



TWA/43/24

ORIGINAL: English

DATE: November 9, 2014

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

TECHNICAL WORKING PARTY FOR AGRICULTURAL CROPS

Forty-Third Session

Mar del Plata, Argentina, November 17 to 21, 2014

REPORT ON DEVELOPMENTS WITHIN UPOV

Document prepared by the Office of the Union

1. The Annex to this document contains a copy of a presentation "Report on Developments within UPOV" prepared by the Office of the Union for the forty-second session of the Technical Working Party for Agricultural Crops (TWA).

2. *The TWA is invited to note the "Report on Developments within UPOV", as presented in the Annex to this document.*

[Annex follows]

TECHNICAL WORKING PARTY FOR AGRICULTURAL CROPS

Forty-Third Session

REPORT ON DEVELOPMENTS IN UPOV

**Mar del Plata, Argentina,
November 17 to 21, 2014**

OVERVIEW

- Membership, Observers and Statistics
- Chairmanship of UPOV Bodies and staff
- UPOV Collection
- UPOV Denomination Search Tool
- Publications, Activities and Training
- Developments in Other International Fora

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OVERVIEW

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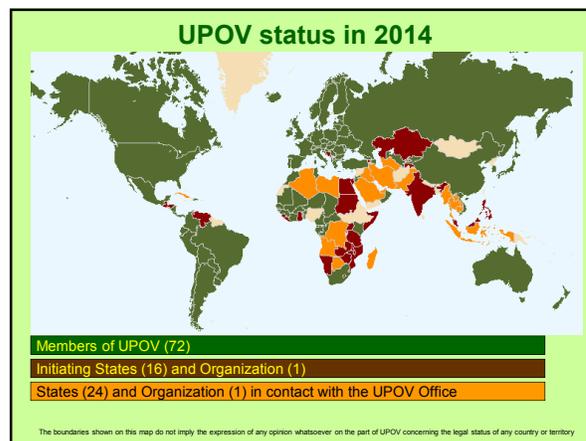
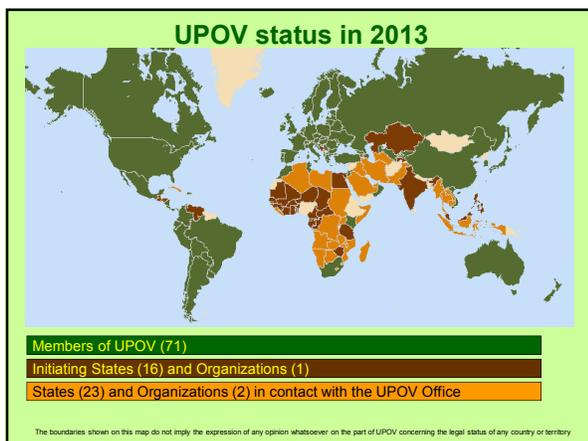
MEMBERSHIP OF UPOV
72 Members

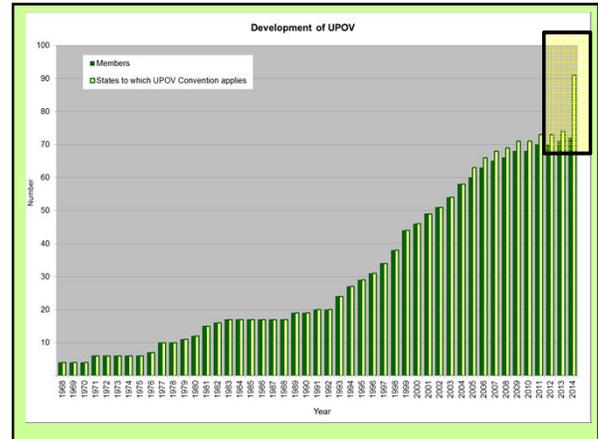
New Member

African Intellectual Property Organization (OAPI) as of July 10, 2014



OAPI operates a plant variety protection system which covers the territory of its 17 member States: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal and Togo. The headquarters of OAPI are in Yaoundé, Cameroon

