

UPOV

TC/46/15 Prov.

ORIGINAL: English

DATE: March 24, 2010

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL COMMITTEE

Forty-Sixth Session
Geneva, March 22 to 24, 2010

DRAFT REPORT ON THE CONCLUSIONS

prepared by the Office of the Union

Opening of the session

1. The Technical Committee (TC) held its forty-sixth session in Geneva from March 22 to 24, 2010. The list of participants is reproduced in Annex I to this report.
2. The session was opened by Mr. Chris Barnaby (New Zealand), Chairperson of the TC, who welcomed the participants. The TC Chairman extended a welcome to the participants from the East Asia Plant Variety Protection Forum.
3. The Chairperson of the TC reported that, since the forty-fifth session of the TC, Oman had become a member of the Union, taking the number of members of the Union to 68, and that Slovakia had acceded to the 1991 Act of the UPOV Convention.

Adoption of the agenda

4. The TC adopted the agenda as presented in document TC/46/1 Rev..

Report on developments in UPOV including relevant matters discussed in the last sessions of the Administrative and Legal Committee, the Consultative Committee and the Council

5. The Vice Secretary-General provided an oral report on the fifty-ninth and sixtieth sessions of the Administrative and Legal Committee (CAJ), the seventy-seventh and the seventy-eighth sessions of the Consultative Committee and the twenty-sixth extraordinary session and the forty-third ordinary session of the Council. The Vice Secretary-General also made an report on the Seminar on DUS Testing, held in Geneva, from March 18 to 20, 2010. He reported that the following conclusions had been drawn by the Chairman of the Technical Committee in conjunction with the Office of the Union:

- “UPOV members have used a range of approaches for DUS testing, as envisaged within the UPOV Convention, in order to provide an efficient and effective system for breeders according to their circumstances.
- “Cooperation is crucial for all UPOV members and will need to intensify in future to meet the expansion of the UPOV system. There is a need to:
 - continue to work on guidance documents (TGP documents, Test Guidelines) and exchangeable software (COY, GAIA etc.) to promote harmonization;
 - enhance efficiency of cooperation, through
 - maintaining standard forms, agreed fee for DUS reports, etc.;
 - the use and further development of tools, such as the GENIE database;
 - increasing exchange of information between UPOV members on their newly acquired experience;
 - exchanging variety descriptions; and
 - coordinating resources offered by members of the Union (e.g. training, helpdesks, *ad hoc* expert advice).
- “The Technical Committee and Technical Working Parties are an important means of training and exchanging information in an expert forum, and additional benefits can be achieved through preparatory workshops and associated training events.
- “It is important to continue to explore methods to address the management of variety collections, e.g. the potential role for molecular techniques.
- “The organization of such seminars, from time-to-time, provides a valuable means of sharing broad overviews and new developments and also of indentifying areas for possible future guidance (e.g. treatment of data for distinctness and descriptions, understanding of “similar varieties”, status of the variety descriptions).
- “UPOV encourages breeders’ organizations to contribute to UPOV’s technical work and encourages a constructive dialogue on relevant issues at an early stage.
- “Participation by experts of potential future members of the Union in the Technical Committee and Technical Working Parties, as observers, was encouraged as a principal means of achieving harmonization with the UPOV system and facilitation of future cooperation on becoming UPOV members.”

Progress reports on the work of the Technical Working Parties, including the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), and the *Ad Hoc* Crop Subgroups on Molecular Techniques

6. The TC received oral reports from the Chairpersons, on the work of the Technical Working Party for Agricultural Crops (TWA), the Technical Working Party on Automation and Computer Programs (TWC), the Technical Working Party for Fruit Crops (TWF), the Technical Working Party for Ornamental Plants and Forest Trees (TWO) and the Technical Working Party for Vegetables (TWV). The TC noted that no session of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT) had been held since the forty-fifth session of the TC.

Matters arising from the Technical Working Parties

7. The TC considered document TC/46/3.

I. MATTERS FOR INFORMATION AND FOR A POSSIBLE DECISION TO BE TAKEN BY THE TECHNICAL COMMITTEE

Matters arising after the grant of a breeder's right

8. The TC noted the developments in the CAJ with regard to a document concerning matters arising after the grant of a breeder's right.

Matters raised by CIOPORA in relation to distinctness

9. The TC noted the comments made by International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA) in relation to the use of characteristics in the examination of distinctness, as reported in document TC/46/3, paragraphs 7 to 13. The TC endorsed the clarification that had been provided to CIOPORA by the Office of the Union, as set out in document TC/46/3, paragraph 14, and recalled that CIOPORA were invited to attend the Technical Working Parties and the Technical Committee where they could receive further explanation of the basis for the selection of characteristics for inclusion of Test Guidelines. It was agreed that the adoption of the Test Guidelines for Mandarin should not be delayed on the basis of the comments by CIOPORA.

