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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixtieth Session Geneva, October 19 and 20, 2009

TGP DOCUMENTS

Document prepared by the Office of the Union

- 1. The purpose of this document is: to report on developments since the fifty-ninth session of the Administrative and Legal Committee (CAJ), held in Geneva on April 2, 2009, concerning the consideration of TGP documents; to provide background information to assist the CAJ in its consideration of the drafts of individual TGP documents; and to present the program for the development of TGP documents proposed by the Technical Committee (TC).
- 2. The following abbreviations are used in this document:

CAJ: Administrative and Legal Committee

TC: Technical Committee

TC-EDC: Enlarged Editorial Committee

TWA: Technical Working Party for Agricultural Crops

TWC: Technical Working Party on Automation and Computer Programs

TWF: Technical Working Party for Fruit Crops

TWO: Technical Working Party for Ornamental Plants and Forest Trees

TWV: Technical Working Party for Vegetables

TWPs: Technical Working Parties

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I. BACKGROUND

- The purpose of document TG/1/3 "General Introduction to the Examination of 3. Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants" (General Introduction), and the associated series of documents specifying Test Guidelines' Procedures (TGP documents), is to set out the principles which are used in the examination of DUS. The only binding obligations for members of the Union are those contained in the UPOV Convention itself. However, on the basis of practical experience, the General Introduction and the TGP documents seek to provide general guidance for the examination of all species in accordance with the UPOV Convention. In addition, UPOV has developed "Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability" (Test Guidelines), for many individual species or other variety groupings. The purpose of those Test Guidelines is to elaborate certain of the principles contained in the General Introduction and the associated TGP documents, into detailed practical guidance for the harmonized examination of DUS and, in particular, to identify appropriate characteristics for the examination of DUS and production of harmonized variety descriptions.
- 4. As noted by the Chair at the fifty-fourth session of the CAJ, held in Geneva on October 16 and 17, 2006, the development of TGP documents in relation to the DUS examination may be seen as another element in the preparation of information materials concerning the UPOV Convention¹ and, in addition to being published in their own right, the TGP documents can be used in support of various UPOV activities. In particular, the General Introduction and the TGP documents will form the basis of an advanced module on "Examination of Applications for Plant Breeders' Rights" for inclusion in the Distance Learning program, which the Consultative Committee has entrusted the Office of the Union to develop.
- 5. The situation with regard to the development of TGP documents can be summarized as follows:

Document reference	Title	Stage of development
TGP/0	List of TGP Documents and Latest Issue Dates	Approved (2005) / Revision proposed for adoption by Council in October 2009
TGP/1	General Introduction with Explanations	-
TGP/2	List of Test Guidelines Adopted by UPOV	Approved (2005)
$TGP/3^2$	Varieties of Common Knowledge	-

¹ The CAJ, at its fifty-second session, held in Geneva on October 24, 2005, agreed an approach for the preparation of information materials concerning the UPOV Convention, as explained in paragraphs 8 to 10 of document CAJ/52/4. It also agreed the establishment of an advisory group to the CAJ ("CAJ-AG") to assist in the preparation of documents concerning such materials, as proposed in paragraphs 11 to 14 of document CAJ/52/4 (see paragraph 67 of document CAJ/52/5, Report).

² At its fifty-fifth session, held in Geneva on March 29, 2007, "[t]he CAJ endorsed the conclusion of the CAJ-AG that the General Introduction already provided guidance with respect to the term 'common knowledge' and that it would not be appropriate, for the time being, to pursue the development of document TGP/3 'Varieties of Common Knowledge'." (see document CAJ/55/7, paragraph 47).

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Document reference	Title	Stage of development
TGP/4	Constitution and Maintenance of Variety Collections	Adopted by Council (2008)
TGP/5	Experience and Cooperation in DUS Testing	Approved (2005) / Partial Revision Adopted by Council (2008)
TGP/6	Arrangements for DUS Testing	Approved (2005)
TGP/7	Development of Test Guidelines	Approved (2004) / under revision
TGP/8	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability	under development
TGP/9	Examining Distinctness	Adopted by Council (2008)
TGP/10	Examining Uniformity	Adopted by Council (2008)
TGP/11	Examining Stability	under development
TGP/12	[Special Characteristics] / [Guidance on Certain Physiological Characteristics]	Proposed for adoption by Council in October 2009
TGP/13	Guidance for New Types and Species	Proposed for adoption by Council in October 2009
TGP/14	Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents	under development
TGP/15	New Types of Characteristics	-

The General Introduction, approved TGP documents and adopted Test Guidelines are published on the UPOV website at http://www.upov.int/en/publications/list_publications.htm.

