



TWF/45/24

ORIGINAL: English

DATE: May 21, 2014

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

TECHNICAL WORKING PARTY FOR FRUIT CROPS

Forty-Fifth Session

Marrakesh, Morocco, May 26 to 30, 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 forty-fifth session of the Technical Working Party for Fruit crops.

[Annex follows]

Technical Working Party on Ornamental Plants and Forest Trees
Forty-seventh Session

REPORT ON DEVELOPMENTS IN UPOV

Naivasha, Kenya, May 19, 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>
Bosnia and Herzegovina (Law)	October 24, 2013	Positive
Draft ARIPO Protocol (African Regional Intellectual Property Organization)	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 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.

ARIPO
(African Regional Intellectual Property Organization)

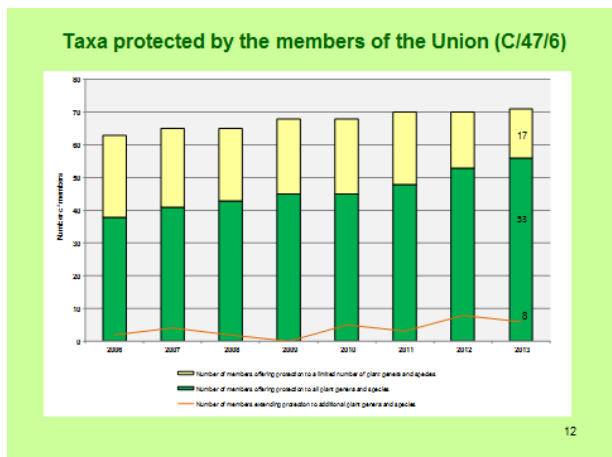
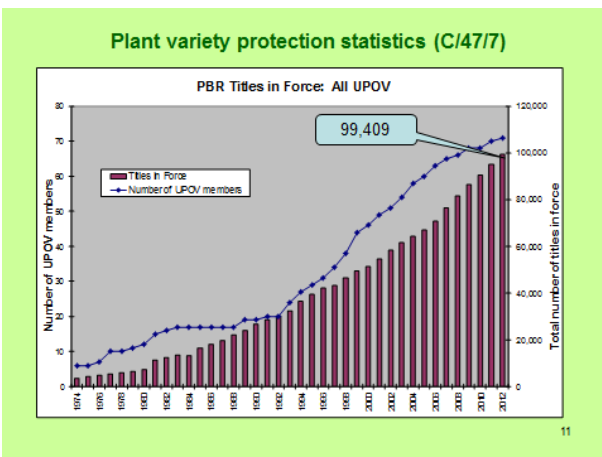
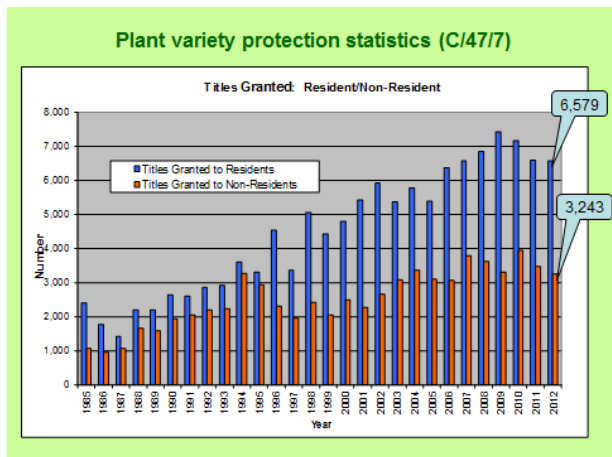
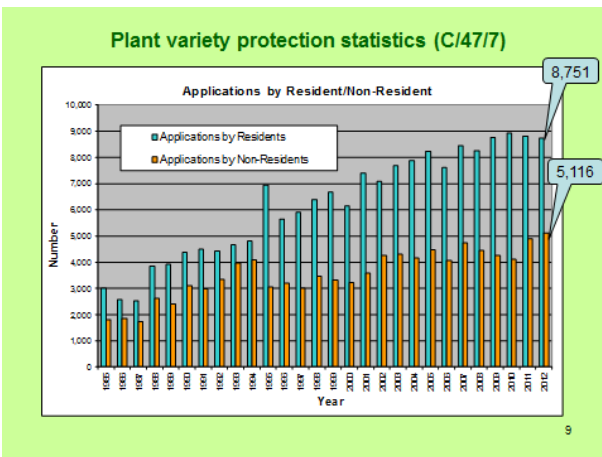
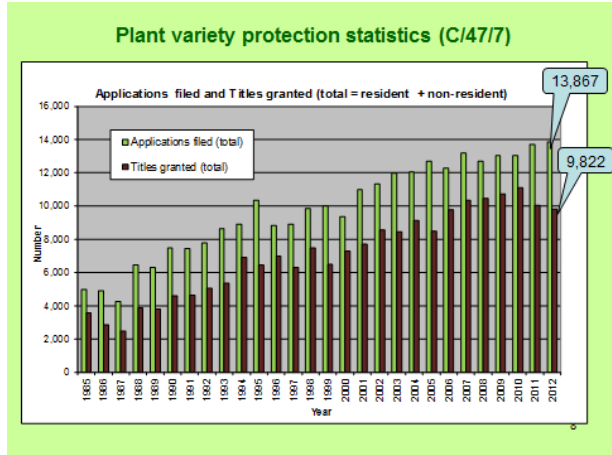