10. The TC noted that, with regard to the partial revision of the Test Guidelines for Mandarin (Citrus Group 1), as set out in Circular E-1143, dated November 30, 2009, in addition to the comments of the CIOPORA, substantial comments had been received from Australia and Morocco. On the basis of those substantial comments, the Leading Expert, Mr. Chomé Fuster (Spain), had concluded that it would be appropriate for the partial revision of the Test Guidelines for Mandarin to be considered further by the TWF at its forty-first session, to be held in Cuernavaca, Morelos State, Mexico, from September 27 to October 1, 2010.

Experiences with new types and species

11. The TC noted the information provided at the TWO and TWF sessions in 2009 and noted that the proposal to invite members of the Union to indicate practical experience when requesting a new UPOV code, as set out in document TC/46/3, paragraph 22, would be considered under agenda item 9 "UPOV information databases".

12. The TC agreed that an item for "Experiences with new types and species (oral reports by participants)" should be included in the agenda of the TWF, TWO and TWV sessions in 2010.

Bioversity / Germplasm Information on Germplasm Accessions (GIGA) project

13. The TC noted the involvement of UPOV experts in the GIGA (Germplasm Information on Germplasm Accessions) project of Bioversity.

Statistical methods for visually observed characteristics

14. The TC agreed that statistical methods for visually observed characteristics should be investigated by the TWC and should be considered for possible inclusion in the revision of document TGP/8/1.

Searching documents on the UPOV website

15. The TC noted the plans for the development of a search tool for documents placed in the restricted areas of the UPOV website.

II. MATTERS FOR INFORMATION

16. The TC noted the matters for information provided in document TC/46/3.

TGP documents

17. The TC considered documents TC/46/5.

(a) New TGP documents

TGP/8 Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability

18. The TC agreed that document TGP/8/1 Draft 15 should be amended as indicated, with the following further modifications:

	<u>Part I</u>
1.3.2.5	to be deleted

3.2.1.4	to read "3.2.1.4 In the context of consistency and harmonization, it should be noted that different statistical methods may produce different results."
3.3	to retain both the table and the flow chart
3.3	Flow chart: to replace text in box "No statistical methods" with "No statistical method provided in TGP/8"

19. The TC noted that the changes to the text of document TGP/8/1 Draft 15 as proposed above would be reported to the CAJ at its sixty-first session, to be held in Geneva on March 25, 2010. The TC agreed that, subject to agreement by the CAJ, document TGP/8/1 Draft 15, as amended above, should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The TC noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/8/1 to the Council.

20. The TC approved the approach for the revision of document TGP/8/1 (document TGP/8/2), as set out in document TC/46/5, paragraphs 13 and 14. The TC agreed that, in addition to those items included in document TC/46/5, the following matters should also be considered in the revision of TGP/8:

- (a) guidance on the development of variety descriptions with information from:
 - (i) more than one growing cycle in one location, and
 - (ii) more than one location;
- (b) review of the recommendation on the minimum number of degrees of freedom for COYD;
- (c) inclusion of a recommendation on the minimum number of degrees of freedom for the 2 x 1% Method; and
- (d) inclusion of a recommendation on the minimum number of comparable varieties to be included in the trial in the Relative Variance Method for the assessment of uniformity.

TGP/14 "Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents"

21. The TC agreed that document TGP/14/1 Draft 11 should be amended as indicated in the document, but agreed that no further modifications were required. In particular, the TC agreed not to combine synonymous terms within a single entry (e.g. Breeder's Right, Plant Breeder's Right and PBR).

22. The TC agreed that, subject to agreement by the CAJ, document TGP/14/1 Draft 11, should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The TC noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/14/1 to the Council.

23. The TC approved the consideration of the items set out in document TC/46/5, paragraphs 21 to 26, in the revision of document TGP/14/1 (document TGP/14/2) and agreed that the following items should also be considered:

(a) the development of suitable wording for states of expression for ratio characteristics with a 1-9 note scale covering, for example, only elongated ratios;

(b) further guidance concerning the duplication of characteristics, e.g. characteristics for ratio length/width, length, width and shape, on the basis of a document to be prepared by Mrs. Beate Rücker (Germany).

TGP/11 Examination of Stability

24. The TC agreed the procedure and schedule for the development of document TGP/11/1, as set out in document TC/46/5, paragraph 30.

(b) Revision of TGP Documents

TGP/7 Development of Test Guidelines

25. The TC agreed that document TGP/7/2 Draft 5 should be amended as indicated in the document, with the following further modifications:

Annex I, 4.1	to delete new text and reinstate ASW 15 as contained in document TGP/7/1
Annex I, TQ 4 & TQ 7	to add text for footnote #

26. The TC agreed that the text of Annex I: TG Template, Chapter 4.1.4, and the final sentence of Annex 3: Guidance Notes (GN) for the TG Template, GN7 "Quantity of plant material required" should be retained as presented in document TGP/7/2 Draft 5, but agreed that Mrs. Beate Rücker (Germany) should prepare a document, concerning the number of plants to be considered for distinctness, for consideration by the TWPs at their session in 2010.

