



TWF/47/16

ORIGINAL: English

DATE: November 8, 2016

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

Geneva

**TECHNICAL WORKING PARTY FOR FRUIT CROPS**

**Forty-Seventh Session**

**Angers, France, November 14 to 18, 2016**

REPORT ON DEVELOPMENTS WITHIN UPOV

*Document prepared by the Office of the Union*

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

The Annex to this document contains a copy of a presentation "Reports on Developments within UPOV" to be made by the Office of the Union at the forty-seventh session of the Technical Working Party for Fruit Crops.

[Annex follows]

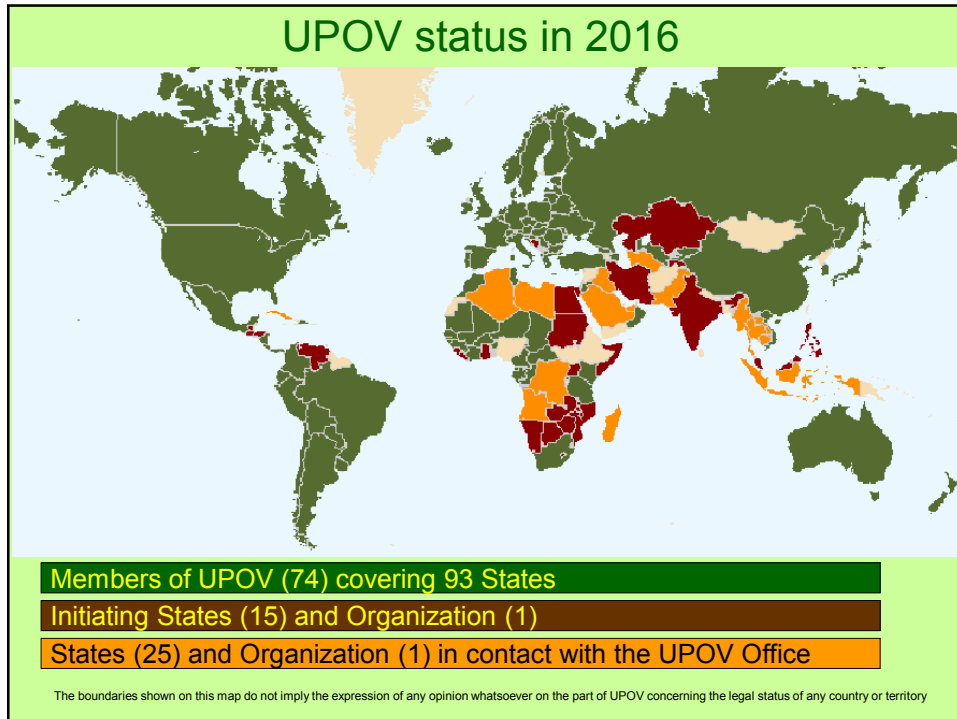
TECHNICAL WORKING PARTY FOR FRUIT CROPS  
Forty-Seventh Session

**REPORT ON DEVELOPMENTS IN UPOV**

*Angers, France, November 14 to 18, 2016*

**OVERVIEW**

- UPOV status & statistics
- UPOV Collection
- Publications, Activities, Training, etc.
- Developments for the 53<sup>rd</sup> TC
- Recent Developments (Seminar & Symposium)

