

Technical Working Party for Fruit Crops**TWF/52/5****Fifty-Second Session
Zhengzhou, China, July 12 to 16, 2021****Original: English
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**ACCESS TO PLANT MATERIAL FOR THE PURPOSE OF MANAGEMENT OF VARIETY COLLECTIONS
AND DUS EXAMINATION***Document prepared by an expert from the European Union**Disclaimer: this document does not represent UPOV policies or guidance***BACKGROUND**

1. The Technical Working Party for Fruit Crops (TWF), at its forty-ninth session, held in Santiago de Chile, from November 19 to 23, 2018, agreed to discuss the item “Access to plant material for the purpose of management of variety collections and DUS examination” at its fiftieth session (see document TWF/49/12 “report”, paragraph 106). It further agreed to invite Canada, China, European Union, Italy and Spain to give a presentation.

2. The TWF, at its fiftieth session held in Budapest, Hungary, received a presentation on “Canada’s experience in accessing plant material for DUS testing” by an expert from Canada as presented in document TWF/50/9. The TWF also received presentations on “China’s practice in accessing to plant materials for variety collection management and DUS test” by an expert from China and “Access to plant material for variety testing purposes: Status quo, problems and possible solutions” by an expert from Italy. Copies of the presentations have been published as an addendum to document TWF/50/9. The TWF also received oral reports by experts from the European Union and Spain on the situation in relation to access to plant material for the purpose of management of variety collections and DUS examination.

3. The TWF noted the following difficulties and challenges in relation to access to plant material for the purpose of management of variety collection and DUS examination:

- Plant health (risk to introduce pathogens in a variety collection)
- Importing plant material (phytosanitary measures)
- Lack of understanding from breeders on the merit to submit material of their varieties for reference purposes
- Lack of willingness of breeders to make their material available in cases where the DUS test takes place at the premises of another breeder
- Breeders requesting a guarantee about the use of the plant material provided
- Building, maintaining and renewing a collection of living plant material
- Often no access to plant material on the market, circulation of material in closed networks (club varieties)
- Limited use of technologies that could help: DNA, image analysis in limiting the necessity to transfer plant material
- Increasing number of protected and non protected varieties to be included. In the fruit sector, varieties are often developed worldwide and are adapted to grow in a wide range of environments
- Difficulty to access information (in particular when varieties are registered with different denominations or synonyms in national catalogues)

4. The TWF recalled the guidance provided in document TGP/4 “Constitution and maintenance of variety collections”, and in particular the importance of cooperation, as reproduced below:

“[...] 3.1.2.2 Sources of living plant material

3.1.2.2.4 Breeders are an important source of living plant material and cooperation with breeders is encouraged (see Section 3.2.3). In particular, for protected varieties, breeders have a particular incentive to maintain their varieties since lack of maintenance of a variety may lead to the cancellation of the plant breeder's right. [...]

3.2.2 Cooperation between authorities

3.2.2.1 For the establishment of variety collections, the availability of information on varieties of common knowledge is a key requirement. Exchange of information between authorities, breeders, botanic gardens, gene banks, and any other possible source of information is very important to define the list of varieties to be included in the collection (see Section 2.2). [...]

3.2.3 Cooperation with breeders

3.2.3.1 Cooperation is a means by which authorities can increase the efficiency of the establishment and maintenance of variety collections, consequently strengthening plant breeders' rights.

3.2.3.2 Breeders are particularly encouraged to cooperate in the provision of living plant material, on the basis that the inclusion of varieties in the growing tests and other trials is important for the quality of the examination of distinctness and in consequence the quality of protection for a variety.

3.2.3.3 Cooperation with breeders can involve, for example, breeders or breeders' associations maintaining a collection of living plant material which is made available to the testing authority as required.”

5. The TWF agreed that breeders are an important source of information and living plant material and that it was in the interest of the breeders to cooperate in the constitution and maintenance of variety collections. The TWF noted the comment by a representative from CIOPORA on the importance to protect breeders' interests when plant material is provided by breeders. They further commented on the risk perceived by breeders when examination offices performed breeding activities and how to ensure that the living collections were not used for breeding purposes. The TWF highlighted the need to have a high level of trust between PVP offices and breeders to ensure fruitful cooperation. The TWF noted that the European Union has adopted a policy on the use of plant material submitted for DUS testing purposes.

6. The TWF agreed to continue the discussion at its next session and invited the expert from Italy to prepare a document summarizing the issues faced by PVP offices and breeders, and to make proposals on how these issues might be addressed within UPOV. The TWF noted that experts from Canada, Chile, China, European Union, France, Germany, New Zealand, Spain and CIOPORA would help in preparing this document (see document TWF/50/13 “Report”, paragraphs 40 to 44).

DEVELOPMENTS AT TWF/51

70. The TWF considered document TWF/51/6 and received a presentation on “Access to material for DUS trials – draft analysis of Key points” an expert from Italy, as set out in the Annex to document TWF/51/6 (see document TWF/51/10 “Report”, paragraphs 70 and 71).

71. The TWF welcomed the analysis and agreed to invite the experts from the European Union, Italy and New Zealand, at its fifty-second session to share their experiences on policies and/or model letters/contracts used for the submission of plant material to their Authority and/or DUS Examination Offices. This information could be used as a basis for possible future possible revisions of UPOV Guidance (e.g. TGP/5, Section 11 “Examples of Policies and Contracts for Material Submitted by the Breeder”) to help other UPOV members to facilitate access to plant material for the purpose of management of variety collections and DUS examination.

PRESENTATION AT TWF/52

7. The annex to this document contains a copy of “DUS Access to plant material for the purpose of management of variety collections and DUS examination - The CPVO policy” prepared by an expert from European Union, to be considered by the fifty-second session of the TWF.

8. The TWF, at its fifty-second session is invited to consider the proposal and to decide on the way forward including on how these issues might be addressed within UPOV.

[Annex follows]



DUS Access to plant material for the purpose of
management of variety collections and DUS
examination
The CPVO policy

Jean Maison

TWF, 12-16 July 2021



The contents of this presentation are the sole responsibility of
Jean Maison
They do not necessarily represent the opinions of the
Community Plant Variety Office



CPVO policy in relation to material submitted for DUS testing

- Formally adopted by the CPVO Administrative Council
- Objective to make transparent the policy of the CPVO concerning material sent for DUS testing for Community Plant Variety Right applications
- Set up in cooperation with breeders organisations
- Applies to DNA



CPVO policy in relation to material submitted for DUS testing

- What to do with plant material if the application is withdrawn or if it is rejected?
 - Destroy or send back to the applicant
 - Keep material if the variety is of common knowledge

CPVO policy in relation to material submitted for DUS testing



- May an examination office send material?
 - To an EU examination Office
 - ✓ Yes if this Office fulfils CPVO quality requirements
 - ✓ Inform the breeder if that material consists of parental line or DNA material
 - ✓ The receiver should not use the material for any other purpose than the DUS test

CPVO policy in relation to material submitted for DUS testing



- May an examination office send material?
 - To another examination Office or certification authority
 - ✓ Consent of the breeders necessary
 - ✓ Unless if the material is available on the market
 - ✓ Consent for DNA always necessary

CPVO policy in relation to material submitted for DUS testing

- What an examination office may do after the variety has been granted Community plant variety rights?
 - Kept if the examination office has a living collection, otherwise destroyed or sent back to the applicant

CPVO policy in relation to material submitted for DUS testing

- After Community plant variety rights expire?
 - Kept if the examination office has a living collection until expiry of the right

CPVO policy in relation to material submitted for DUS testing



- [Full document published and available on CPVO website](#)



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