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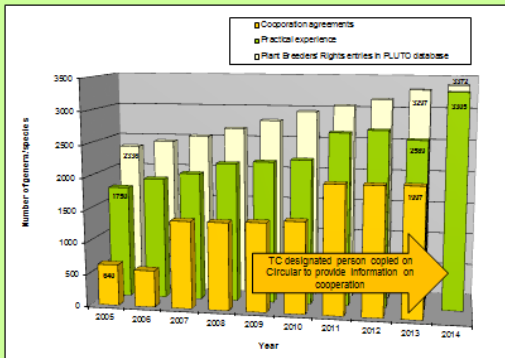
OAPI (Organisation Africaine de la Propriété Intellectuelle)



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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)



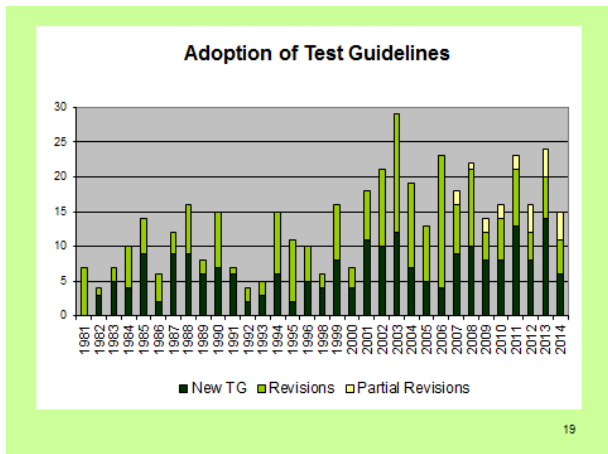
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TEST GUIDELINES ADOPTED IN 2014

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

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
Explanatory Notes:
• 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)
Matters concerning:
• Variety descriptions
• Possible alternative dispute settlement mechanisms for EDVs