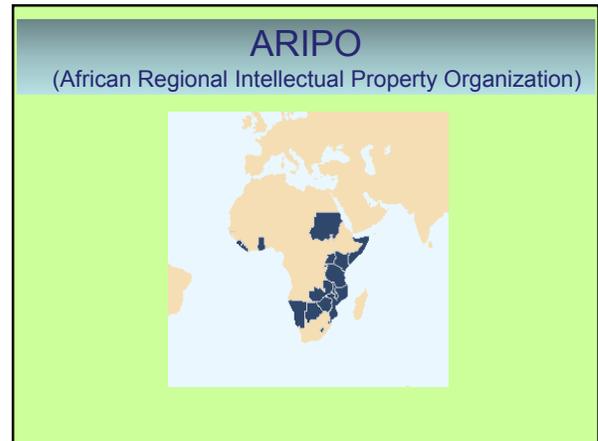




SITUATION in UPOV
Examination of Laws

	<u>Council session</u>	<u>Advice</u>
Bosnia and Herzegovina (Law)	October 24, 2013	Positive
Draft ARIPO Protocol (African Regional Intellectual Property Organization)	April 11, 2014	Positive
Plant Breeders' Rights Act of Zanzibar	October 16, 2014	Positive

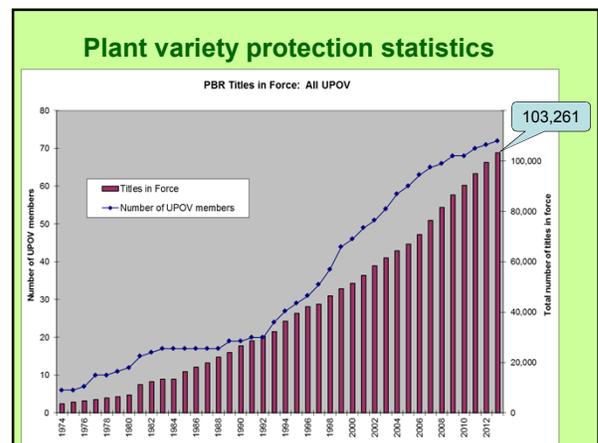
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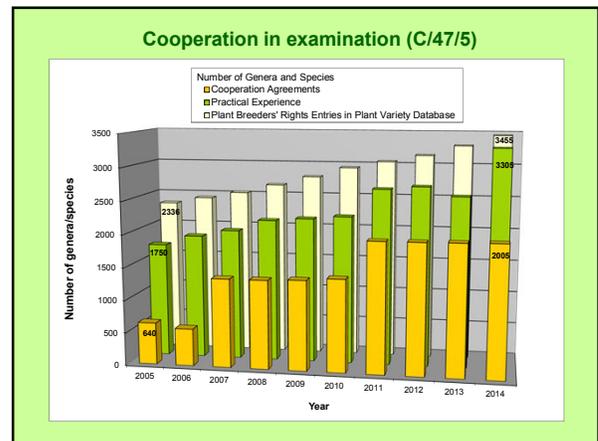
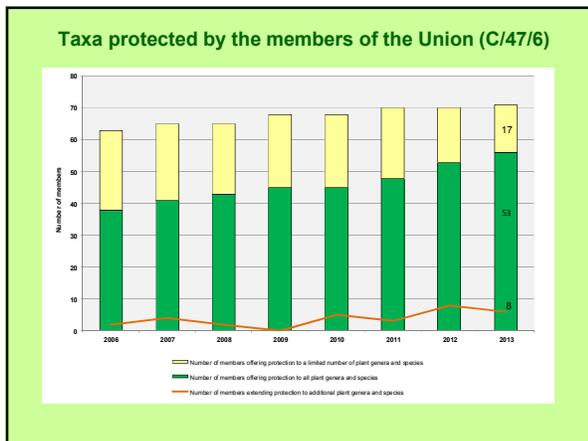
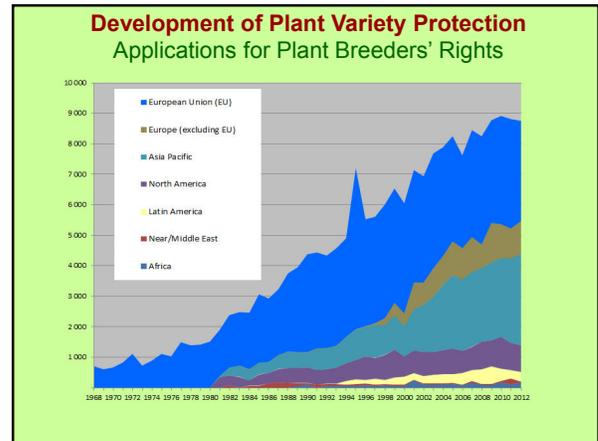
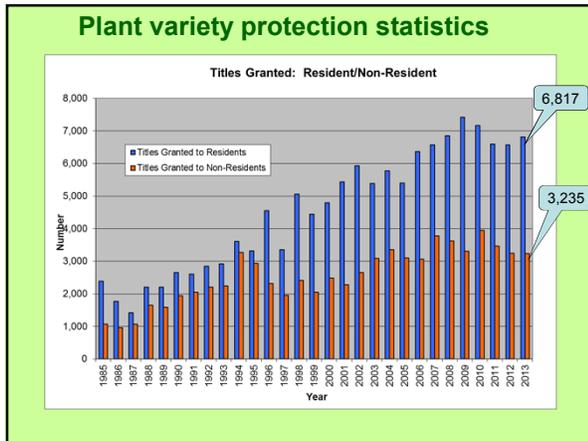
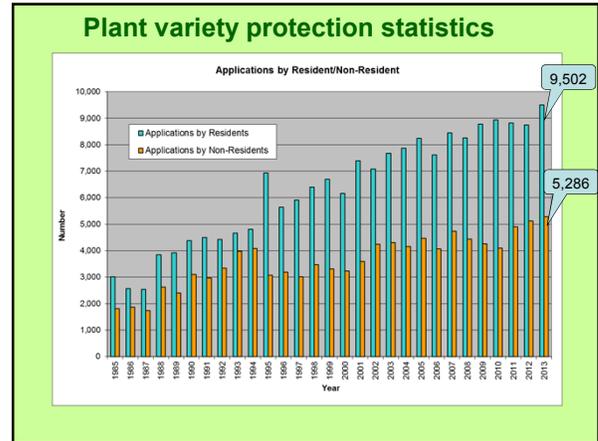
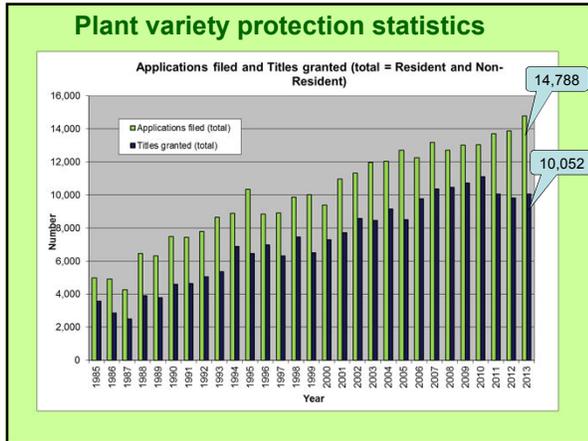


