 to n: a woman may have 1 to n children (she is then a mother)
Child	1 to 1 (1,1)	Woman	A given child has only one biological mother

6.4.2 The following table indicates the relationship between the six minimum core objects, as proposed in the database model in Section 6.2:

Table	Link	Table	description
Technique/marker	0 or 1 to n	Locus	0: A technique/marker can be present in Technique/marker, even if no locus/allele is yet used in the database 1 to n: a given type of marker can provide 1 to n useful loci
Locus	1 to 1	Technique/marker	A given locus is defined within the scope of a given technique/marker
Locus	1 to n	Allele	For each Locus 1, or more than 1, allele can be described
Allele	1 to 1	Locus	A given Allele is defined within the scope of a given Locus
Allele	0 or 1 to n	Data	0: a given Allele can be defined, but without data 1 to n: a given allele can be found in 1 to n data
Data	1 to 1	Allele	data corresponds to a given allele
Variety	0 or 1 to n	Data	0: the variety has no data 1 to n: the variety has data
Data	1 to 1	Variety	data corresponds to a given variety
Data	1 to 1	Species	data is obtained for a given variety, then for the species of the variety.
Species	0 or 1 to n	Data	0: a species can have no data. 1 to n: a species can have 1 to n data.

6.5 Transfer of data to the database

To reduce the number of errors in data transfer and transcription, it is advisable to automate transfer of data to databases as much as possible.

6.6 Data access / ownership

It is recommended that all matters concerning ownership of data and access to data in the database should be addressed at the beginning of any work.

6.7 Data analysis

The purpose for which the data will be analyzed will determine the method of analysis, therefore, no specific recommendations are made within these guidelines.

6.8 Validating the database

When the first phase of the database is complete, it is recommended to conduct a 'blind test', i.e. distribute a number of samples to different laboratories and ask them to use the agreed protocol in conjunction with the database to identify them.

7. Summary

The following is a summary of the approach recommended for the selection and use of molecular markers to construct central and sustainable databases of DNA profiles of varieties (i.e. databases that can be populated in the future with data from a range of sources, independent of the technology used).

- (a) consider the approach on a crop-by-crop basis;
- (b) agree on an acceptable marker type and source;
- (c) agree on acceptable detection platforms/equipment;
- (d) agree on laboratories to be included in the test;
- (e) agree on quality issues (see section 5.2);
- (f) verify the source of the plant material used (see section 4);
- (g) agree which markers are to be used in a preliminary collaborative evaluation phase, involving more than one laboratory and different detection equipment (see section 2);
- (h) conduct an evaluation (see section 5.3);
- (i) develop a protocol for scoring the molecular data (see section 5.4);
- (j) agree on the plant material/reference set to be analyzed, and the source(s);
- (k) analyze the agreed variety collection, in different laboratories/different detection equipment, using duplicate samples, and exchanging samples/DNA extracts if problems occur;
- (l) use reference varieties/DNA sample/alleles in all analyses;
- (m) verify all stages (including data entry) – automate as much as possible;
- (n) conduct a ‘blind test’ in different laboratories using the database;
- (o) adopt the procedures for adding new data.

GLOSSARY

Microsatellites, or Simple Sequence Repeats (SSRs)

Microsatellites, or simple sequence repeats (SSRs) are tandemly repeated DNA sequences, usually with a repeat unit of 2-4 base pairs (e.g. GA, CTT and GATA). In many species, multiple alleles have been shown to exist for some microsatellites, due to variations in the copy number of this repeat unit. Microsatellites can be analyzed by PCR using specific primers, a procedure known as the sequence-tagged-site microsatellite (STMS) approach. The alleles (PCR products) can be separated by agarose or polyacrylamide gel electrophoresis. In order to develop sequence-tagged site microsatellites, information about the sequence of the DNA flanking the microsatellite is needed. This information can sometimes be acquired from existing DNA sequence databases, but otherwise has to be obtained empirically.

Single Nucleotide Polymorphisms (SNPs)

Single nucleotide polymorphisms (SNPs) (pronounced “snips”) are DNA sequence variations that occur when a single nucleotide (A,T,C, or G) in the genome sequence is altered. For example a SNP might change the DNA sequence A**A**GGCTAA to A**T**GGCTAA. Generally, for a variation to be considered a SNP, it must occur in at least 1% of the population. The potential number of SNP markers is very high, meaning it should be possible to find them in all parts of the genome. SNPs can occur in both coding (gene) and non-coding regions of the genome. The discovery of SNPs involves comparative sequencing of numbers of individuals from a population. More commonly, potential SNPs are identified by comparing aligned sequences from the available sequence databases. Although they can be detected by relatively straightforward PCR + gel electrophoresis, high throughput and micro-array procedures are being developed for automatically scoring hundreds of SNP loci simultaneously.

Cleaved Amplified Polymorphic Sequences (CAPS)

Cleaved amplified polymorphic sequences (CAPS) are DNA fragments amplified by PCR using specific 20-25 bp primers, followed by digestion with a restriction endonuclease. Subsequently, length polymorphisms resulting from variation in the occurrence of restriction sites are identified by gel-electrophoresis of the digested products. In comparison with markers such as RFLPs, polymorphisms are more difficult to identify because of the limited size of the amplified fragments (300-1800 bp). CAPS analysis, however, does not require Southern blot hybridization and radioactive detection. CAPS have generally been applied predominantly in gene mapping studies to date.