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

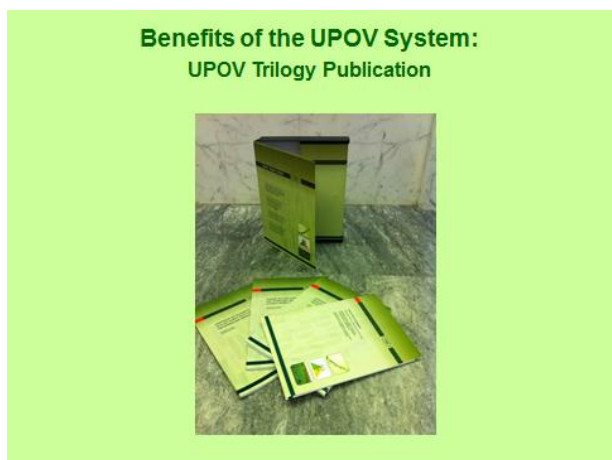
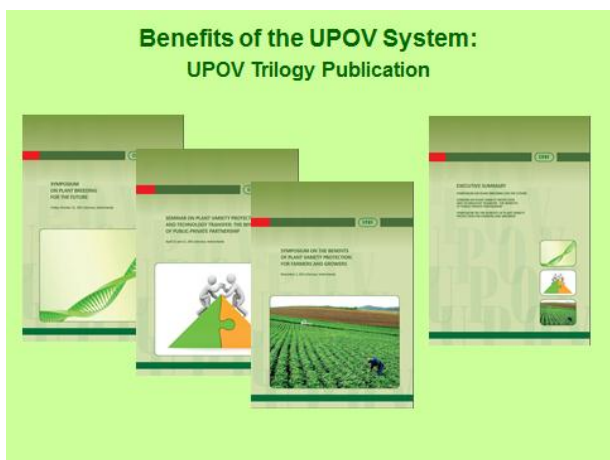
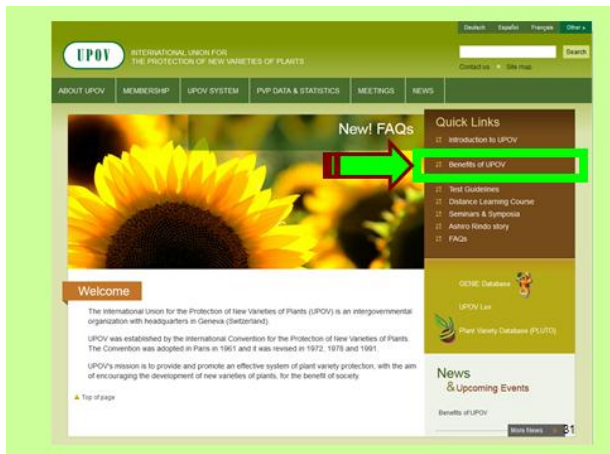
Session 3: Possible role of future UPOV guidance on essentially derived varieties

- "**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 is a navigation menu with options like 'ABOUT UPOV', 'MEMBERSHIP', 'UPOV SYSTEM', 'PVP DATA & STATISTICS', 'MEETINGS', and 'NEWS'. The 'MEETINGS' section is active, displaying details for a seminar on essentially derived varieties (EDVs) held in Geneva, Switzerland, on October 22, 2013. The page lists meeting documents, including a 'Revised Draft Program' for UPOV/SEM/GE/13, and provides biographies of participants such as Ms. Mia Buma, Mr. Peter Butten, Mr. Aman Gabriel, Mr. Joel Guanz, Mr. Edgar Krieger, Mr. Ramundo Langosta, 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)
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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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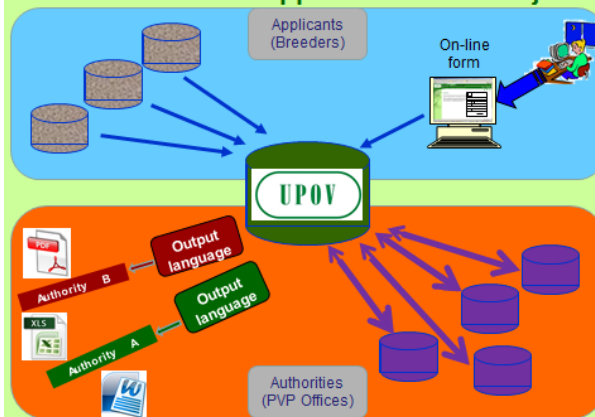
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OVERVIEW