SITUATION in UPOV
Organizations Granted Observer Status

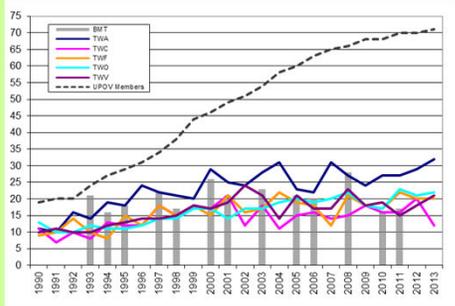
	<u>UPOV BODIES</u>
South Centre	Council, CAJ
World Farmers' Organization (WFO)	Council, CAJ, TC

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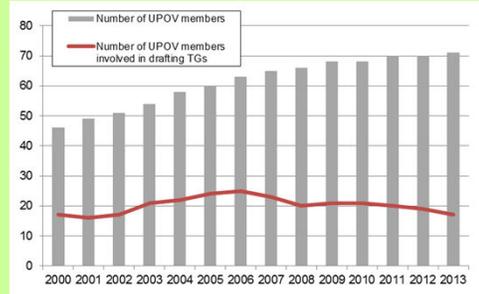




Number of Participating Members and Observer States/Organizations in the TWPs



Number of members of the Union involved in drafting Test Guidelines



OVERVIEW

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CHAIRMANSHIP OF UPOV BODIES ELECTIONS

for a term of three years ending in 2016



Chair, Administrative and Legal Committee
Mr. Martin Ekvad
(European Union)



Vice-Chair, Administrative and Legal Committee
Mr. James M. Onsando
(Kenya)



Chair, Technical Committee
Mr. Alejandro F. Barrientos-Priego
(Mexico)



Vice-Chair, Technical Committee
Mr. Kees van Ettehoven
(Netherlands)

CHAIRMANSHIP OF UPOV BODIES ELECTIONS

for a term of three years ending in 2017



Technical Working Party for Agricultural Crops (TWA)
Mr. Tanvir Hossain (Australia)