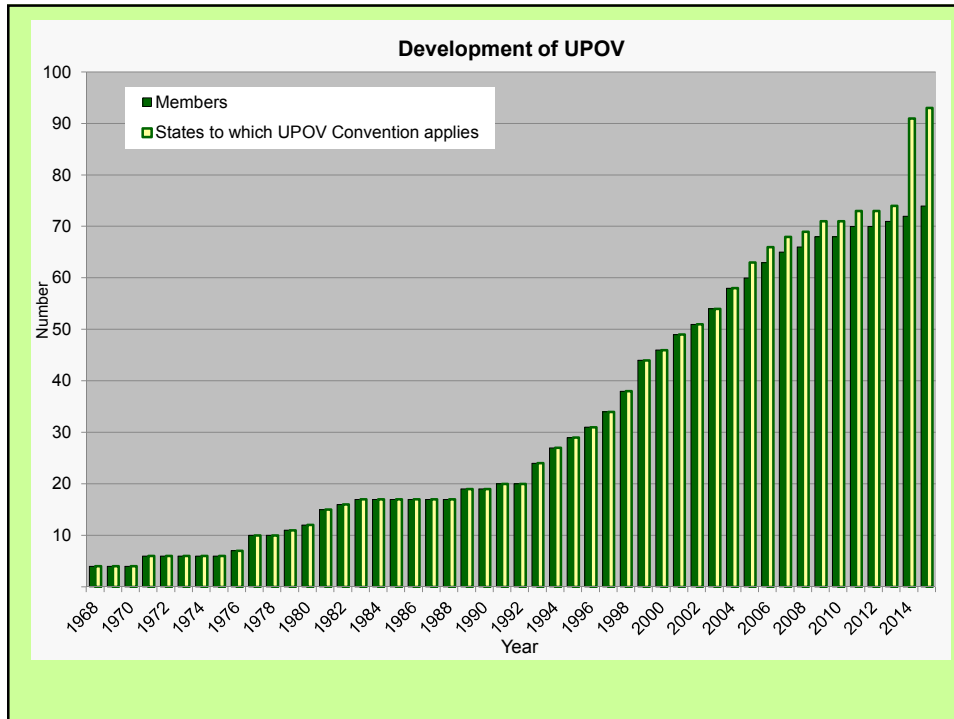


## Membership of UPOV

74 members

### New members:

- Montenegro (September 24, 2015)
- The United Republic of Tanzania (November 22, 2015)

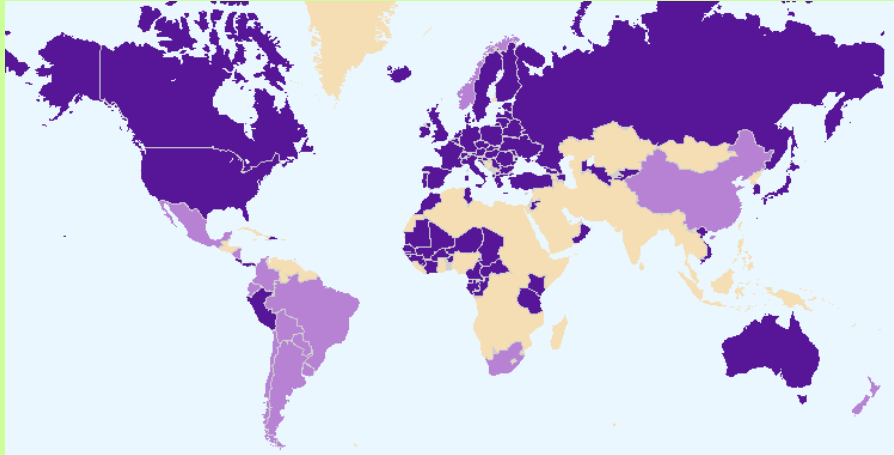


## Ratification / Accession to the 1991 Act of the UPOV Convention

- Canada (July 19, 2015)
- Kenya (April 11, 2016)

## UPOV Membership Territories covered

1991 Act: 56 members – Other Acts: 18 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

## SITUATION in UPOV

### Examination of Laws

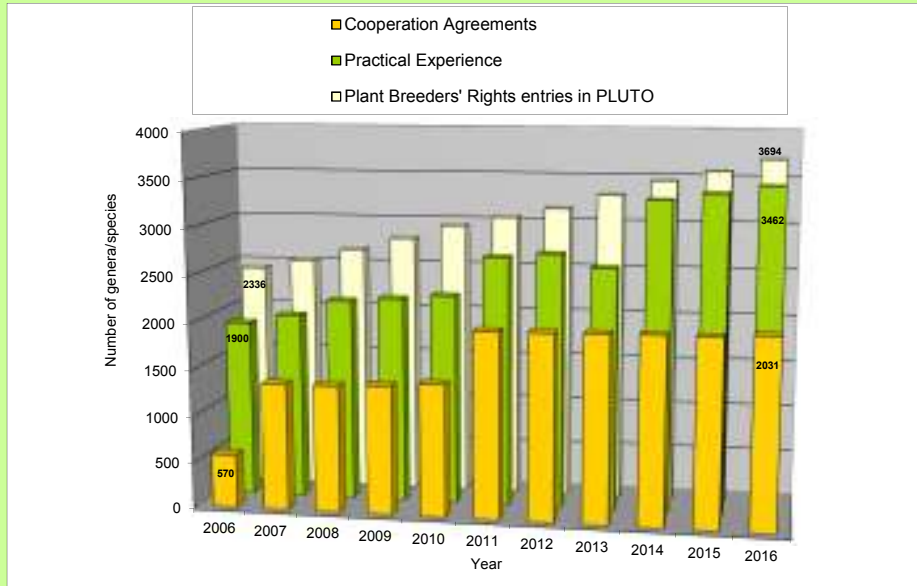
Council session    Advice

Islamic Republic of  
Iran (Law)

