



**TWC/32/24**

**ORIGINAL:** English

**DATE:** May 21, 2014

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

Geneva

**TECHNICAL WORKING PARTY ON AUTOMATION AND COMPUTER PROGRAMS**

**Thirty-Second Session**  
**Helsinki, Finland, June 3 to 6, 2014**

REPORT ON DEVELOPMENTS WITHIN UPOV

*Document prepared by the Office of the Union*

*Disclaimer: this document does not represent UPOV policies or guidance*

1. The Annex to this document contains a copy of a presentation "Report on Developments within UPOV" to be made by the Office of the Union at the thirty-second session of the Technical Working Party on Automation and Computer Program.

[Annex follows]

Technical Working Party on Automation and Computer Programs  
Thirty-Second Session

**REPORT ON DEVELOPMENTS IN UPOV**

*Helsinki, Finland, June 3 to 6, 2014*

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**OVERVIEW**

- Membership, Statistics and Finances
- Chairmanship of UPOV Bodies
- UPOV Collection
- Publications, Activities and Training
- Developments in Other International Fora

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**SITUATION in UPOV**  
**Examination of Laws**

	<u>Council session</u>	<u>Advice</u>
<b>Bosnia and Herzegovina (Law)</b>	October 24, 2013	Positive
<b>Draft ARIPO Protocol (African Regional Intellectual Property Organization)</b>	April 11, 2014	Positive


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**71 members of UPOV (green)**  
**16 initiating States & 2 organizations (brown)**  
**24 States and 1 IGO have requested assistance for the development of laws (orange)**

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

**ARIPO**  
(African Regional Intellectual Property Organization)

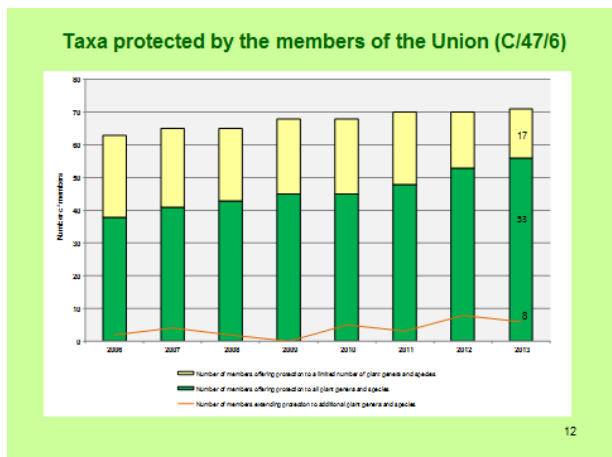
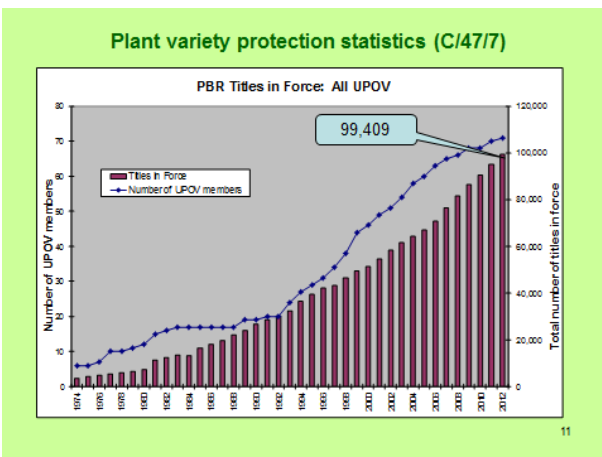
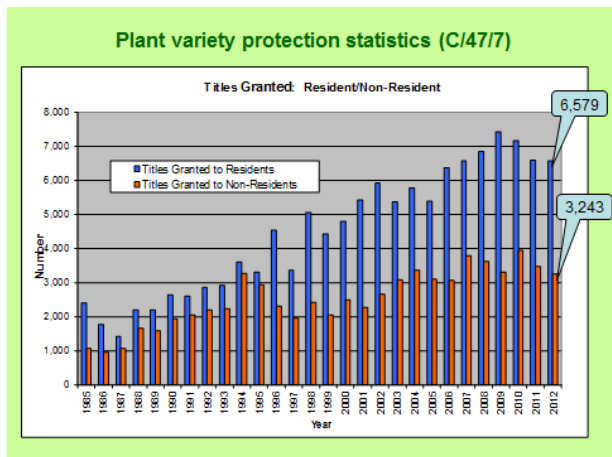
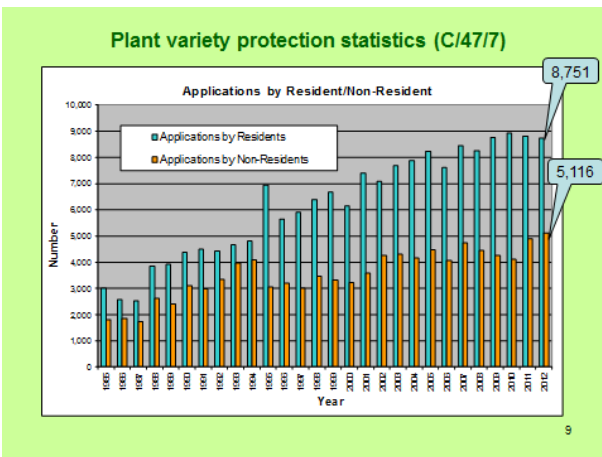
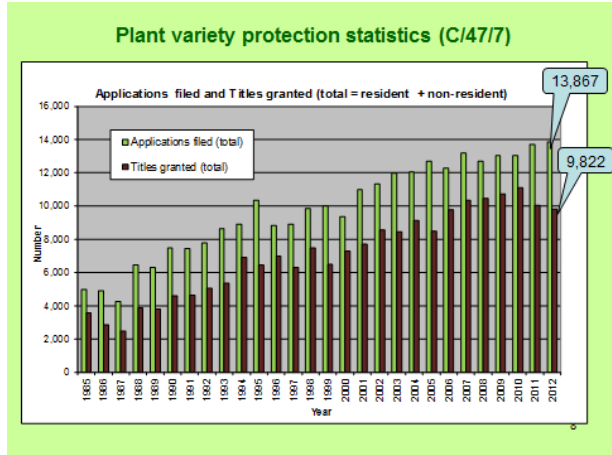