Technical Working Party on Automation and Computer Programs (TWC)
Mr. Adrian Roberts (United Kingdom)



Technical Working Party for Fruit Crops (TWF)
Mr. Katsumi Yamaguchi (Japan)



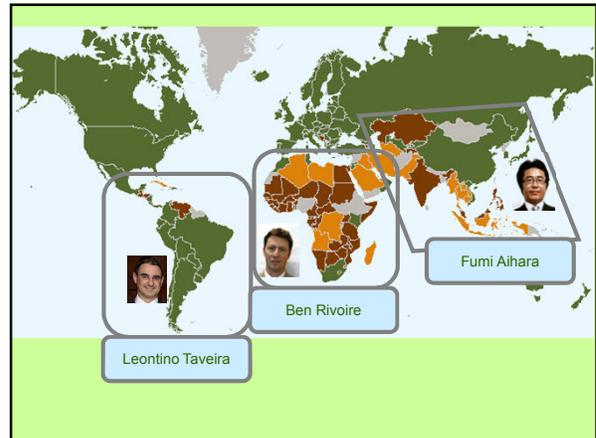
Technical Working Party for Ornamental Plants and Forest Trees (TWO)
Mr. Kenji Numaguchi (Japan)



Technical Working Party for Vegetables (TWV)
Ms. Swenja Tams (Germany)



Chairman, Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular (BMT)
Mr. Kees van Ettehoven (Netherlands)

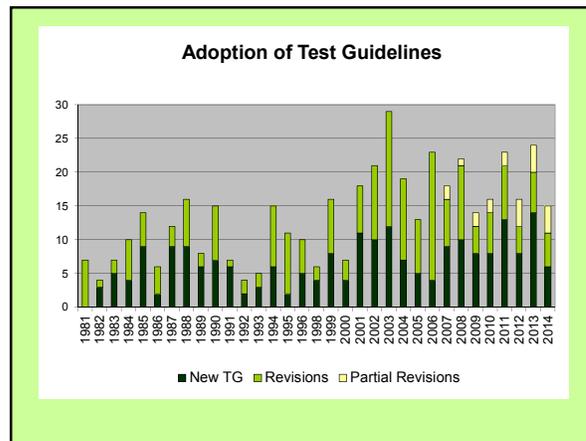




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TEST GUIDELINES ADOPTED IN 2014

NEW TEST GUIDELINES		
Drafter	TWP	English
NL	TWO	Funkia, Hosta, Plantain Lily
CN	TWO	Lilac
CN	TWF	Litchi, Lychee
NL	TWO	Brazilian-jasmine, Mandevilla
AU	TWA	Rhodesgrass
MX	TWF	Vanilla
REVISIONS OF TEST GUIDELINES		
DE	TWA	Kentucky Bluegrass
ZA	TWA	Groundnut
HU	TWV	Opium/Seed Poppy
DE	TWF	Prunus Rootstocks
NL	TWV	Chives, Asatsuki
PARTIAL REVISIONS OF TEST GUIDELINES		
FR	TWV	Pea
FR	TWF	Peach
NL/FR	TWV	Cucumber, Gherkin
NL/FR	TWV	Melon

USE OF IMAGES IN TEST GUIDELINES

- Indication of source mandatory
- Complete literature reference
- Clearance by author

TECHNICAL COMMITTEE
March: 2015

Monday	Tuesday	Wednesday	Thursday	Friday
TC	TC	TC Discussion	TC	TC
TC	TC	TC	TC	TC

(a) Molecular Techniques;

(b) Improving the effectiveness of the TC, TWPs and Preparatory Workshops.

INFORMATION MATERIALS ADOPTED IN 2013 AND 2014

Document reference	Title
UPOV/INF/4/3	Financial Regulations and Rules of UPOV (Revision)
UPOV/INF/6/3	Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)
UPOV/INF/15/2	Guidance for members of UPOV on ongoing obligations and related notifications and on the provision of information to facilitate cooperation (Revision)
UPOV/INF/16/3	Exchangeable software (Revision)
UPOV/EXN/BRD/1	Explanatory Notes on the Definition of Breeder under the 1991 Act of the UPOV Convention
UPOV/EXN/HRV/1	Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention
TGP/14/2	Glossary of Terms Used in UPOV Documents (Revision) and Supplement (Revision)
TGP/15/1	Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)