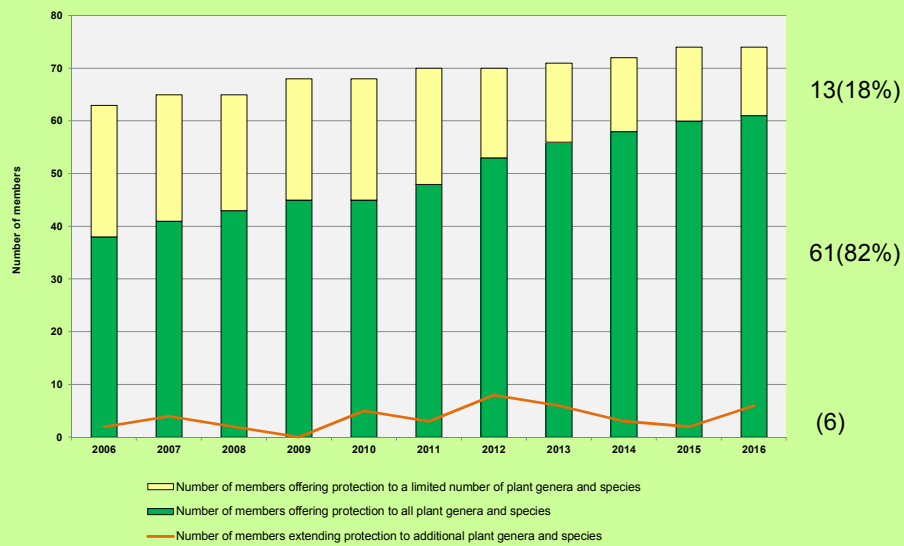
October 29, 2015

Amendments  
recommended

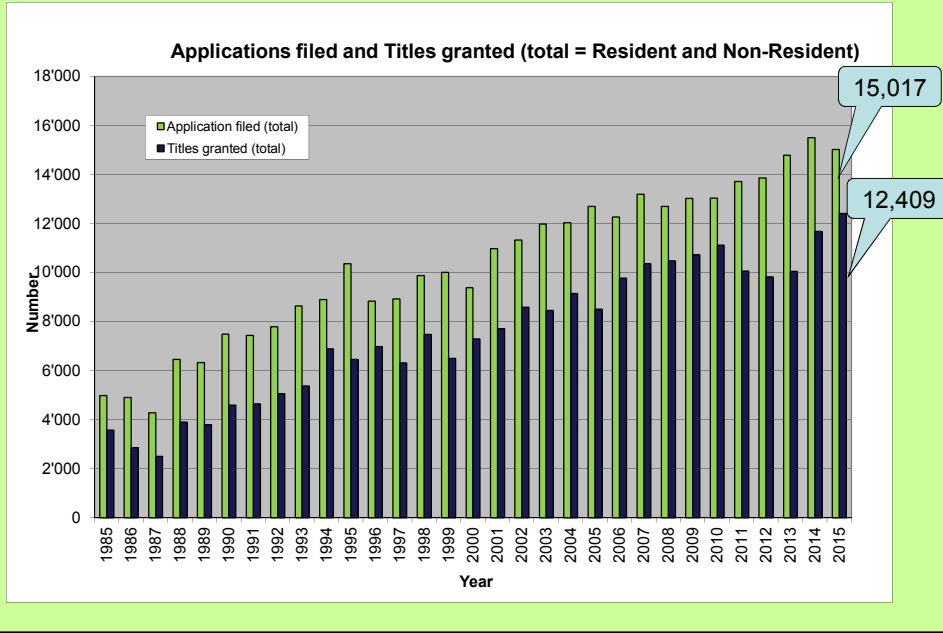
### Cooperation in examination (C/50/5)



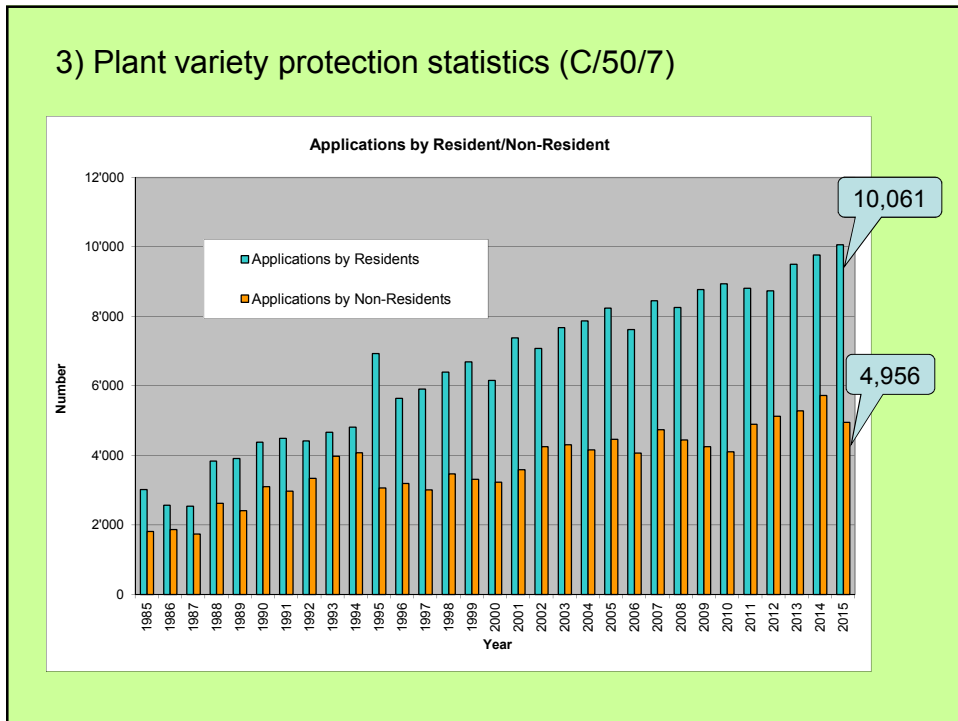
### Taxa protected by the members of the Union (C/50/6)