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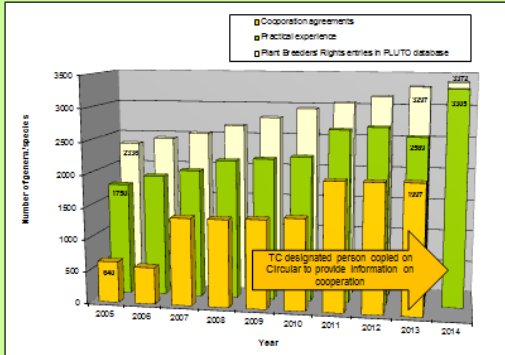
### OAPI (Organisation Africaine de la Propriété Intellectuelle)



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### Cooperation in examination (C/47/5)



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### 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)



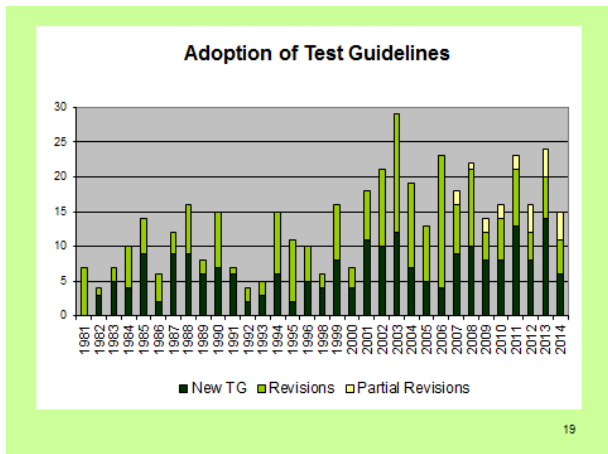
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### TEST GUIDELINES ADOPTED IN 2014

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

### INFORMATION MATERIALS ADOPTED IN 2013

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
UPOV/INF-EXN/5	List of INF-EXN Documents and Latest Issue Dates
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)
TGP/0/6	List of TGP Documents and Latest Issue Dates

**Definition of Breeder**

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### Use of Biochemical and Molecular Markers in DUS

**Model: Characteristic-specific molecular markers**

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

### INFORMATION MATERIALS UNDER DEVELOPMENT IN THE CAJ-AG

Title
<b>Explanatory Notes:</b>
• 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)
• Variety denominations (Revision)
• Provisional protection (Revision)
<b>Matters concerning:</b>
• Variety descriptions
• Possible alternative dispute settlement mechanisms for EDVs