INFORMATION MATERIALS ADOPTED IN 2014

Document reference	Title
UPOV/INF/16/4	Exchangeable Software (Revision)
UPOV/INF/22/1	Software and Equipment Used by Members of the Union
TGP/2/2	List of Test Guidelines Adopted by UPOV (Revision)
TGP/5	Experience and Cooperation in DUS Testing: Section 10/3: Notification of Additional Characteristics and States of Expression (Revision)
TGP/7/4	Development of Test Guidelines (Revision)
TGP/8/2	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (Revision)
TGP/14/2	Glossary of Terms Used in UPOV Documents (correction of Spanish version)

INFORMATION MATERIALS UNDER DEVELOPMENT IN THE CAJ

Title
<p>Explanatory Notes:</p> <ul style="list-style-type: none"> Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision) Propagation and Propagating Material (New) Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention (Revision) Cancellation of the breeder's right (Revision) Nullity of the breeder's right (Revision) Provisional protection (Revision) <p>Matters concerning:</p> <ul style="list-style-type: none"> Variety descriptions

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INFORMATION MATERIALS UNDER DEVELOPMENT IN THE CAJ

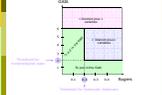
Administrative and Legal Committee Advisory Group (CAJ-AG)
<ul style="list-style-type: none"> The CAJ agreed in October 2014 that: All matters under consideration by the CAJ-AG should be considered by the CAJ The CAJ-AG should only be convened, on an ad hoc basis, as considered appropriate by the CAJ.

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Document TGP/15: Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)

Model: Characteristic-specific molecular markers

Model: Combining phenotypic and molecular distances in the management of variety collections



**Seminar on
Essentially Derived Varieties (EDVs)**

CLOSING REMARKS

**Kitisri Sukhapinda
President of the Council of UPOV**

Geneva, October 22, 2013

**Session 1:
Technical and legal aspects of essentially derived varieties
and the possible impact on breeding and agriculture**

- The [1991] Diplomatic Conference requested the Secretary-General of UPOV to start work immediately after the Conference on the establishment of draft standard guidelines [...]
- Key elements of the guidelines on EDV were considered at 1992 Meeting with Intergovernmental Organizations (IOM/6/2) – and provide a good starting point for future work.
- Currently, genetic distance measurements are not well correlated with phenotypic differences.
- Guidelines would need to consider the situation in different crops/species and methods of breeding, e.g. mutants.
- Two possible starting points:
 - predominant derivation (genetic conformity)
 - essential characteristics (phenotype)
- Need to consider impact on breeders, including farmer-breeders, farmers, growers and society as a whole.

**Session 2:
Experience in relation to essentially derived varieties**

- Australian PBR law provides a **workable "bright line"** on EDV
- Japan: certain **examples** which may be considered as EDVs are provided, **but it is a matter for the courts**
- Court case experience in the Netherlands:
 - for a variety to be qualified an EDV the **differences** with the Initial Variety **should not be more than one or very few inheritable characteristics** (both in terms of genetics and phenotype)
 - **breeders need clear guidance**
- Court case experience in Israel:
 - **if there exists a genetic or a morphological conformity** between the two varieties, the **assumption** is that the **defendant** actually **used the original variety** to produce the EDV: this is only prima facie evidence, by which the **burden of proof is shifted to the defendant**, who now has to explain the suspicious conformity

**Session 3:
Possible role of future UPOV guidance
on essentially derived varieties**

- **"Soft law"** is an option, e.g. Guidelines.
- Guidelines that **embrace a broad spectrum of stakeholders and interests** may be more credible and persuasive for the Courts.
- The **international standing of UPOV** may help in the use of guidelines by Courts.
- **Alternative Dispute Resolution (ADR)** mechanisms - Mediation, Arbitration and/or Expert Determination - **could be useful tools for EDV**
- **ISF and WIPO provide ADR options**
- **Publication of an anonymized summary of ADR outcomes** could offer guidance and could lead to harmonization

The screenshot shows the UPOV website interface. The main heading is "Seminar on essentially derived varieties (EDVs) (UPOV/SEM/GE/13)" dated October 22, 2013. It includes a "Meeting Documents" table with columns for CODE and TITLES, listing documents like "UPOV/SEM/GE/13/REV - Revised Draft Program". There is also a "Biographies" section listing participants such as Ms. Mira Bluma, Mr. Peter Button, Mr. Arnan Gabrieli, Mr. Joel Guillard, Mr. Edgar Krieger, Mr. Raimundo Lavignolle, and Mr. Charles Lawson. A video player is visible on the right side of the page.