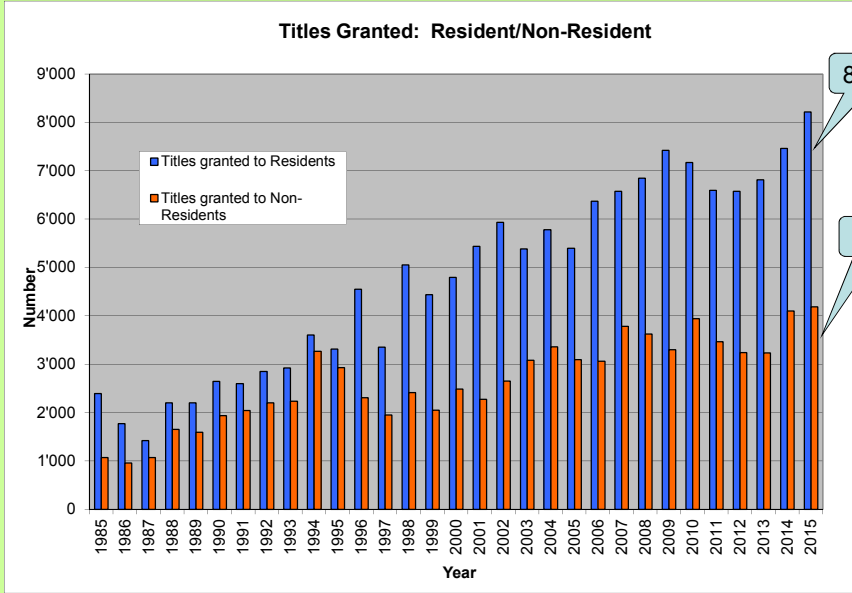
### Plant variety protection statistics (C/50/7)



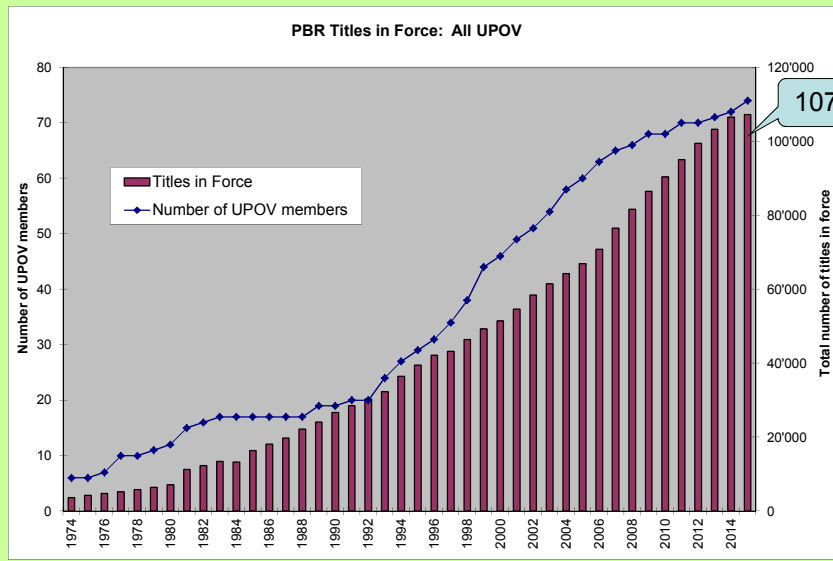
### 3) Plant variety protection statistics (C/50/7)



