

Technical Working Party for Vegetables

Fifty-Sixth Session
Virtual meeting, April 18 to 22, 2022

TWP/6/9

Original: English
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Technical Working Party for Agricultural Crops

Fifty-First Session
Cambridge, United Kingdom, May 23 to 27, 2022

Technical Working Party for Ornamental Plants and Forest Trees

Fifty-Fourth Session
Hanover, Germany, June 13 to 17, 2022

Technical Working Party for Fruit Crops

Fifty-Third Session
Virtual meeting, July 11 to 15, 2022

Technical Working Party on Testing Methods and Techniques

First Session
Virtual meeting, September 19 to 23, 2022

COOPERATION IN EXAMINATION

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

EXECUTIVE SUMMARY

1. The purpose of this document is to present information on possibilities to facilitate cooperation in DUS examination.
2. The TWPs are invited to note:
 - (a) that members of the Union have the possibility to update information on a person(s) to be contacted for matters concerning international cooperation in DUS examination by:
 - (i) updating information when invited to provide information for document TC/[xx]/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability"; and/or
 - (ii) notifying the Office of the Union by sending an e-mail to upov.mail@upov.int;
 - (b) the development of a package of compatible IT tools to address the technical and related administrative concerns that prevent cooperation in DUS examination, as reported in paragraphs 9 to 14 of this document;
 - (c) that a presentation on e-PVP Asia will be made to the TWPs, at their sessions in 2022;
 - (d) that developments concerning the web-based TG template to enable the drafting individual authorities' test guidelines (IATG) are reported in document TWP/6/8;
 - (e) that the development of a platform for UPOV member databases containing variety description information will depend on UPOV members indicating which databases they would wish to share;

(f) that the use of machine translation technology is being considered within a review of UPOV's policy on translation;

(g) that measures for increasing cooperation among experts at TWP sessions are considered in document TC/57/10 "Increasing participation in the work of the TC and TWPs";

(h) note that the CAJ, at its seventy-eighth session:

(i) agreed to include possible "guidance to encourage members of the Union, on a voluntary basis, to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the members of the Union concerned" as part of the work to be agreed by the CAJ; and

(ii) agreed measures to address policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination, as set out in paragraph 34 of this document; and

(i) that the impact of the proposed measures will be assessed on the basis of the number of cooperation agreements reported by members of the Union, as presented in document C/[xx]/INF/5 "Cooperation in examination".

3. The structure of this document is as follows:

EXECUTIVE SUMMARY.....	1
BACKGROUND	2
PERSON(S) TO BE CONTACTED FOR MATTERS CONCERNING INTERNATIONAL COOPERATION IN DUS EXAMINATION.....	3
DIGITALIZATION IN UPOV TO PROVIDE A PACKAGE OF COMPATIBLE IT TOOLS TO ADDRESS THE TECHNICAL AND RELATED ADMINISTRATIVE CONCERNS THAT PREVENT COOPERATION IN DUS EXAMINATION	3
WEB-BASED TG TEMPLATE MODULE TO DEVELOP INDIVIDUAL AUTHORITIES' TEST GUIDELINES (IATG).....	4
PLATFORM FOR UPOV MEMBER DATABASES CONTAINING VARIETY DESCRIPTION INFORMATION	5
MACHINE TRANSLATION TECHNOLOGY.....	5
USING THE TWPS FOR INCREASING COOPERATION	5
PROPOSAL FOR GUIDANCE ON TAKING-OVER OF DUS TEST REPORTS	5
Background	5
Consideration by the Administrative and Legal Committee (CAJ)	6
<i>Measures to enhance cooperation in examination (document CAJ/78/9)</i>	6
IMPACT ASSESSMENT	6

4. The following abbreviations are used in this document:

BMT:	Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular
CAJ:	Administrative and Legal Committee
TC:	Technical Committee
TWA:	Technical Working Party for Agricultural Crops
TWC:	Technical Working Party on Automation and Computer Programs
TWF:	Technical Working Party for Fruit Crops
TWM:	Technical Working Party on Testing Methods and Techniques
TWO:	Technical Working Party for Ornamental Plants and Forest Trees
TWV:	Technical Working Party for Vegetables
TWPs:	Technical Working Parties

BACKGROUND

5. The background to this matter, prior to the 2022 sessions of the TWPs, is provided in document TWP/5/9 "Cooperation in examination".

PERSON(S) TO BE CONTACTED FOR MATTERS CONCERNING INTERNATIONAL COOPERATION IN DUS EXAMINATION

6. The list of persons to be contacted for matters concerning international cooperation in DUS examination is available on the UPOV website at the following address:
https://www.upov.int/databases/en/contact_cooperation.html

7. Members of the Union are invited to update information on a person(s) to be contacted for matters concerning international cooperation in DUS examination every year when invited to provide information for document TC/[xx]/4 “List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability”.