27. With regard to the possibility of the Technical Questionnaire providing an opportunity to indicate that an application concerned a parent line, the TC agreed that such a possibility existed within Section 4 "Information on the breeding scheme and propagation of the variety", as far as that information was relevant for the DUS examination. The TC clarified that, in the particular case of parent lines submitted as a part of the examination of a candidate hybrid variety, document TGP/5: Section 11/1 "Examples of Policies and Contracts for Material Submitted by the Breeder" explained that living plant material should only be made available to other variety collectors in such a way that the legitimate interests of the breeder would be safeguarded.

28. The TC noted that the CAJ proposal concerning standard UPOV references for the UPOV Model Application Form and UPOV Model TQ, as set out in Annexes II and IV of document CAJ/60/5 (reproduced in document TC/46/13, Annexes II and IV), would be considered under agenda item 12 "Electronic Application Systems".

29. The TC noted that the changes to the text of document TGP/7/2 Draft 5 as proposed above would be reported to the CAJ at its sixty-first session. The TC agreed that, subject to agreement by the CAJ, document TGP/7/2 Draft 5, as amended above, should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The TC noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/7/2 to the Council.

30. The TC noted that, on the basis of feedback at the TWP sessions in 2009 and the experience with draft Test Guidelines, the Office of the Union had concluded that the Collection of Approved Characteristics was not, in general, used by Leading Experts in the drafting of Test Guidelines on a regular basis. The TC agreed that it would not be a good use of resources to invest a substantial effort in integrating the Collection of Approved Characteristics into the TG Template for the time-being.

31. With regard to a future revision of TGP/7 (document TGP/7/3), the TC agreed that consideration be given to the items set out in document TC/46/5, paragraphs 43 to 54, subject to the final sentence of paragraph 48 being amended to read "In particular, the TC-EDC noted that asterisked characteristics were very important for international harmonization of variety descriptions.". The TC agreed that the following items should also be considered:

- (a) to provide guidance on the indication of observation by Measurement (M) for characteristics such as dates (e.g. time of flowering), counts (e.g. number of leaf lobes) etc.;
- (b) document to be prepared by an expert from Germany (see paragraph 26), concerning the number of plants to be considered for distinctness, for consideration by the TWPs at their session in 2010

TGP/5 Experience and Cooperation in DUS Testing

Section 2 "UPOV Model Form for the Application for Plant Breeders' Rights"

32. The TC noted that the CAJ, at its sixty-first session, would be invited to consider a proposal for text to be added to document TGP/5: Section 2 "UPOV Model Form for the Application for Plant Breeders' Rights", in order to explain the standard references in the UPOV Model Application Form. It further noted that the development of standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes II and IV of document TC/46/13, would be considered under agenda item 12 "Electronic Application Systems".

Section 10 "Notification of Additional Characteristics"

33. The TC noted that the proposal in document TGP/7/2 Draft 5 for the reporting of modifications to characteristics in the Test Guidelines by means of document TGP/5 (see document TC/46/5, paragraphs 61 to 63) would require a corresponding revision of document TGP/5, Section 10/1. It further noted that the TC, in document TC/46/2, paragraphs 22 to 24, were invited to consider whether new characteristics and new states of expression notified by means of document TGP/5, Section 10 "Notification of Additional Characteristics", should be presented for consideration at the session of the relevant TWP(s) and the TC before they are presented on the password-restricted area of the UPOV website.

34. The TC agreed that the TWP should be invited to consider those proposals at their sessions in 2010, on the basis of a draft text to be prepared by the Office of the Union, with a view to a revision of document TGP/5, Section 10/1 being considered by the TC and CAJ in 2011, for proposal to the Council in October 2011.

TGP/12 Guidance on Certain Physiological Characteristics

35. The TC agreed that the TWV should develop a proposal for a revision of document TGP/12/1 in order to provide guidance on the nomenclature and use of disease resistance characteristics, as set out in document TC/46/5, paragraphs 65 and 66.

TGP/0 List of TGP Documents and Latest Issue Dates

36. The TC agreed to propose the adoption of document TGP/0/3 in conjunction with the adoption and revision of TGP documents, as appropriate.

(c) Program for the development of TGP documents

37. The TC agreed the program for the development of TGP documents, as set out in the Annex to document TC/46/5.

Molecular techniques

38. The TC considered documents TC/46/7, BMT Guidelines (proj.16) and BMT/DUS Draft 2.

UPOV Guidelines for DNA-profiling: molecular marker selection and database construction (BMT Guidelines)

39. The TC agreed that document BMT Guidelines (proj.16) should be amended as indicated in the document, but agreed that no further modifications were required.

40. The TC agreed that, subject to agreement by the CAJ, document BMT Guidelines (proj.16) should be put forward for adoption by the Council at its forty-fourth ordinary session. The TC noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document BMT Guidelines to the Council.

Proposals for the utilization of biochemical and molecular techniques in the examination of DUS to be considered by the BMT Review Group

41. The TC noted that the CAJ, at its sixtieth session, held in Geneva on October 19, 2009, had endorsed the recommendations of the BMT Review Group, as set out in document TC/46/7, paragraph 14.