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## 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

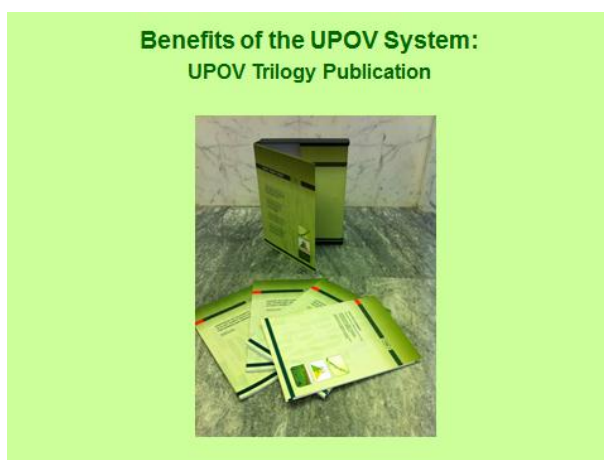
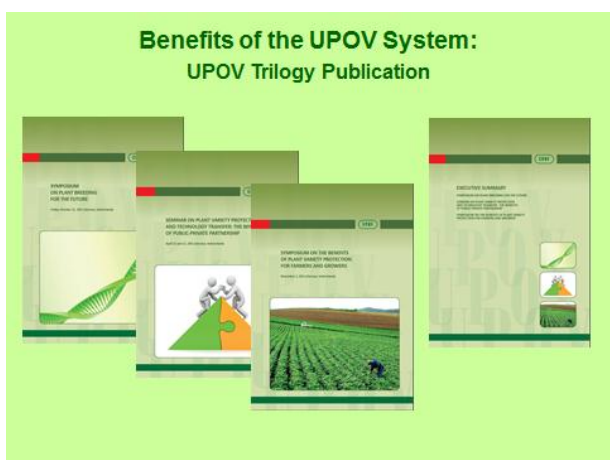
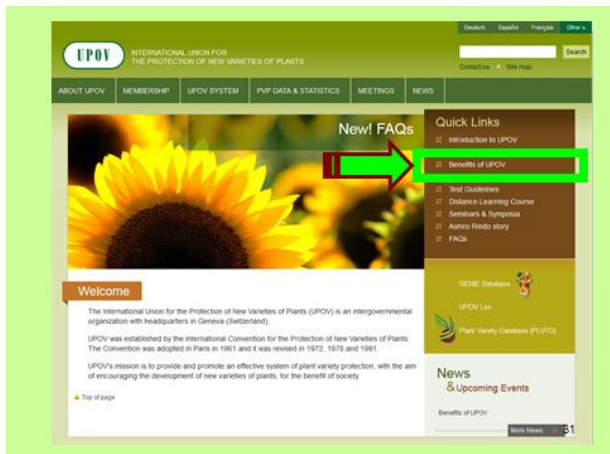
- "**Soft law**" is an option, e.g. Guidelines.
- Guidelines that **embrace a broad spectrum of stakeholders and interests** may be more credible and persuasive for the Courts.
- The **international standing of UPOV** may help in the use of guidelines by Courts.
- Alternative Dispute Resolution (ADR)** 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. At the top, there are language options (Deutsch, Español, Français, Other) and a search bar. The main navigation menu includes: ABOUT UPOV, MEMBERSHIP, UPOV SYSTEM, PVP DATA & STATISTICS, MEETINGS, and NEWS. The 'MEETINGS' section is active, displaying the title 'Seminar on essentially derived varieties (EDVs) (UPOV/SEM/GE/13)' and the date 'October 22, 2013 (Geneva, Switzerland)'. Below this, there are links for 'Meeting Documents' and 'Biographies'. A table lists meeting documents with columns for 'CODE' and 'TITLE(S)'. One document is listed: 'UPOV/SEM/GE/13/1 REV.' with the title 'Revised Draft Program'. Another table lists biographies with columns for 'CODE' and 'TITLE(S)'. Several names and titles are listed, including Ms. Mia Buma, Mr. Peter Butten, Mr. Aman Gabriel, Mr. Joel Guanz, Mr. Edgar Krieger, Mr. Ramundo Laguarda, and Mr. Charles Lawson.