8. Updates on the list of person(s) to be contacted for matters concerning international cooperation provided on the UPOV website can be implemented at any time, at the request of the member of the Union concerned, by sending an e-mail to upov.mail@upov.int

DIGITALIZATION IN UPOV TO PROVIDE A PACKAGE OF COMPATIBLE IT TOOLS TO ADDRESS THE TECHNICAL AND RELATED ADMINISTRATIVE CONCERNS THAT PREVENT COOPERATION IN DUS EXAMINATION

9. The TC, at its fifty-sixth session¹, considered by correspondence document TC/56/11 “Cooperation in examination” (see document TC/56/22 “Outcome of consideration of documents by correspondence”, paragraphs 39 to 44).

10. The TC, at its fifty-sixth session, agreed to propose the development of a package of compatible IT tools to address the technical and related administrative concerns that prevented cooperation in DUS examination with the following elements (see document TC/56/22, “Outcome of consideration of documents by correspondence”, paragraph 41):

- a) Platform for:
 - i) exchange of existing DUS reports for:
 - (1) UPOV members to post and receive existing DUS reports and arrange payment, as appropriate
 - (2) PVP applicants to request use of existing DUS reports and make payments, as appropriate
 - ii) UPOV members to make their documented DUS procedures and information on their quality management systems available to other members of the Union
- b) Tool to provide information on cooperation in DUS examination between UPOV members to PVP applicants in a user-friendly form, using information contained in the GENIE database
- c) Module for UPOV members to use the web-based TG Template and database of characteristics to develop individual authorities’ test guidelines (IATG) in their language
- d) Platform for UPOV member databases containing variety description information

11. The above tools would be developed in conjunction with UPOV PRISMA and the GENIE and PLUTO databases.

12. The TC, at its fifty-sixth session, noted the comment provided by the European Union in response to Circular E-20/119, of August 21, 2020, on the proposal to develop a package of compatible IT tools with the elements indicated in document TC/56/11, paragraph 19. The TC agreed to request the Office of the Union to present plans for the development of a package of compatible IT tools, for consideration by the TWPs and TC, at their sessions in 2021 (see document TC/56/23 “Report”, paragraph 60).

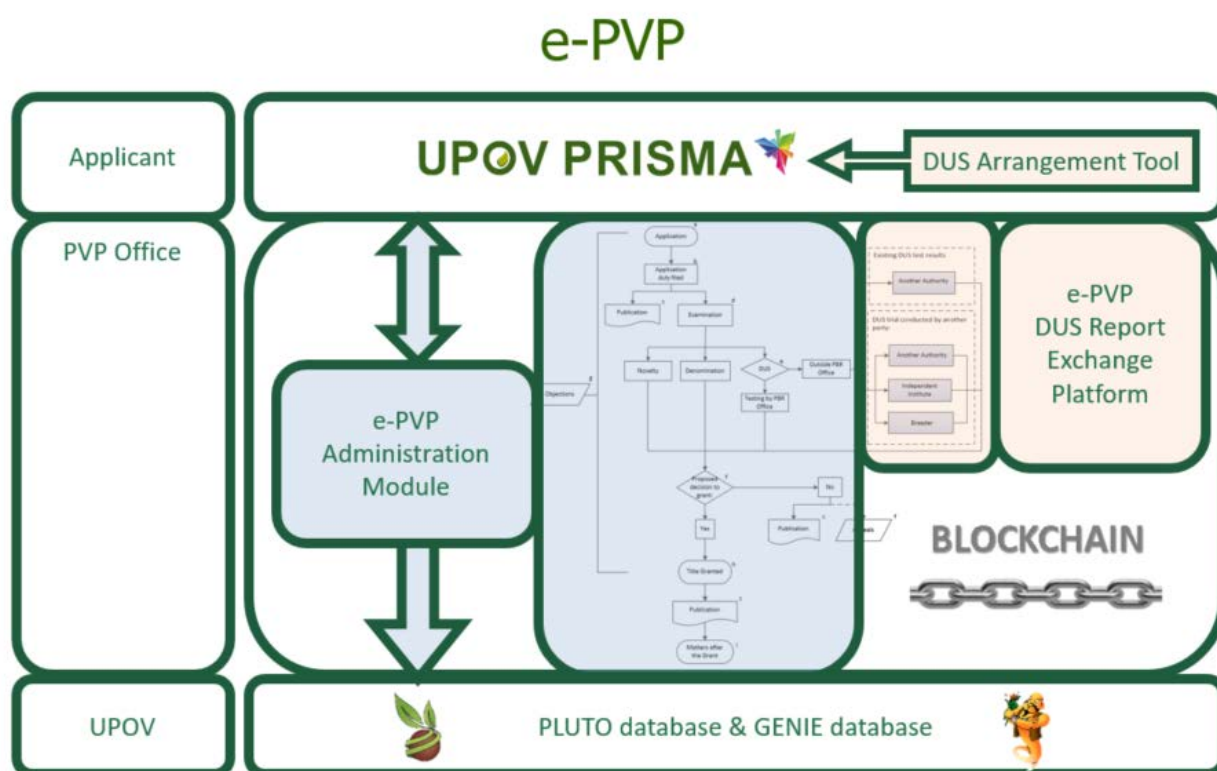
13. A platform for exchanging DUS reports and documenting DUS procedures (“DUS Report Exchange Platform”) and a tool to provide information on cooperation in DUS examination for PVP applicants (“DUS Arrangement Tool – DART”) are currently being developed in conjunction with the e-