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Working Group for the Development of a UPOV Denomination Similarity Search Tool (WG-DST)

Aim: to review the search types currently available in the denomination search tab of the PLUTO database, particularly the Similarity factor (CPVO search tool), and to review search types in use in other situations (e.g. in relation to trademarks) that might provide an alternative basis for a UPOV similarity search tool

Working Group for the Development of a UPOV Denomination Similarity Search Tool (WG-DST)

Test Study

Object the Study

To seek a search tool to identify those denominations that are similar to existing denominations to the extent that they would require further, individual consideration.

To be most effective, the tool should eliminate as many different denominations as possible without "missing" any denominations that would not be considered to be (sufficiently) different from any existing denomination.

Steps for the Study

1. Select test denominations
2. Create a very large dataset of denominations
3. Invite lists of similar denominations
4. Collect the lists and run a program to identify an algorithm(s)
5. Identify the algorithm(s) with the best match

Example

>test denomination: **Aladin**
>search tool: tools in PLUTO database

(Following example is only on genus class Rosa L. as a very large dataset is not yet available)

Similarity Factor (CPVO tool)

ALADIN	Alpine Glow
LAVDIAN	ALPINE SUNSET
Lavdian	Alpine
LANDIA	Claudia
Dalida	Baidan
Lady Ann Kidwell	Always A Lady
Valdia	Alexan
Mary Adain	Alessia
SALIDA	Alesia, etc.
Elaine	(Total 121)

Fuzzy

ALADIN	Alpine Glow
LAVDIAN	ALPINE SUNSET
Lavdian	Alpine
LANDIA	Claudia
Dalida	Baidan
Lady Ann Kidwell	Always A Lady
Valdia	Alexan
Mary Adain	Alessia
SALIDA	Alesia, etc. (Total 121)
Elaine	(note: all of them are equal to "Similarity Factor")

Phonetic

ALADIN
Wildawn
Doctor Eldon Lyle (Total 3)

Contains, Starts, Ends

ALADIN (Total 1 each)

3. Invite lists of similar denominations

- Add other similar denominations that are not in the data set

e.g. (proposed by CPVO)

List of Similar denominations for "Aladin"

Alladin, Aladdin, Alladdin, Yellow Alladin, Aladyn, Eladin, Alydin, Aladim, Meialadino, Nachtaladin, etc.

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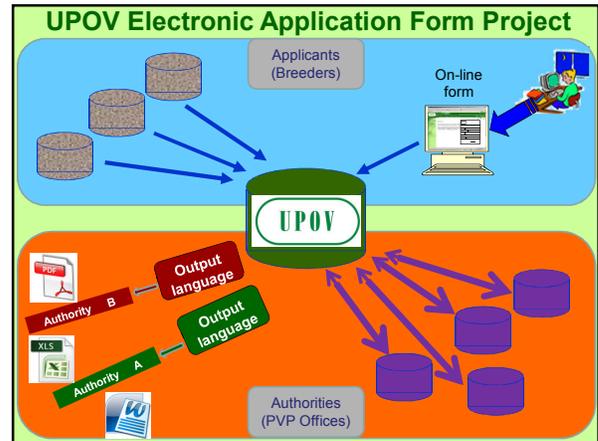
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The screenshot shows the UPOV website homepage. At the top, there is a navigation bar with links for 'ABOUT UPOV', 'MEMBERSHIP', 'UPOV SYSTEM', 'PVP DATA & STATISTICS', 'MEETINGS', and 'NEWS'. Below the navigation bar, there is a 'New! FAQs' section with a list of links: 'Introduction to UPOV', 'Benefits of UPOV', 'Test Guidelines', 'Distance Learning Course', 'Seminars & Symposia', 'Aldrin Rendo story', and 'FAQs'. A red arrow points to the 'Benefits of UPOV' link. To the right of the 'Quick Links' section, there is a 'GENE Database' section with links for 'UPOV Lex' and 'Plant Variety Database (PLUTO)'. At the bottom, there is a 'News & Upcoming Events' section with a link for 'Benefits of UPOV'.