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**TECHNICAL COMMITTEE**  
**April session: 2014**

Monday	Tuesday	Wednesday	Thursday	Friday
TC	TC	TC Discussion	(a) Molecular Techniques;	
TC	TC	TC	(b) Improving the effectiveness of the TC, TWP and Preparatory Workshops.	

## 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

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## Distance Learning Courses

March 31 to May 11, 2014      **DL-305 single course** (English only)  
May 5 to June 8, 2014      DL-205 (E, F, G, S)  
October 6 to November 9, 2014      DL-205 (E, F, G, S)

February/March 2015      **DL-305-1** (E, F, S)  
April/May 2015      **DL-305-2** (E, F, S)

October/November 2015      DL-205 (E, F, G, S)

The German version of DL-305 will be launched in 2016.

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## 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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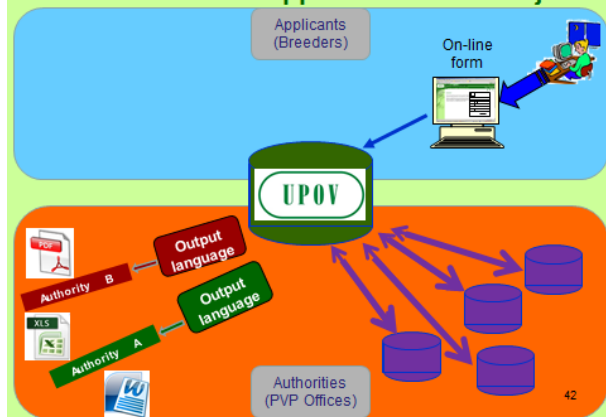
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## OVERVIEW

- People, membership & statistics
- Guidance and information
- **Selected developments with other organizations**
  - Electronic Application Form
  - Molecular techniques (ISTA/OECD/ISO/Breeders)
  - FAO/ITPGRFA
  - ISF issues

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## UPOV Electronic Application Form Project



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**UPOV** UPOV ELECTRONIC APPLICATION FORM

Select language: English

Select Crop/Species: Lettuce

Select Authority:

- Australia (AUS)
- Brazil (BR)
- Canada (CA)
- Community Plant Variety Office (CPVO)
- Japan (JP)
- Mexico (MX)
- New Zealand (NZ)
- Republic of Korea (KR)
- Switzerland (CH)
- United States (US)
- Viet Nam (VN)

Buttons: Add All, Add, Remove, Remove All

Buttons: Continue, Reset

Accessibility | Terms of Use | Site Map

**UPOV** UPOV ELECTRONIC APPLICATION FORM

**Applicant**

Name(s):

Address(es):

Telephone No (s):

Fax No (s):

E-mail address(es):

Nationality(ies): United Kingdom

Residence (State):

Registered offices for legal entities (State):

Buttons: Submit, Cancel

**UPOV** UPOV ELECTRONIC APPLICATION FORM

**Denomination**

Proposed denomination (in block letters):

Breeder's reference:

Alternative name for a variety:

Commercial synonym / Trade name:

Other names - please list any other names under which the variety has been known in Australia or elsewhere:

denomination may be in the form of a "fancy name" or a "code":

Trademark waiver:

Trademark:

**CORE QUESTIONS**

**ADDITIONAL QUESTIONS**

**UPOV** UPOV ELECTRONIC APPLICATION FORM

**Characteristics of the variety to be indicated**

Growth Type: Butterhead lettuce Claron, Merveille des quail

(1) Seed Color: White Verpia 1[]

(15) Leaf hue of green color of water leaves: Yellowish Dorée de printemps 2[]

(25) Leaf anthocyanin coloration: Absent Florella, Sunrise 1[]

(35) Time of beginning of bolting under long day conditions: Early Gotte à graine blanche 3[]

(39.7) Resistance to downy mildew Bremia lactucae (isolate B): Absent Cocham Green, Hide if 1[]

Plant Type:

Seed Color: Please Select

Seed Light Dormancy: Please Select

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**UPOV** UPOV ELECTRONIC APPLICATION FORM