¹ Held via electronic means on October 26 and 27, 2020

PVP Asia Pilot Project. A presentation on developments will be made at the Technical Working Parties, at their sessions in 2022.

14. The following figure provides a graphic overview of the ‘e-PVP’ project to provide coherent and comprehensive assistance in the implementation of the UPOV system and how the tools could be integrated in relation to the “Functions and structure of a PBR Office” as identified in document UPOV/INF/15² “Guidance for Members of UPOV”. E-PVP will:

- Provide PVP offices with an electronic administration system for tasks from application to after grant (e-PVP Administration Module)
- Provide applicants with information on DUS cooperation between UPOV members (DUS Arrangement Tool – DART)
- Provide a platform for the exchange of DUS reports between UPOV members (DUS report exchange module)
- Provide the possibility for a single online combined Application Form applicable for multiple UPOV members on the basis of UPOV PRISMA, as agreed by the UPOV members concerned
- Provide a secure system, with flexible adaptation to each members’ existing systems, using blockchain technology



WEB-BASED TG TEMPLATE MODULE TO DEVELOP INDIVIDUAL AUTHORITIES’ TEST GUIDELINES (IATG)

15. The web-based TG template and database of approved characteristics will be migrated to cloud servers by 2022. The migration will include a restructuring of the program to address issues reported by users. Once this is complete, the web-based TG template will enable the online database of characteristics to be used for drafting individual authorities’ test guidelines (IATG) in different languages. Matters concerning the web-based TG template are reported in document TWP/6/8 “Guidance for drafters of Test Guidelines”.

² https://www.upov.int/edocs/infdocs/en/upov_inf_15.pdf.

PLATFORM FOR UPOV MEMBER DATABASES CONTAINING VARIETY DESCRIPTION INFORMATION

16. A platform for UPOV member databases containing variety description information will depend on UPOV members indicating which databases they would wish to share. The Office of the Union has not received any expressions of interest from members of the Union to share their databases.

MACHINE TRANSLATION TECHNOLOGY

17. The TC, at its fifty-sixth session, noted the potential for machine translation technology to reduce translation costs for UPOV documents in UPOV languages and to make UPOV materials in a wider range of languages (see document TC/56/22, "Outcome of consideration of documents by correspondence", paragraph 42).

18. Rapid advances in machine translation technology provide new opportunities, to reduce translation costs for UPOV documents in UPOV languages and to make UPOV materials available in a wider range of languages, within available resources. The use of machine translation technology is being considered within a review of UPOV's policy on translation.

USING THE TWPS FOR INCREASING COOPERATION

19. The TC, at its fifty-fifth session, noted that TWP sessions could provide an opportunity for experts to enhance collaboration and exchange of information and agreed that TWP sessions should be used to develop cooperation among members to a greater extent.

20. Measures for increasing cooperation among experts at TWP sessions are discussed in document TWP/6/12 "Increasing participation in the work of the TC and TWPs".

PROPOSAL FOR GUIDANCE ON TAKING-OVER OF DUS TEST REPORTS

Background

21. The TC, at its fifty-sixth session, considered document TC/56/22 "Outcome of consideration of documents by correspondence" (see document TC/56/23 "Report", paragraphs 57 to 63).

22. The TC noted the comments received during the procedure of consideration of documents by correspondence on document TC/56/11 "Cooperation in examination", as reported in document TC/56/22, paragraphs 45 to 48.

23. The TC noted the comment provided by Japan in response to Circular E-20/119, of August 21, 2020, on difficulties to submit plant material to the authority receiving an application due to phytosanitary, quarantine or other related matters, as reported in document TC/56/22, paragraphs 47 and 48.

24. The TC noted that plant material was required as a condition for granting breeders' rights in some members of the Union.