### 3) Plant variety protection statistics (C/50/7)

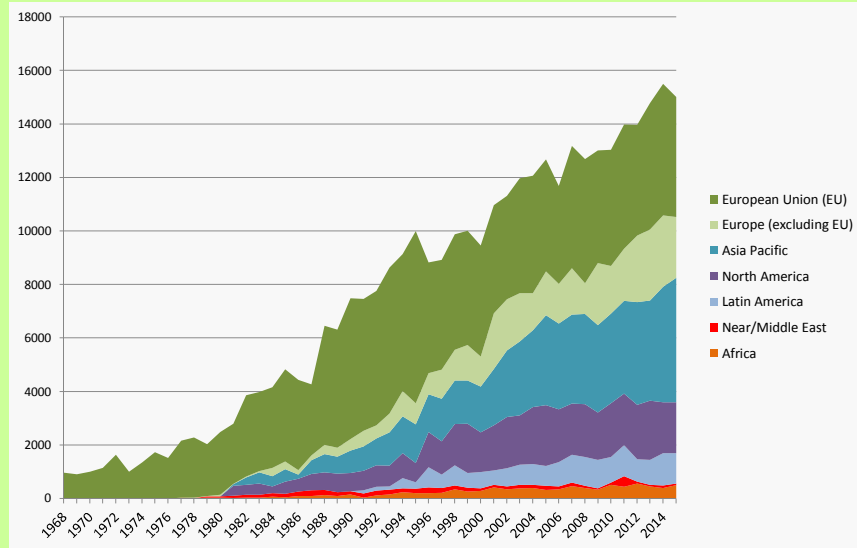


### Plant variety protection statistics (C/50/7)





## Development of Plant Variety Protection Applications for Plant Breeders' Rights



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## OVERVIEW

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## **REVISED GUIDANCE ADOPTED IN 2015**

- TGP/5 Experience and Cooperation in DUS Testing:
  - Section 3/2: Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders' Rights
  - Section 8/2: Cooperation in Examination
  - Section 9/2: List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established
- TGP/9/2 Examining Distinctness
- TGP/14/3 Glossary of Terms Used in UPOV Documents
  
- UPOV/EXN/CAN/2 Explanatory Notes on Cancellation of the Breeder's Right
- UPOV/EXN/NUL/2 Explanatory Notes on the Nullity of the Breeder's Right
- UPOV/EXN/PRP/2 Explanatory Notes on Provisional Protection
  
- UPOV/INF/4/4 Financial Regulations and Rules of UPOV
- UPOV/INF/6/4 Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention
- UPOV/INF/12/5 Explanatory Notes on Variety Denominations
- UPOV/INF/15/3 Guidance for Members of UPOV
- UPOV/INF/16/5 Exchangeable Software
- UPOV/INF/22/2 Software and Equipment Used by Members of the Union

## **INFORMATION MATERIALS ADOPTED IN 2016**

Document reference	Title
<b>TGP/7 (revision)</b>	<b>Development of Test Guidelines</b> (i) Coverage of the Test Guidelines (ii) Use of proprietary text, photographs and illustrations in Test Guidelines (iii) Regional sets of example varieties
<b>TGP/8 (revision)</b>	<b>Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability</b> (i) Examining characteristics using image analysis (ii) Minimizing the Variation due to Different Observers of the Same Trial
<b>UPOV/INF/16 (revision)</b>	<b>Exchangeable Software</b>
<b>UPOV/INF/22 (revision)</b>	<b>Software and Equipment Used by Members of the Union</b>

## TEST GUIDELINES ADOPTED IN 2016

<u>5 NEW TEST GUIDELINES</u>		
<b>Drafter</b>	<b>TWP</b>	<b>English</b>
<b>BR</b>	<b>TWF</b>	<b>Coconut</b>
NZ	TWO	Cordyline, Cabbage Tree, Torquay Palm
<b>MX</b>	<b>TWF</b>	<b>Avocado; Coyo avocado (rootstock)</b>
ZA	TWO	Plectranthus, Spur Flower
JP	TWO	Salvia, Sage

<u>2 REVISIONS OF TEST GUIDELINES</u>		
<b>Drafter</b>	<b>TWP</b>	<b>English</b>
DE	TWV	Basil
DE	TWO	Calibrachoa

## TEST GUIDELINES ADOPTED IN 2015

<u>9 PARTIAL REVISIONS OF TEST GUIDELINES</u>		
<b>Drafter</b>	<b>TWP</b>	<b>English</b>
NL	TWV	Cauliflower
NL	TWV	Cabbage
NL	TWV	Brussels Sprouts
NL	TWV	Spinach
DE	TWV	Black Radish
NL	TWV	Kohlrabi
NL	TWV	Curly Kale
NL	TWV	Calabrese, Sprouting Broccoli
QZ	TWV	Tomato Rootstocks

## TEST GUIDELINES ON THE UPOV WEBSITE

The screenshot shows the UPOV website's 'TEST GUIDELINES' page. The header includes the UPOV logo and the text 'INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS'. A navigation menu contains 'ABOUT UPOV', 'MEMBERSHIP', 'UPOV SYSTEM', 'PVP DATA & STATISTICS', 'MEETINGS', and 'NEWS'. The main content area is titled 'Test Guidelines' and includes a sidebar with 'Home', 'List All', and 'Search' options. The main content lists several links: 'Introduction', 'List all Test Guidelines by TGI Reference', 'List all Test Guidelines by:', 'Full Test Search:', and 'Superseded Test Guidelines'. A red arrow points to the 'Superseded Test Guidelines' link. To the right of the 'List all Test Guidelines by:' link, there is a dropdown menu for 'Botanical Name' with options: 'Common Name in English', 'Common Name in French', 'Common Name in Spanish', and 'Common Name in German'. Below this is a 'Sort by Title' button. To the right of the 'Full Test Search:' link, there is a dropdown menu for language with options: 'English', 'Français', 'Deutsch', and 'Español', followed by a search input field and a 'Search' button.