Sequence-Characterized Amplified Regions (SCARs)

Sequence-characterized amplified regions (SCARs) are DNA fragments amplified by PCR using specific 15-30 bp primers, designed from previously identified polymorphic sequences. By using longer PCR primers, SCARs avoid the problem of low reproducibility. They are also usually co-dominant markers. SCARs are locus specific and have been applied in gene mapping studies and marker assisted selection.

Polymorphic Information Content (PIC) Values

Polymorphic information content (PIC) values are a measure of the allelic diversity at a locus, used to estimate and compare the discrimination power of molecular markers. The PIC value of a PCR-based marker can be calculated as:

$$1 - \sum_{j=1}^n P_{ij}^2$$

where P_{ij} is the frequency of the j th PCR pattern for genotype i .

Pig-tailing

In SSR analysis, “pig-tailing” is the addition of a short specific oligonucleotide sequence to the primers used in the PCR, as a way of improving the clarity of the amplification products and reducing artifacts.

Null Allele

In SSR analysis, a “null allele” is an allele at a particular locus whose effect is seen as an absence of a PCR product.

Stutter Bands

In SSR analysis, “stutter bands” is the occurrence of a series of one or more bands, differing by 1 repeat unit in size, following PCR.

^a At the seventy-fourth session of the Consultative Committee, held in Geneva on October 24, 2007, the Delegation of the United States of America wondered what the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. would be on the adoption of the BMT Guidelines. In particular, it noted that the BMT Guidelines would be adopted by the Council, whereas documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. had not been adopted by the Council. The Consultative Committee recommended that consideration be given to the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. with regard to their reference in the introduction of document BMT Guidelines (proj.9).

The Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT) agreed to delete the second paragraph of Section A. “Introduction”.

The Enlarged Editorial Committee (TC-EDC) agreed that one solution would be to delete the second paragraph of Section A. “Introduction” on the basis that documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. were planned to be revised. The TC-EDC also noted a question raised at the meeting as to whether documents TC/38/14 CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. might be considered to be approved by the Council when it “noted the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular, as given in document C/36/10 [“Progress report of the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular”]” (see document C/36/13 “Report”, paragraph 21). The TC-EDC agreed that it would be a matter for the Consultative Committee to consider that question.

^b The BMT proposed that the Council should consider the text included in document TGP/7/1, GN 14 in parallel with the BMT Guidelines and delete this sentence if that text is not acceptable.

Extract from document TGP/7/1

“GN 14 (TG Template: Chapter 7) – Characteristics examined by patented methods

“(a) In the case of a characteristic which can be examined by a patented method, the leading expert should disclose any known information on the patent, or patent applications pending, that may relate to the assessment of the expression of the characteristic concerned. The information on known patents should include the name and contact details of the patent holder, patent registration number, and countries where the patent has been granted (or patent applications pending, if applicable).

“(b) The leading expert should assess the importance of the patented method concerning the assessment of the expression of a characteristic and the suitability of alternative, non-patented methods, if available. The leading expert and relevant TWP should then decide whether it would be better to revisit the issue at a later stage or if it would be appropriate to contact the patent holder to find a suitable arrangement for utilization of the patented method. The TWP may decide to seek the advice of the Technical Committee and, if appropriate, the Technical Committee may also seek the advice of the Administrative and Legal Committee.

“(c) If a decision to contact the patent holder is taken, three situations may arise:

(i) the patent holder waives his/her rights for the particular use of the patented method concerning the assessment of the expression of a characteristic for DUS testing and development of variety descriptions;

(ii) the patent holder is willing to negotiate licenses with other parties on a non-discriminatory basis and on reasonable terms and conditions;

(iii) the patent holder is not willing to cooperate with the solutions in (i) or (ii).

“(d) If (c) (i) is applicable, a footnote in the corresponding characteristic(s) of the Test Guidelines should indicate that the method for assessing the expression of this characteristic is protected by patent, but that the patent holder has waived his/her rights for the purpose of DUS testing and development of variety descriptions. The members of the TWP may decide, considering the importance of the characteristic, if it will be appropriate to select it as an asterisked characteristic.

“(e) If (c) (ii) is applicable, it is recommended that the characteristic(s) concerned will not be selected as an asterisked characteristic as it will not satisfy the requirement for accessibility that enables harmonization of variety description using asterisked characteristics. The members of the TWP may decide whether interested parties would like to retain the characteristic related to the method protected by patent as a standard Test Guidelines characteristic. Interested parties may decide to start negotiations with the patent holder for licenses on a non-discriminatory basis and on reasonable terms and conditions. Such negotiations are left to the interested parties and would take place outside UPOV. An appropriate note indicating that the method concerning the assessment of the expression of the characteristic is protected by patent and that the patent holder provides for licenses on a non-discriminatory basis and on reasonable terms and conditions should be provided.

“(f) If (c) (iii) is applicable, it is recommended that the characteristic(s) concerned with the method protected by patent will not be selected as an asterisked characteristic. The experts of the relevant TWP may decide, in light of the information available, e.g. experience of a member of the Union that has used the characteristic to develop a variety description, whether the characteristic should or should not be selected as a standard Test Guidelines characteristic. An appropriate note indicating that the method concerning the assessment of the expression of the characteristic is protected by patent should be provided.”

[End of document]