42. The TC endorsed the recommendations of the BMT Review Group, as set out in document TC/46/7, paragraph 14.

Revision of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add.

43. The TC agreed the following amendments to document BMT/DUS Draft 2:

Title	to read "Possible Use of Molecular Markers in the Examination of Distinctness, Uniformity and Stability ("DUS")"
Structure	to differentiate the models into those which received a positive endorsement by the BMT Review Group, CAJ and TC and those where was no consensus on their acceptability. Within the models which received a positive endorsement by the BMT Review Group, CAJ and TC, to consider a further separation of the models for which further work was required.
Title of models	to seek to develop a short title for each model

44. The TC noted that the CAJ, at its sixtieth session, had agreed that a document could be presented for adoption by the Council in October 2010, in conjunction with the document BMT Guidelines. However, the TC agreed that a new draft of the document BMT/DUS should be prepared by the Office of the Union, in conjunction with the TC Chairman and the BMT Chairman, for consideration by the BMT and the TWPs at their sessions in 2010 and a further draft prepared on the basis of the comments of the BMT, TWPs and CAJ for consideration by the TC at its forty-seventh session.

45. The TC agreed that the possibility of document BMT/DUS Draft 2 becoming document TGP/15, with an appropriate change of title for TGP/15, should be considered at a later stage.

Practical exercise in the development of an exchangeable database

46. The TC recalled that matters concerning databases containing morphological and/or molecular data would be considered under the agenda item "Variety description databases".

International guidelines on molecular methodologies

47. The TC noted that ISTA had been approached to investigate how the work of UPOV and ISTA might, where appropriate, be coordinated with UPOV in relation to molecular techniques.

Statistical methods for data produced by biochemical and molecular techniques

48. The TC noted that the item on the BMT/11 agenda for "statistical methods for data produced by biochemical and molecular techniques" had been replaced by an item "methods for analysis of molecular data" in the agenda for the twelfth session of the BMT, to be held in Ottawa, Canada, from May 11 to 13, 2010.

Ad hoc crop subgroups on molecular techniques (Crop Subgroups)

49. The TC approved Mrs. Laetitia Denecheau (France) as new Chairperson of the Crop Subgroup for Oilseed Rape.

50. The TC noted the developments concerning Crop Subgroups as set out in document TC/46/7, paragraphs 46 to 50 and agreed the following plans for meetings of Crop Subgroups:

Crop Subgroup for Maize: no subgroup meeting planned. The TC noted that the Office of the Union had contacted the American Seed Trade Association (ASTA) to see if it would be interested in receiving a report on the outcome of the consideration within UPOV on the approach presented in documents BMT/10/14 and BMT-TWA/Maize/2/11 "Possible use of molecular techniques in DUS testing on maize: how to integrate a new tool to serve the effectiveness of protection offered under the UPOV system" at the meeting of the maize and sorghum breeders' meeting in the United States of America in 2010;

Crop Subgroup for Oilseed Rape: no subgroup meeting planned;

Crop Subgroup for Potato: no subgroup meeting planned. To consider a future meeting according to developments in on-going projects reported at the eleventh session of the BMT;

Crop Subgroup for Soybean: to consider a meeting to include a report on the work of Argentina and Brazil in the context of a possible Option 2 approach in due course; and

Crop Subgroup for Wheat and Barley: no subgroup meeting planned. Any on-going work, such as the work in France on barley in the context of a similar approach to that presented for maize in document BMT/10/14, would be reported at the twelfth session of the BMT.

Working group on biochemical and molecular techniques, and DNA-profiling in particular (BMT)

51. The TC noted that, at the twelfth session of the BMT, to be held in Ottawa, Canada, from May 11 to 13, 2010, the specific day for the agenda items "The use of molecular techniques in the consideration of essential derivation" and "The use of molecular techniques in variety identification" (the "Breeders' Day") would be May 11, 2010.

Variety denominations

52. The TC considered document TC/46/8.

Adoption of document UPOV/INF/12/2 "Explanatory Notes on Variety Denominations under the UPOV Convention" (Revision)

53. The TC noted the adoption of document UPOV/INF/12/2 "Explanatory Notes on Variety Denominations under the UPOV Convention" (revision) and noted that the UPOV

code and botanical name for "*Lentinula edodes*" would be considered under agenda item 9 "UPOV information databases".