The screenshot shows the 'Benefits of the UPOV System' page on the UPOV website. The page has a navigation bar with links for 'ABOUT UPOV', 'MEMBERSHIP', 'UPOV SYSTEM', 'PVP DATA & STATISTICS', 'MEETINGS', and 'NEWS'. Below the navigation bar, there is a 'HOME > ABOUT UPOV >' breadcrumb. The main content area is titled 'Benefits of the UPOV System' and lists several publications and presentations: 'UPOV Trilogy Publication (English only)', 'Executive Summary', 'Symposium on Plant Breeding for the Future (2011)', 'Proceedings', 'Powerpoint presentations', 'Seminar on Plant Variety Protection and Technology Transfer: The Benefits of Public-Private Partnership (2011)', 'Proceedings', 'Powerpoint presentations', 'Symposium on the Benefits of Plant Variety Protection for Farmers and Growers (2012)', 'Proceedings', and 'Powerpoint presentations'.

Benefits of the UPOV System: UPOV Trilogy Publication

English, French and Spanish available!



Prototype Electronic Application Form

<p><u>Participating UPOV members</u></p> <ul style="list-style-type: none"> • Argentina • Australia • Brazil • Canada • Colombia • Dominican Republic • Ecuador • European Union • France • Germany 	<p><u>Partners</u></p> <ul style="list-style-type: none"> • Japan • Mexico • Netherlands • New Zealand • Paraguay • Republic of Korea • Switzerland • United States of America • Viet Nam 	<ul style="list-style-type: none"> • UPOV Office • WIPO • CPVO • ISF • CIOPORA
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≥ 60% of the total applications within UPOV members

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Prototype Electronic Application Form

Participating UPOV members

The boundaries shown on this map do not imply the expression of any opinion whatsoever on the part of UPOV concerning the legal status of any country or territory

International Filing System,

- The Consultative Committee considered the written contribution by ISF, CIOPORA and CropLife International, in conjunction with their joint presentation at the eighty-eighth session of the Consultative Committee.
- The Consultative Committee requested the Office of the Union to prepare a document to clarify the issues raised and possible ways forward with regard to an international system of cooperation, for consideration by the Consultative Committee at its eighty-ninth session, in March 2015.

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DL-205

Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention

Session I

Study period: May to June, 2015
Registration: February to March, 2015

Session II:

Study period: October to November, 2015
Registration period: July to September, 2015

Registrations can be made in three different categories:

Category 1:
Government officials of members of the Union nominated by the relevant representative to the UPOV Council
No fee

Category 2:
Officials of observer States / intergovernmental organizations nominated by the relevant representative to the UPOV Council
(One non-fee paying student per State / intergovernmental organization;
Additional students: CHF 1,000 per student)

Category 3:
Others
Fee: CHF 1,000

DL-305

Examination of applications for plant breeders' rights

DL-305A
"Administration of Plant Breeders' Rights"

DL-305B "DUS Examination"

SECTION I ADMINISTRATION OF PLANT BREEDERS' RIGHTS

Module 1: The Plant Breeder's Right's Office
Module 2: Administration of applications

SECTION II ENTITLEMENT

Module 3: Entitlement to file an application

SECTION III NOVELTY

Module 4: Examining Novelty

SECTION IV DUS EXAMINATION

Module 5: Introduction to the DUS examination
Module 6: Variety collections
Module 7: Examining Distinctness
Module 8: Examining Uniformity
Module 9: Examining Stability
Module 10: Trial Design and Data Analysis
Module 11: Approaches and cooperation in DUS examination

SECTION V VARIETY DENOMINATION

Module 12: Examining the variety denomination

SECTION VI PUBLICATION OF INFORMATION AND DECISIONS

Module 13: Information to be published
Module 14: Proposed decisions and Objections
Module 15: Decisions
Module 16: Situations which may arise after the grant of PBR

Available in 2015 in English, French and Spanish

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DL-305-1
Administration of Plant Breeders' Rights

Section I "Operating a Plant Breeders' Rights Office"
 Module 1: The Plant Breeders' Rights Office
 Module 2: Administration of applications
 Module 3: Entitlement to a breeder's right
 Module 4: Information to be published

Section II "Examining Novelty"
 Module 5: Examining Novelty

Section III "Examining the Variety Denomination"
 Module 6: Examining the variety denomination

Section IV "DUS Examination"
 Module 7: Introduction to the DUS examination
 Module 8: Cooperation in DUS testing

DL-305-2
DUS Examination

Module 1: Introduction to the DUS examination
 Module 2: Variety collections
 Module 3: Examining Distinctness
 Module 4: Examining Uniformity
 Module 5: Examining Stability
 Module 6: Conducting the DUS Trial
 Module 7: Cooperation in DUS testing