## SUPERSEDED TEST GUIDELINES

The screenshot shows the UPOV website with a large red-bordered box overlaid on the content. The box contains the following text:

These Test Guidelines have been superseded by a later version. The latest adopted version of Test Guidelines can be found at [http://www.upov.int/test\\_guidelines/en/tst1.jsp](http://www.upov.int/test_guidelines/en/tst1.jsp)

This publication has been scanned from a paper copy and may have some discrepancies from the original document.

Below the text, a table is partially visible, showing columns for 'Cultivar', 'Cultivar', 'Cultivar', 'Cultivar', 'Cultivar', 'Cultivar', and 'Cultivar'. The table contains several rows of data, including 'Zea mays L.' and 'Triticum aestivum L.'.

## OVERVIEW

- UPOV status & Statistics
- UPOV Collection
- Publications, Activities, Training, etc.
- Developments for the 53rd TC
- Recent Developments (Seminar & Symposium)

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## PREVIEW

### Publications, Activities, Training, etc.

- New UPOV logo
- New features on the UPOV Website
- New videos on UPOV website
- Frequently Asked Questions
- Distance Learning Courses

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## New logo for UPOV

The logo features the letters 'UPOV' in a bold, dark green, sans-serif font. The letter 'O' is replaced by a stylized green leaf with a yellow-green center, symbolizing plant life and agriculture.

<http://upov-ocmstest.wipo.int/portal/index.html.en>

A screenshot of the UPOV website interface. At the top left is the 'UPOV' logo. To its right is a search bar and a navigation menu with links for 'Search', 'Desktop', 'Language', and 'Others'. Below the logo is a horizontal navigation bar with links: 'ABOUT UPOV', 'MEMBERSHIP', 'UPOV SYSTEM', 'IPR DATA & STATISTICS', 'MEETINGS', and 'NEWS'. A red arrow points to the 'NEWS' link. The main content area features a large image of sunflowers with the title 'Results of the Enforcement Seminar'. To the right of the sunflowers is a 'Stakeholder features' section with a list of links: 'Breeder', 'Farmers and Growers', 'Policy-makers', and 'General Public'. Below this is a 'GENE Database' section with a 'UPOV on' logo and a link to 'Plant Variety Database (PVD)'. At the bottom left is a 'Welcome' section with introductory text about UPOV's mission. At the bottom right is a 'Quick Links' section with a list of links: 'Introduction to UPOV', 'Benefits of UPOV', 'UPOV Collection', 'Test Guidelines', 'Distance Learning Courses', 'Symposia & Seminars', and 'FAQs'. The footer contains copyright information and a date.

# BREEDERS

ABOUT UPOV MEMBERSHIP UPOV SYSTEM PIR DATA & STATISTICS MEETINGS NEWS

**STAKEHOLDERS FEATURES**

- Breeder's
- Farmers and Growers
- Policy makers
- General Public

HOME » STAKEHOLDERS FEATURES » BREEDERS »

## Breeders

**UPOV Information**

- UPOV Membership
- UPOV Objectives
- UPOV Collection Inquiries & Information (2018/19)
- List of Varieties protected by members of the Union
- COMMISSION & SUBCOMMISSION
- Calendar of meetings
- Publication of Data

**Resources**

- Databases (see below)
- Text publications
- Decision PVP Offices
- UPOV Database Learning Courses
- UPOV Database of experts

**Key Topics**

- PVP and contracts
- Breeder's Rights/Seedling
- Notion of breeder

**Databases**



**PVP:**  
Information on plant varieties, particularly variety descriptions.



**DGV:**  
Information on GEM (Genetically Modified) varieties protected by members and information related to DUS examination.

**UPOV Lex:**  
UPOV Lex contains the legislation of members of the Union.

**FAQs for breeders**

- Where do I apply for protection of a variety?
- Can I obtain protection for more than one country and a mobile application?
- Who is responsible for informing plant breeders' rights?
- Can I protect an existing variety that I discovered?
- Does the UPOV Convention allow a variety to be obtained protection because it is genetically modified?
- Can I use plant variety protection to protect the following:
  - a breed or strain of animal, human being
  - a chemical or other substance in a cell, tissue
  - a plant breeding technique in a tissue culture?
- Can I protect a hybrid variety under the UPOV system?
- Does UPOV allow traditional techniques (such as those used in the evaluation of DUS, DGV, and DUS/DGV) to be used?