Document UPOV/INF/12, Annex I, Part I:

Class 4.1 *Solanum tuberosum* L. / Class 4.2 *Solanum* other than Class 4.1

54. The TC noted that there might be advantages in retaining Tomato rootstock species in the same variety denomination class as Tomato, but agreed that the TWV should be invited to consider that matter. Therefore, the TC agreed to request the TWV, at its forty-fourth session, to be held in Veliko Tarnovo, Bulgaria, from July 5 to 9, 2010, to consider the following two alternatives for an amendment to document UPOV/INF/12/2 Annex I, Part I "Classes within a genus", Class 4:

Alternative 1

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum lycopersicum</i> var. <i>lycopersicum</i>	SOLAN_LYC_LYC
Class 4.3	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.4	<i>Solanum</i> other than classes 4.1, 4.2 and 4.3	other than classes 4.1, 4.2 and 4.3

Alternative 2

	<u>Botanical names</u>	<u>UPOV codes</u>
Class 4.1	<i>Solanum tuberosum</i> L.	SOLAN_TUB
Class 4.2	<i>Solanum melongena</i> L.	SOLAN_MEL
Class 4.3	<i>Solanum</i> other than classes 4.1, 4.2 and 4.3	other than classes 4.1 and 4.2

55. The TC agreed to invite the CAJ at its sixty-first session to consider those alternatives and, if appropriate, agree that the alternative endorsed by the TWV be put forward as a revision of document UPOV/INF/12/2 for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

56. The TC further agreed to amend the UPOV codes for the following taxa, simultaneously with any revision of the "Explanatory Notes on Variety Denominations under the UPOV Convention", document UPOV/INF/12/2:

<u>GENIE database</u>	<u>Current UPOV code</u>	<u>GRIN database</u>
<u>Lycopersicon</u>		
<i>Lycopersicon esculentum</i> Mill.	LYCOP_ESC	<i>Solanum lycopersicum</i> var.
<i>Lycopersicon esculentum</i> Mill. var. <i>esculentum</i>	LYCOP_ESC_ESC	<i>lycopersicum</i>
<i>Lycopersicon esculentum</i> Mill.	LYCOP_ESC_CER	<i>Solanum lycopersicum</i> var.

var. <i>cerasiforme</i> (Dunal) A. Gray		<i>cerasiforme</i> (Alef.) Fosberg
<i>Lycopersicon hirsutum</i> Dunal	LYCOP_HIR	<i>Solanum habrochaites</i> S. Knapp & D. M. Spooner
<i>Lycopersicon lycopersicum</i> (L.) Karst. ex. Farw. x <i>Lycopersicon hirsutum</i> L.	LYCOP_EHI	no hybrid binomial
<u>Cyphomandra</u>		
Cyphomandra	CYPHO	all species removed
<i>Cyphomandra betacea</i> (Cav.) Sendtn. (synonym <i>Solanum betaceum</i> Cav.)	CYPHO_BET	<i>Solanum betaceum</i> Cav.
<u>Hybrid genus</u>		
<i>Lycopersicon</i> x <i>Cyphomandra</i>	LYCYP	<i>Solanum</i> L.
<i>Lycopersicon lycopersicum</i> x <i>Cyphomandra betacea</i>	LYCYP_EBE	to be investigated

Document UPOV/INF/12, Annex I, Part II “Classes encompassing more than one genus”:
new class for *Verbena* and *Glandularia*

57. The TC agreed to propose to amend document UPOV/INF/12/2 Annex I, Part II “Classes encompassing more than one genus” in order to include a new class (Class 212) for *Verbena* L. and *Glandularia* J. F. Gmel..

58. The TC further agreed, subject to approval by the CAJ and the TWP's at their sessions in 2010, to propose to the Council to amend document UPOV/INF/12/2 Annex I, Part II “Classes encompassing more than one genus” accordingly.

UPOV information databases

59. The TC considered document TC/46/6.

GENIE database

60. The TC noted that the GENIE database had been launched on the freely available area of the UPOV website on March 15, 2010.

UPOV code system

61. The TC noted that 148 new UPOV codes had been created in 2009 and amendments were made to 17 UPOV codes, bringing the total number of UPOV codes in the GENIE database at the end of 2009 to 6,582.

62. In accordance with the reclassification of *Panicum* in GRIN, and the revision of Class 202 in document UPOV/INF/12/1, Annex I, Part II “Classes encompassing more than

one genus", to cover *Megathyrsus*, *Panicum*, *Setaria* and *Steinchisma*, the TC agreed that the UPOV codes for the following species be amended as indicated:

Current classification in GENIE database		Proposed new classification in accordance with GRIN	
<u>Botanical name</u>	<u>UPOV code</u>	<u>Botanical name</u>	<u>UPOV code</u>
<i>Panicum laxum</i> Sw.	PANIC_LAX	<i>Steinchisma laxa</i> (Sw.) Zuloaga (synonym: <i>Panicum laxum</i> Sw.)	STEIN_LAX
<i>Panicum maximum</i> Jacq.	PANIC_MAX	<i>Megathyrsus maximus</i> (Jacq.) B. K. Simon & S. W. L. Jacobs (synonym: <i>Panicum maximum</i> Jacq.)	MEGAT_MAX

63. The TC requested the TWV to consider whether the principal botanical name for the UPOV code "LENTI_ELO" should be amended to *Lentinula edodes* (Berk.) Sing., with the botanical names *Lentinus edodes* (Berk.) Sing. and *Lentinus elodes* (Berk.) Sing. being added as other botanical names, and the UPOV code amended to "LENTI_EDO".