- 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



UPOV ELECTRONIC APPLICATION FORM

Select language: English

Select Crop/Species: Lettuce

Select Authority:

- Australia (AUS)
- Brazil (BR)
- Canada (CA)
- Community Plant Variety Office (CZ)
- 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 ELECTRONIC APPLICATION FORM

My UPOV EAF

User Profile

Application Form

Procedural Representative

Consequential Agent

Representative

Names

Denomination

Breeder

Other Application

Right of Priority

1978/1991 ACT alternative for commercialization of the variety

Technical Examination

Attachments

Synopsis / Declaration

Technical Questionnaire

Denomination

Proposed denomination (in block letters)

Breeder's reference

Commercial synonym / Trade name

Trademark

Labels: CORE QUESTIONS, ADDITIONAL QUESTIONS

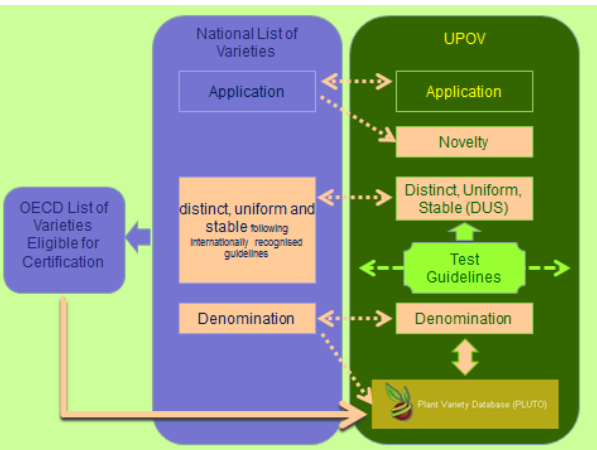
Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT)

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)

Fourteenth Session, Seoul, Republic of Korea, November 10 to 13, 2014 / Preparatory Workshop, November 9, 2014 / Joint Workshop, November 19, 2014

Time	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	OECD, UPOV, ISTA JOINT WORKSHOP ON MOLECULAR TECHNIQUES 9:00 Item 1. Welcome and opening 9:10 Item 2. Introduction to the OECD Seed Scheme and the activities with regard to molecular techniques 9:30 Item 3. Introduction to UPOV and the situation with regard to molecular techniques * Item 2.4. 30min presentation + 30min Q&A session * Item 3. 30min presentation + 20min Q&A session	Item 5. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified	Item 6. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified
10:30					
11:00	COFFEE	Item 3. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified	Item 5. Variety identification (BMT)	Item 6. Introduction to ISTA and the situation with regard to molecular techniques 11:40 Item 3. Existing areas of cooperation between OECD, UPOV and ISTA	Item 7. Report of the session Item 8. Closing of the session
12:30					
14:00	PREPARATORY WORKSHOP	Item 3. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified	Item 5. Variety identification (BMT)	14:00 Item 6. Opportunities for cooperation between OECD, UPOV and ISTA with regard to molecular techniques (a) case-by-case basis (b) self-identified cases (c) cross self-identified 14:20 Item 7. Closing Item 7. Variety description databases	SESSIONS END
14:30					
15:30	COFFEE	Item 3. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified	Item 5. Examining essential distinction (BMT)	Item 6. Report of work on molecular techniques (a) a case-by-case basis (b) self-identified cases (c) cross self-identified	
16:00					



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 collage features several key elements: the UPOV logo (a stylized plant), a world map, a diagram showing 'Harvested material' and 'Material obtained by the breeder', a diagram for the 'UPOV Electronic Application Form Project' with 'UPOV' in the center, 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, 2010.

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[End of Annex and of document]