# FARMERS AND GROWERS

ABOUT UPOV MEMBERSHIP UPOV SYSTEM PIR DATA & STATISTICS MEETINGS NEWS

**STAKEHOLDERS FEATURES**

- Breeder's
- Farmers and Growers
- Policy makers
- General Public

HOME » STAKEHOLDERS FEATURES » FARMERS AND GROWERS »

## Farmers and Growers

**UPOV Information**

- UPOV Membership
- UPOV Objectives
- Calendar of meetings
- UPOV Lex

**Resources**

- PVP Offices
- Benefits of UPOV system & publications
- UPOV Database of experts

**Key Topics**

- PVP and contracts
- Information on the benefits of the UPOV system
- Breeder's Rights/Seedling
- All Countries & Regions

**Farmer perspectives**



**Farmer 1**



**Farmer 2**



**Farmer 3**

**FAQs for Farmers**

- Who is the breeder and what is the breeder's right?
- Can a farmer use seed of a protected variety without the authorization of the breeder?
- Can a farmer extend seed of a protected variety without the authorization of the breeder?
- What is the effect of a protected variety on the seed that has not been protected in a particular country, state, etc.?
- How do I know if a variety is protected?
- Is it possible for a breeder to have a variety that is not protected in a particular country, state, etc.?
- Can the UPOV system, under which the breeder's right is protected, be used to protect the variety of the breeder's variety, such as the seed of the breeder's variety, such as the seed of the breeder's variety, such as the seed of the breeder's variety?

# POLICY MAKERS

[ABOUT UPOV](#) | [MEMBERSHIP](#) | [UPOV SYSTEM](#) | [UPOV DATA & STATISTICS](#) | [RESEARCH](#) | [NEWS](#)

Home » Stakeholders Features » Policy makers »

**Policy makers**

**UPOV Information:**

- UPOV United in Action
- UPOV Governance
- UPOV Legislation
- Guidelines on How to Develop a System of UPOV
- Guidelines on Implementation of UPOV on How to Apply to UPOV for the IAGP and UPOV on How to Apply to UPOV for the IAGP and UPOV on How to Apply to UPOV for the IAGP
- Guidelines for Members of UPOV
- Index

**Resources:**

- UPOV United in Action
- UPOV United in Action & International Agreements
- UPOV Law Update of members of UPOV
- UPOV United in Action

**Key Topics:**

- Guidelines on the Policy of UPOV United in Action for Members and Countries of UPOV
- UPOV United in Action: The Benefits of UPOV, The UPOV System
- Guidelines on the Implementation of a System of UPOV and UPOV on How to Apply to UPOV for the IAGP
- UPOV United in Action
- UPOV United in Action

**Situation in UPOV**



[Click to enlarge](#)

**Impact of plant variety protection (video)**

View video of:

- UPOV United in Action
- UPOV United in Action
- UPOV United in Action
- UPOV United in Action

**Importance of plant variety protection (video)**

View video of:

- UPOV United in Action
- UPOV United in Action
- UPOV United in Action
- UPOV United in Action

# GENERAL PUBLIC

[ABOUT UPOV](#) | [MEMBERSHIP](#) | [UPOV SYSTEM](#) | [UPOV DATA & STATISTICS](#) | [RESEARCH](#) | [NEWS](#)

Home » Stakeholders Features » General Public »

**General Public**

**UPOV Information:**

- UPOV United in Action
- UPOV Governance
- UPOV Legislation
- UPOV United in Action
- Index

**Resources:**

- UPOV United in Action
- UPOV United in Action & International Agreements
- UPOV United in Action
- UPOV United in Action

**Key Topics:**

- UPOV United in Action: The Benefits of UPOV, The UPOV System
- UPOV United in Action: The Benefits of UPOV, The UPOV System
- UPOV United in Action: The Benefits of UPOV, The UPOV System
- UPOV United in Action: The Benefits of UPOV, The UPOV System

**Examples of the use of plant variety protection**



[Click to enlarge](#)



[Click to enlarge](#)

Use of Plant Variety Protection by the Family of Agency of the French Republic (UPOV) in France

Transparency: 02\_12



[Click to enlarge](#)





## UPOV Youtube channel





## New videos on UPOV website

HOME » ABOUT UPOV »

### Benefits of the UPOV System

 [Video](#) PVP in Ecuador

 [Video](#) PVP in Uruguay  
Use of Plant Variety Protection by the Faculty of Agronomy of the 'Universidad de la República' of Uruguay  
Transcriptions: [EB](#), [QE](#)

Available at:

[http://www.upov.int/about/en/benefits\\_upov\\_system.html](http://www.upov.int/about/en/benefits_upov_system.html)

The 52<sup>nd</sup> TC agreed a draft question and answer on:

“Is it possible to obtain protection of a variety on the basis of its DNA-profile?”