64. The TC noted that matters concerning the botanical reclassification of *Lycopersicon*, *Solanum* and *Cyphomandra*, including matters concerning UPOV codes, were considered under agenda item 8 "Variety Denominations".

65. In accordance with the procedure set out in Section 3.3 of the Guide to the UPOV Code System (see http://www.upov.int/genie/en/upov_code.html), the TC agreed that the Office of the Union should prepare tables of UPOV code additions and amendments, for checking by the relevant authorities, for each of the TWP sessions in 2010.

66. With regard to the proposal of the TWO that the Office of the Union should invite members of the Union to indicate practical experience when requesting a new UPOV code, the TC agreed that such an invitation would not be appropriate and agreed that information on genera and species for which new applications had been received could be obtained from the UPOV-ROM Plant Variety Database.

Plant Variety Database

67. The TC noted that, in accordance with the UPOV-WIPO arrangement, Mr. José Appave, Senior Data Administration Clerk, WIPO, had taken up responsibility for collating data for the UPOV-ROM Plant Variety Database (UPOV-ROM) (see circular E-1190). The TC further noted the clarification that the current arrangements for providing data for the UPOV-ROM, as set out in the UPOV-CPVO MoU (see documents CAJ/57/6, paragraph 6 and TC/44/6, paragraph 15), would not be affected by that development.

68. The TC heard that, also in accordance with the UPOV-WIPO arrangement, a software developer had been recruited by WIPO to work on the program of improvements concerning the UPOV-ROM and would take up her duties in May 2010.

69. The TC noted the proposal for the TWC to conduct the analysis of the inclusion of data in fields in the UPOV-ROM Plant Variety Database, as set out in paragraphs 31 to 33

of document TC/46/6, and agreed that the Office of the Union should consider that offer in conjunction with the work under the UPOV-WIPO arrangement.

70. The TC noted the report on matters concerning the development of common search platforms, as set out in document TC/46/6, paragraphs 36 to 39.

71. The Delegation of the European Union informed the TC that a new functionality would be added to the Community Plant Variety Office of the European Union (CPVO) database on applications and titles granted, which was available to the public through its official webpage. The aim of that new development was to provide direct access to some of the documents included in the CPVO register. Access to public inspection constituted a legal obligation in the EC Regulation 2100/94, also the EC Regulation 1049/2001 stated, at a certain stage, that institutions shall as far as possible make documents directly accessible to the public in electronic form. Presently the CPVO was providing access to documents upon request. From 2010 onwards the public would be able to read and download the following documents through the CPVO website:

- Application forms (information related to parent lines excluded)
- Technical Questionnaires (information on parent lines and breeding schemes excluded)
- Proposals for variety denomination
- Official variety descriptions
- Photos taken by the Examination Office
- Decisions to grant and refuse applications
- Decisions to cancel and declare a protected variety null and void

72. The Delegation explained that, to avoid the issues on improper use of official variety descriptions and technical information and photos provided by applicants, the CPVO would publish a disclaimer which provided information on the status of such documents, as well as its appropriate use (Official variety descriptions published on the CPVO website are property of the CPVO or of a national authority and shall not be used for official registration purposes (national list and/or plant breeders' rights), unless the CPVO had given its consent in writing.

Variety description databases

73. The TC considered document TC/46/9.

74. The TC noted the information provided on variety description databases at the sessions of the TWV and TWF.

75. In relation to the report in document TC/46/9, paragraph 3, the TC heard that the Netherlands had not started to publish its variety descriptions on its website. The TC agreed that the common search platform / portal, to be developed under the UPOV-WIPO arrangement concerning the UPOV-ROM, should be extended to cover variety description databases. The Delegation of Australia indicated its willingness to provide a link to its variety description information through such a facility.

Exchangeable software

76. The TC considered documents TC/46/12 and UPOV/INF/Software Draft 3.

77. The TC agreed that, subject to agreement by the CAJ, document UPOV/INF/Software Draft 3 should be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The TC noted that the French, German and Spanish translations of the original English text would be checked by the relevant members of the Editorial Committee prior to submission of the draft of document UPOV/INF/Software to the Council.

78. The TC approved the translation into English of the user guide for the SIRIUS system for data capture by the Office of the Union, on the basis that the experts from France would check, and also be responsible for, the English version.

79. The TC noted that, at its twenty-eighth session, to be held in Angers, France, from June 29 to July 2, 2010, the TWC would receive a presentation by an expert from the European Union on software for assessing similarity of denominations, developed by the CPVO. The Delegation of the European Union explained that it would also like to offer access to its complete variety denomination database, including the variety denomination similarity tool, to members of the Union. The log-in and password would be provided on request to the CPVO by e-mail at cpvo@cpvo.europa.eu.

Electronic application systems

80. The TC considered document TC/46/13.

81. The TC recalled that, as reported under agenda item 6 "TGP Documents", the CAJ, at its sixty-first session, would be invited to consider a proposal for text to be added to document TGP/5: Section 2 "UPOV Model Form for the Application for Plant Breeders' Rights", in order to explain the standard references in the UPOV Model Application Form.