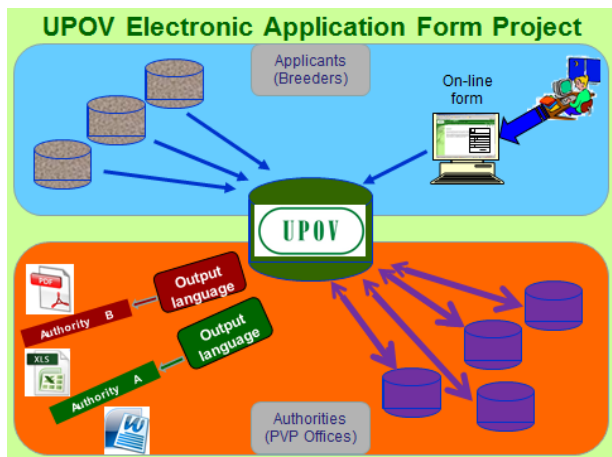
**UPOV Electronic Application Form**

lettuce

**General Information**

- Language: English
- Crop / Species: Lettuce
- Authority/ies: Community Plant Variety Office (CPVO), New Zealand (NZ)
- Applicant: Name(s), Address(es), Telephone No (s), Fax No (s), E-mail address(es), Nationality(ies), Residence, Registered offices for legal entities

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## Next steps

### Agreement on the prototype V.1

Included	NOT included in V.1
All features from the mock-up	
Dashboard: edit/ delete/submit options	Payment
Administration interface	Different languages
Import facility : Import of XML files with crop details (technical questionnaire)	Possibility to introduce or modify questions (update of the form)
Export of XML information (PDF, possible others) to selected authorities	Some technical and legal aspects

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## Timetable/ milestones

What/ Who	When
Participants to send their database structure, XML format or interface tables (requirement for participation in the project)	By June 15, 2014
Analysis of databases of participating members, design of the database structure and data interface tables	By September 2014
Consolidation of questions (bi/multilateral communication)	By September 2014
Finalization of project brief and request for cost estimate from approved supplier	June 2014
Agreement on the database structure/ import-export option/ interface tables format	October 2014
Start of the project	October 2014
Presentation of the prototype to the CAJ and Council	October 2015

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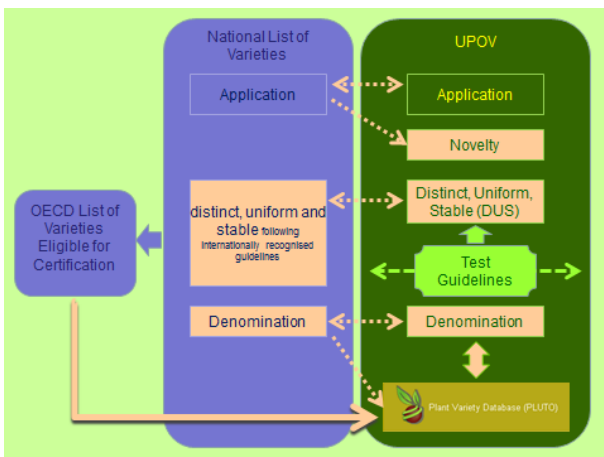
## Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT)

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 Workshop, November 8, 2014 / Joint workshop, November 12, 2014

Sunday, Nov. 9	Monday, Nov. 10	Tuesday, Nov. 11	Wednesday, Nov. 12	Thursday, Nov. 13
09:00	09:00	09:00	09:00	09:00
10:00	10:00	10:00	10:00	10:00
11:00	11:00	11:00	11:00	11:00
12:30	12:30	12:30	12:30	12:30
14:00	14:00	14:00	14:00	14:00
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16:00	16:00	16:00	16:00	16:00
16:00	16:00	16:00	16:00	16:00

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## Technical Working Group of the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade

- Presentation on the definition of "variety" under the UPOV Convention (UPOV Office)
- Presentation on the use of the Test Guidelines for Poplar (TG/21/7, 1981) and the protection of Clones in France

**International Treaty on Genetic Resources  
for Food and Agriculture**  
**Platform for the Co-Development and  
Transfer of Technologies**

**FAO**

Contribution to the work of  
multi-stakeholder team on enhancing  
public-private partnerships in pre-breeding

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**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

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**Consultative Committee  
discussions on issues  
raised by ISF**

**SUMMARY**

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The slide contains several elements: the UPOV logo and a map of Africa; a flowchart titled 'Harvested material' showing the process from 'Harvested material' to 'Essentially derived varieties'; a diagram titled 'UPOV Electronic Application Form Project' showing a central 'EPV' box connected to various stakeholders; and a document cover for the 'INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS' seminar on 'ESSENTIALLY DERIVED VARIETIES' held in Geneva, Switzerland, on October 22, 2013.

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[End of Annex and of document]