To be reported on agenda item 4 “Molecular Techniques” (TWF/47/2)

### Distance Learning Courses (DL-205 and DL-305)

Two sessions of each of the following UPOV Distance Learning Courses will be run **concurrently** in 2017:

- DL-205 “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”
  - DL-305 “Examination of applications for plant breeders’ rights”
- |  |
|--|
| <ul style="list-style-type: none"><li>• DL-305A “Administration of Plant Breeders’ Rights” (Part A of DL-305)</li><li>• DL-305B “DUS Examination” (Part B of DL-305)</li></ul> |
|--|

## Distance Learning Courses / timetable

### Session I – 2017

Registration: January 9 to February 10

Study period: March 6 to April 9

Final exam: April 3 to 9

### Session II – 2017

Registration: August 14 to September 15

Study period: September 25 to October 29

Final exam: October 23 to 29

## Distance Learning Courses (DL-205 and DL-305)

### 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: CHF1,000 per student)

Category 3:  
Others  
Fee: CHF1,000

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For the discussion at the 53<sup>rd</sup> TC,  
the 52<sup>nd</sup> TC agreed:

- To invite to simulate the impact of using different numbers of growing cycles on DUS decisions using actual data
- To invite to make presentations at the BMT on how databases containing molecular data might be developed in UPOV

For the discussion at the 53<sup>rd</sup> TC,  
the 52<sup>nd</sup> TC agreed:

- Conduct **survey** on current situation to discuss **obstacles to cooperation** in examination, including exchange of DUS reports

## **DISCUSSION SESSION DURING TC/53**

- (a) Use of disease and insect resistance characteristics in DUS examination
- (b) Management of variety collections
- (c) Minimum distance between varieties
- (d) Increasing participation of new members of the Union in the work of the TC and TWPs

## OVERVIEW

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## Seminar on Propagating and Harvested Material in the context of the UPOV Convention- October 24, 2016

The Symposium was attended by 134 participants.  
The proceedings of the Seminar will be made available

Closing Remarks by Mr. Martin Ekvad,  
Chair of the Administrative and Legal Committee (CAJ)

- Propagating material and harvested material are two core concepts of the UPOV Convention
- No definitions on propagating material and harvested material in the UPOV Convention
- UPOV members have implemented the notions of propagating material and harvested material in their own context

## **Seminar on Propagating and Harvested Material in the context of the UPOV Convention- October 24, 2016 (Cont'd)**

Closing Remarks by Mr. Martin Ekvad, Chair of the CAJ

- One complicating factor is that the same plant material can be propagating material and harvested material
- Harmonisation or consistency helps all stakeholders to understand the scope of the breeders' rights
- It is important to communicate with farmers, producers and other stakeholders involved in the value chain about the benefits of new plant varieties and therefore plant breeders' rights
- All types of farmers are necessary and complementary and the UPOV Convention has particular exceptions to cover activities of, for example, subsistence farmers

## **Seminar on Propagating and Harvested Material in the context of the UPOV Convention- October 24, 2016 (Cont'd)**

Closing Remarks by Mr. Martin Ekvad, Chair of the CAJ

- Judges have given judgments in relation to propagating and harvested material in some UPOV members
- Judgments have taken into account consideration
  - Intention
  - Cascade principle for propagating and harvested material
  - Safeguarding of the interests of the breeders and producers/farmers
- Relevant cases seem to provide satisfactory interpretations in the seed sector and the ornamental sector
- It would be helpful for breeders to report on concrete issues they face



## **Seminar on Propagating and Harvested Material in the context of the UPOV Convention- October 24, 2016 (Cont'd)**

Closing Remarks by Mr. Martin Ekvad, Chair of the CAJ

### Messages for UPOV

- To work on achieving a common understanding on propagating material and harvested material
- A non-exhaustive list of possible factors in the Draft Explanatory Notes is useful, even if UPOV members have their own definitions
- Better understanding of “reasonable opportunity” would be beneficial
- The Proceedings of this Seminar can serve as a valuable source of information for UPOV members
- Cases reported to UPOV will be published on the UPOV website

## **Seminar on Propagating and Harvested Material in the context of the UPOV Convention- October 24, 2016 (Cont'd)**

Closing Remarks by Mr. Martin Ekvad, Chair of the CAJ

### Messages for breeders

- Breeders may want to use the legal systems to clarify the situation
- Breeders may want to cooperate on bringing cases before courts (examples Anti-Infringement Bureau for Intellectual Property Rights on Plant Material (AIB)/Breeders Trust)
- Depending on the outcome of cases legislator may decide whether to react
- Breeders should ensure that effective contracts are used to be able to exercise their breeders' rights in
- relation to harvested material

**Symposium on possible interrelations  
between the ITPGRFA and the UPOV  
Convention- October 26, 2016**

**Closing remarks by the Co-Moderators**

Mr. Muhamad Sabran, Chairperson of the Seventh Session of the  
Governing Body, ITPGRFA and Mr. Raimundo Lavignolle, Vice-President of  
the Council of UPOV

- We have seen the objectives and benefits of both treaties: UPOV  
Convention, ITPGRFA;
- It is important to interpret and implement the two treaties in a mutually  
supportive way in the context of each Contracting Party;  
In order to succeed in these objectives, it is important for the two  
organizations to work together and to provide the necessary support;
- The Symposium highlights the need to involve all stakeholders in this  
process.

The Symposium was attended by 147 participants.  
The proceedings of the Seminar will be made available

[End of Annex and of document]