82. The TC agreed to propose to the CAJ that inclusion of an explanation of the standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes II and IV of document TC/46/13, would benefit from discussion in the TWPs and TC and should not be included in document TGP/7/2, but should be considered for a future revision of document TGP/7 (document TGP/7/3).

83. The Delegation of the European Union recalled that, in principle, it had supported the Proposal 2 approach, but explained that it had already developed an electronic application system that would preclude such an approach without starting a new system from the beginning. It was explained that the CPVO had launched an online application system and was encouraging the individual member States of the European Union to adopt that system for plant breeder's right and national list purposes. The CPVO had developed its own software and use of the system was not restricted by other parties. It planned to make that system available in French, German and Dutch. In response to a question from the Vice Secretary-General, the Delegation of the European Union explained that the system would be made available to the member States of the European Union in the first instance, but as a second step, consideration could be given to making that system available to members of the Union.

Method of Calculation of COYU

84. The TC considered document TC/46/11.

85. The TC noted the developments concerning the method of calculation of COYU as set out in document TC/46/11, paragraphs 7 to 11, and requested the TWC to make proposals to address the bias in the present method of calculation of COYU. The TC noted the observation at the twenty-seventh session of the TWC, that the way COYU made the calculations at the moment was acceptable, but it was nevertheless desirable to find a solution.

Assessing uniformity by off-types on the basis of more than one sample or sub-samples

86. The TC considered document TC/46/14.

87. The TC agreed that the TWV, at its forty-fourth session, to be held in Veliko Tarnovo, Bulgaria, from July 5 to 9, 2010, should be invited to agree a vegetable crop for inclusion in the questionnaire. The Office of the Union would complete and issue the questionnaire after a vegetable crop had been selected by the TWV. The TC agreed that the translation of the questionnaire should be checked by the relevant language experts of the Editorial Committee and also agreed that paragraph 1.4 should be elaborated to explain that the process and the way in which the data was obtained and used in the decision-making process should be reflected in the responses to the questionnaire.

88. The TC requested the Office of the Union to send the questionnaire to the TC representatives of the members of the Union for completion, and to provide a document compiling the replies for consideration at the forty-seventh session of the TC. The TC also requested that the document identify any matters that might be considered in relation to the revision of document TGP/8.

Preparatory workshops

89. The TC noted the report of the preparatory workshops held in 2009 and agreed the proposals for the programs for the preparatory workshops to be held in 2010, as set out in document TC/46/10.

List of genera and species for which authorities have practical experience in the examination of distinctness, uniformity and stability

90. The TC noted the information provided in document TC/46/4 and heard that the number of genera and species for which members of the Union had practical experience had increased from 2,209 in 2009 to 2,254.

91. The TC agreed that document TC/46/4 should be updated for the forty-seventh session of the TC.

Test Guidelines

92. The TC considered document TC/46/2.

93. The TC noted that the Council, at its forty-third ordinary session, held in Geneva on October 22, 2009, had endorsed the practice whereby Test Guidelines are adopted by the TC on behalf of the Council on the basis of the program of work approved by the Council, without the individual Test Guidelines being submitted to the Council for review (see document C/43/16 "Report on the decisions", paragraphs 34 and 35)

94. The TC agreed, on the basis of the recommendation of the Enlarged Editorial Committee, that the Test Guidelines for *Vriesea* should be referred back to the TWO, for completion of the missing information.

95. The TC adopted the Test Guidelines listed in the table below on the basis of the amendments, as specified in Annex II to this document, which was circulated in advance, and the linguistic changes recommended by the TC-EDC:

Document No. N°. du document Dokument-Nr. No del documento	English	Français	Deutsch	Español	Botanical name Nom botanique Botanischer Name Nombre botánico
NEW TEST GUIDELINES					
TG/AGARIC(proj.5)	Agaricus Mushroom, Button Mushroom	Agaric, Champignon de Paris	Champignon	Champiñón	<i>Agaricus bisporus</i> L.; <i>Agaricus bitorquis</i> L.; <i>Agaricus arvensis</i> L.
TG/BUDDL(proj.7)	Buddleia, Butterfly-bush	Buddleia, Arbre aux papillons	Buddleia, Schmetterlings- strauch	Budleya, Mariposa	<i>Buddleia</i> L.
TG/FIG(proj.6)	Fig	Figuier	Echte Feige, Feige	Higuera	<i>Ficus carica</i> L.
TG/GAURA(proj.4)	Gaura	Gaura	Prachtkerze	Gaura	<i>Gaura</i> L.
TG/GYPSO(proj.7)	Baby's Breath, Gyp, Gypsophila	Gypsophile	Gipskraut, Schleierkraut	Gipsófila	<i>Gypsophila</i> L.
TG/PAPAY(proj.6)	Papaya, Papaw	Papayer	Melonenbaum, Papaya	Papayo, Lechosa	<i>Carica papaya</i> L.
TG/PRL MIL(proj.8)	Pearl Millet	Pénicillaire, Mil à chandelle, Mil Pénicillaire	Federborstengras	Panizo de Daimiel, Panizo mamozo, Mijo Perla	<i>Pennisetum glaucum</i> (L.) R. Br., <i>Pennisetum americanum</i> (L.) Lecke, <i>Pennisetum typhoides</i> (Burm.f.) Stapf C.E. Hubb.
TG/SWEETPOT(proj.6)	Sweet Potato	Patate douce	Batate, Süßkartoffel	Camote, Batata	<i>Ipomoea batatas</i> (L.) Lam.
REVISIONS OF TEST GUIDELINES					
TG/53/7(proj.2)	Peach	Pêcher	Pfirsich	Durazno, Melocotonero	<i>Prunus persica</i> (L.) Batsch, <i>Persica vulgaris</i> Mill., <i>Prunus</i> L. subg. <i>Persica</i>
TG/59/7(proj.6)	Lily	Lys	Lilie	Lily, azucena, lirio	<i>Lilium</i> L.
TG/116/4(proj.3)	Black Salsify, Scorzonera	Salsifis noir, Scorsonère	Schwarzwurzel	Escorzonera, Salsifi negro	<i>Scorzonera hispanica</i> L.
TG/123/4(proj.8)	Banana, Cavendish banana, Chinese banana, Dwarf banana; Plantain, Pomme banana, Silk banana, Banana sucrier	Bananier, Bananier nain; -	Banane, Zwergbanane; -	Bananera, Banano, Platanera, Plátano; -	<i>Musa acuminata</i> Colla; <i>Musa ×paradisica</i> L. (<i>M. acuminata</i> Colla × <i>M. balbisiana</i> Colla)
TG/130/4(proj.3)	Asparagus	Asperge	Spargel	Espárrago	<i>Asparagus officinalis</i> L.

TG/133/4(proj.4)	Hydrangea	Hortensia	Hortensie	Hortensia, Hidrangea	Hydrangea L.
PARTIAL REVISIONS OF TEST GUIDELINES					
TG/11/8 Rev.(TC/46/2)	Rose	Rosier	Rose	Rosal	Rosa L.
TG/176/4 Rev. (TC/46/2)	Osteospermum; -	Osteospermum; -	Osteospermum; -	Osteospermum; -	Osteospermum L.; hybrids with Dimorphotheca Vaill.

96. The TC agreed that the Test Guidelines for Banana be adopted subject to the amendments to the example varieties, proposed by the Leading Expert, being approved by the TWF by correspondence.

97. The TC agreed that the Test Guidelines for Fig be adopted subject to the amendments to the example varieties, proposed by the Leading Expert, being approved by the TWF by correspondence.

98. The TC agreed that the Test Guidelines for Asparagus be adopted subject to characteristic 9 "Spear: opening of bracts", being completed and approved by the TWF by correspondence.

99. The TC agreed that the Test Guidelines for Papaya should be adopted on the basis that they would apply to vegetatively propagated varieties. It agreed that the TWPs should be invited to consider how to address the DUS examination of seed-propagated varieties of Papaya on the basis of a document to be prepared by the Leading Expert, Mr. Alejandro Barrientos-Priego (Mexico), and the Office of the Union with a view to revising the Test Guidelines for Papaya to include seed-propagated varieties at the earliest opportunity. It also agreed that the CAJ should be invited to consider that matter.

100. The TC noted the corrections made to the Test Guidelines for Chrysanthemum (document TG/26/5 Corr.2) and the Test Guidelines for Zonal Pelargonium, Ivy-Leaved Pelargonium (document TG/28/9 Corr.), as set out in document TC/46/2, paragraphs 12 to 15.

101. The TC agreed the program for the development of new Test Guidelines and for the revision of Test Guidelines, as shown in document TC/46/2, Annex II, subject to:

- (a) reconsideration of the Test Guidelines for Vriesea by the TWO; and
- (b) withdrawal of draft Test Guidelines for Rhodes grass (*Chloris gayana* Kunth), Groundnut (*Arachis* L.) and Common Vetch, which the Leading Experts had indicated would not be available for consideration at the thirty-ninth session of the TWA and the draft Test Guidelines for Tomato Rootstock (*Lycopersicon* (excluding *Lycopersicon esculentum* Mill.)), which the Leading Expert had indicated would not be available for consideration at the forty-fourth session, of the TWV.

102. The TC noted the status of the existing Test Guidelines as listed in Annex III to document TC/46/2.

103. The TC noted the list of adopted Test Guidelines that have since been replaced, as presented in Annex IV to document TC/46/2, and the plans of the Office of the Union to make copies of all previous adopted versions of Test Guidelines available on the first restricted area of the UPOV website in due course.

104. The TC noted that it had agreed the consideration of whether and how new characteristics and new states of expression notified by means of document TGP/5, Section 10 "Notification of Additional Characteristics", should be presented for consideration at the session of the relevant TWP(s) and the TC before they are presented on the password-restricted area of the UPOV website under agenda item 6 "TGP documents" (see paragraphs 33 and 34).