25. The TC, at its fifty-sixth session, agreed to propose to the CAJ the development of guidance to encourage UPOV members, on a voluntary basis, to take-over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the UPOV members concerned. The TC agreed that this proposal should be presented for consideration by the CAJ in document CAJ/77/2 "Report on developments in the Technical Committee" (see document TC/56/23 "Report", paragraphs 57 to 63).

26. The CAJ, at its seventy-seventh session³ noted the measures agreed by TC to overcome barriers that prevented international cooperation in DUS examination (see document CAJ/77/10 "Report", paragraphs 13 to 15).

27. In response to the request of the TC, the CAJ requested the Office of the Union to prepare a document for consideration, at its seventy-eighth session, to be held on October 27, 2021, concerning the following policy

³ Held via electronic means on October 28, 2020

or legal barriers that the TC had identified as preventing international cooperation in DUS examination and possible measures to address those barriers:

- (i) Requirement of formal agreement for cooperation;
- (ii) Obligation for DUS examination to be conducted by the authority granting the rights;
- (iii) Non-acceptance of breeder-based DUS test reports;
- (iv) Wish from breeders to use (or not) existing DUS reports;

28. In response to the request of the TC, the CAJ further requested the Office of the Union to prepare a document for consideration, at its seventy-eighth session, with proposals for developing guidance to encourage members of the Union, on a voluntary basis, to take-over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the members of the Union concerned.

Consideration by the Administrative and Legal Committee (CAJ)

29. The CAJ, at its seventy-eighth session⁴, considered document CAJ/78/10 “Possible guidance on take-over of DUS reports when the applicants cannot submit plant material” (see document CAJ/78/13, paragraphs 37 to 39).

30. The CAJ noted that proposals for enhancing cooperation and take-over of DUS test reports were provided in document CAJ/78/9 “Measures to enhance cooperation in examination”.

31. The CAJ agreed to include possible “guidance to encourage members of the Union, on a voluntary basis, to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the members of the Union concerned” as part of the work to be agreed by the CAJ under document CAJ/78/9.

Measures to enhance cooperation in examination (document CAJ/78/9)

32. The CAJ, at its seventy-eighth session, considered document CAJ/78/9 (see document CAJ/78/13, paragraphs 40 to 43).

33. In response to the comment from the European Union, the CAJ noted that the Explanatory Notes on “Examination of the Application” should explain all options for examination of varieties, as set out in the UPOV Convention.

34. The CAJ agreed the following measures to address policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination:

(a) survey members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination;

(b) develop explanatory notes to Article 12 of the UPOV Convention (“Examination of the Application”); and

(c) request breeders’ organizations to clarify the issues concerning the wish of breeders to use, or not to use, existing DUS reports.

35. The CAJ agreed that the survey should include the taking-over of test reports where the variety descriptions did not match the UPOV Test Guidelines characteristics.

IMPACT ASSESSMENT

36. The TC, at its fifty-sixth session, agreed to assess the impact of the proposed measures on the basis of the number of cooperation agreements reported by members of the Union, as presented in document C/[xx]/INF/5 “Cooperation in examination” (see document TC/56/22, “Outcome of consideration of documents by correspondence”, paragraph 44).

⁴ Held via electronic means on October 27, 2021

37. *The TWPs are invited to note:*

(a) *that members of the Union have the possibility to update information on a person(s) to be contacted for matters concerning international cooperation in DUS examination by:*

(i) *updating information when invited to provide information for document TC/[xx]/4 "List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability"; and/or*

(ii) *notifying the Office of the Union by sending an e-mail to upov.mail@upov.int;*

(b) *the development of a package of compatible IT tools to address the technical and related administrative concerns that prevent cooperation in DUS examination, as reported in paragraphs 9 to 14 of this document;*

(c) *that a presentation on e-PVP Asia will be made to the TWPs, at their sessions in 2022;*

(d) *that developments concerning the web-based TG template to enable the drafting individual authorities' test guidelines (IATG) are reported in document TWP/6/8;*

(e) *that the development of a platform for UPOV member databases containing variety description information will depend on UPOV members indicating which databases they would wish to share;*

(f) *that the use of machine translation technology is being considered within a review of UPOV's policy on translation;*

(g) *that measures for increasing cooperation among experts at TWP sessions are considered in document TC/57/10 "Increasing participation in the work of the TC and TWPs";*

(h) *note that the CAJ, at its seventy-eighth session:*

(i) *agreed to include possible "guidance to encourage members of the Union, on a voluntary basis, to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the members of the Union concerned" as part of the work to be agreed by the CAJ; and*

(ii) *agreed measures to address policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination, as set out in paragraph 34 of this document; and*

(i) that the impact of the proposed measures will be assessed on the basis of the number of cooperation agreements reported by members of the Union, as presented in document C/[xx]/INF/5 "Cooperation in examination".

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