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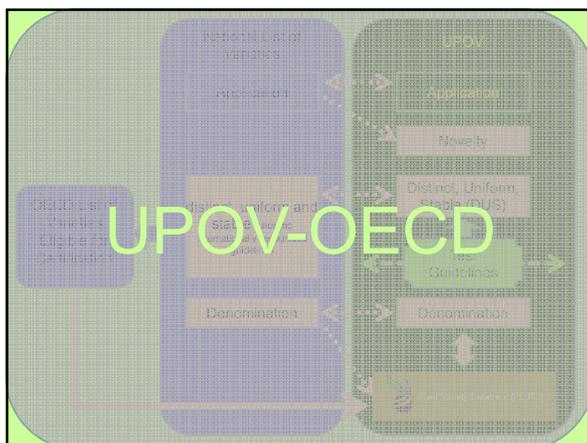


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OECD-UPOV-ISTA

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

To seek to organize a joint meeting of UPOV BMT in 2014 with ISO, ISTA and OECD and including breeders



**WORKING GROUP ON BIOCHEMICAL AND MOLECULAR TECHNIQUES,
AND DNA-PROFILING IN PARTICULAR (BMT)**

Fourthth Session, Seoul, Republic of Korea, November 10 to 13, 2014 (Preparatory Meeting, November 10, 2014; Joint session, November 12, 2014)

	Sunday, Nov. 9	Monday, Nov. 10	Tuesday, Nov. 11	Wednesday, Nov. 12	Thursday, Nov. 13
09:00		BMT MEETING Item 1. Opening of the session Item 2. Adoption of the agenda Item 3. Reports on developments in UPOV Item 4. Short presentations by participants	Breeders' Day Item 5.1 Variety identification	OECD, UPOV, ISTA JOINT WORKSHOP ON MOLECULAR TECHNIQUES Item 1. Welcome and opening Item 2. Introduction to the OECD Seed Schemes and the situation with regard to molecular techniques Item 3. Introduction to UPOV and the situation with regard to molecular techniques Item 4. Short presentations + other Q&A session Item 5. Short presentation + other Q&A session	Item 6. Report of work on molecular techniques on a crop-by-crop basis (initial)
10:30		COFFEE		COFFEE	COFFEE
11:00		Item 5. Report of work on molecular techniques on a crop-by-crop basis (a) vegetatively propagated crops (b) self-pollinated crops (c) cross-pollinated crops	Item 5.2 Variety identification (cont.)	Item 4. Introduction to ISTA and the situation with regard to molecular techniques Item 5. Existing areas of cooperation between OECD, UPOV and ISTA	Item 7. Report of the session
12:30		LUNCH		LUNCH	SESSIONS END
14:00	PREPARATORY WORKSHOP	Item 6. Report of work on molecular techniques on a crop-by-crop basis (cont.)	Item 6.1 Variety identification (cont.)	Item 6. Opportunities for cooperation between OECD, UPOV and ISTA with regard to molecular techniques (Discussion) Item 7. Closing	Item 8. Closing of the session
14:30			Item 6.2 Variety identification (cont.)	Item 7. Variety identification (cont.)	
15:30		COFFEE		COFFEE	
16:00			Item 6.3 Variety identification (cont.)	Item 8. Report of work on molecular techniques (crop-by-crop basis initial)	
16:30			Item 6.4 Method for analysis of molecular data		

OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade

- Technical Working Group Meeting (April, 2014)
 - Presentation on the use of the Test Guidelines for Poplar (TG/21/7, 1981) and the protection of Clones in France
- Annual Meeting (September, 2014)
 - Inclusion of a reference to the definition of "variety" under the UPOV Convention in the Rules of the Scheme.

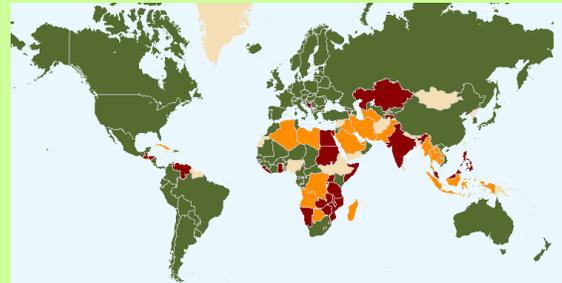
International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

- **ITPGRFA Platform for the Co-Development and Transfer of Technologies**
- **Public-Private Partnerships in Pre-breeding**
- **Interrelations between ITPGRFA, UPOV and WIPO**

SUMMARY

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SUMMARY



[End of Annex and of document]