II. DOCUMENTS TO BE CONSIDERED BY THE CAJ

(a) New TGP documents

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

- 6. Document TGP/8/1 Draft 13 is the first draft of document TGP/8 "Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability" that the CAJ has been invited to consider. The following background information is provided in order to explain the current content of document TGP/8/1 Draft 13 and the plans for additions to the content of document TGP/8 after its initial adoption.
- 7. At its meeting on January 8, 2009, the Enlarged Editorial Committee (TC-EDC) noted that there were a number of sections within document TGP/8/1 Draft 11 for which development had not yet started, or for which substantial further development would be required. At the same time, the TC-EDC noted that there were a number of important sections within TGP/8 that were well-established and could already provide useful guidance. Therefore, the TC-EDC proposed that the TC should be invited to consider the adoption of a first version of document TGP/8 (document TGP/8/1) without the sections of that document that would require further substantial development. The TC-EDC also noted that the identification of well-established text within document TGP/8 would justify translation of those sections. With regard to the sections of document TGP/8 that would not be included in the first version of document TGP/8 (document TGP/8/1), the TC-EDC proposed that those sections should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8 (document TGP/8/2) at the earliest opportunity.
- 8. With regard to new proposals concerning the content of document TGP/8, the Technical Working Party for Agricultural Crops (TWA), at its thirty-seventh session, proposed to remove Section III: "Examination of characteristics using image analysis" from TGP/12 and to include that section in document TGP/8, on the basis that it did not concern characteristics, but methods of examining characteristics. The Technical Working Party on Automation and Computer Programs (TWC), at its twenty-sixth session, agreed with that proposal. The TC-EDC, at its meeting on January 8, 2009, noted that the section on the examination of characteristics using image analysis would require further substantial development and would not be finalized in time for the initial adoption of document TGP/8 (document TGP/8/1).
- 9. The TC-EDC agreed that the following sections of document TGP/8/1 Draft 11, considered by the TC-EDC at its meeting on January 8, 2009 (see http://www.upov.int/restrict/en/tc_edc/index_tc_edc_jan09.htm), would require further substantial development:

Part I: DUS Trial Design and Data Analysis:

- 2. Data to be recorded
- 3. Control of variation due to different observers
- 6. Data processing for the assessment of distinctness and for producing variety descriptions

Part II: Techniques Used in DUS Examination

- 3.5 Statistical methods for very small sample sizes
- 5. Examining DUS in bulk samples
- 6. Examination of characteristics using image analysis
- 7. Methods for data processing for the assessment of distinctness and for producing variety descriptions
- 10. In accordance with the recommendation of the TC-EDC, the above sections were omitted from document TGP/8/1 Draft 12, which was considered by the TC at its forty-fifth session, held in Geneva from March 30 to April 1, 2009, but were reproduced in document TC/45/14. The sections omitted from document TGP/8/1 Draft 12, incorporating comments made by the TC at its forty-fifth session, are reproduced in the Annex to document TWC/27/11.
- 11. The TC agreed that document TGP/8/1 should be scheduled for adoption in 2010 on the basis of the content included in document TGP/8/1 Draft 12. The TC further agreed that, at the same time, separately from consideration of the draft of document TGP/8/1, the sections omitted from document TGP/8/1 Draft 12, as reproduced in document TC/45/14, Annex I, should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8/1 (i.e. document TGP/8/2) at the earliest opportunity.
- 12. The TC agreed that it would not be appropriate to change the structure of document TGP/8/1. However, to assist users to identify relevant sections in the document more easily, it agreed that an orientation guide, possibly in the form of a grid or flow diagram, should be developed. It agreed that that guide should be considered alongside discussions on the draft of document TGP/8/1 with a view to its inclusion as an introduction in the document before its adoption, if considered appropriate. The TC invited proposals on such a guide, to be received by the Office of the Union by no later than April 17, 2009. However, no proposals were received by the Office of the Union.
- 13. Document TGP/8/1 Draft 13 is based on document TGP/8/1 Draft 12, as amended by the TC at its forty-fifth session. That document will be considered by the Technical Working Parties at their sessions in 2009 and by the CAJ at its sixtieth session. The comments of the Technical Working Party for Vegetables (TWV) at its forty-third session, held in Beijing, China, from April 20 to 24, 2009 and the TWC, at its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009, are provided in Annex I to this document. The comments of the TWA at its thirty-eighth session, to be held in Seoul, Republic of Korea, from August 31 to September 4, 2009, the Technical Working Party for Ornamental Plants and Forest Trees (TWO), at its forty-second session, to be held in Angers, France, from September 14 to 18, 2009 and the Technical Working Party for Fruit Crops (TWF), at its fortieth session, to be held in Angers, France, from September 21 to 25, 2009, will be reported at the sixtieth session of the CAJ.
- 14. The program for the development of TGP documents proposed by the TC, as set out in Annex II to this document, anticipates that the CAJ would be invited to consider a further draft of document TGP/8/1 at its sixty-first session, in March 2010, and that the Council would be invited to consider document TGP/8/1 for adoption at its forty-fourth ordinary session, in October 2010.

15. The CAJ is invited to:

- (a) note the proposed procedure for the adoption of document TGP/8, as set out in paragraph 11; and
- (b) consider document TGP/8/1 Draft 13, in conjunction with the comments in Annex I to this document and the comments of the TWA, TWO and TWF, as set out in paragraph 13.

TGP/11 "Examination of Stability"

- 16. At its fifty-eighth session, held in Geneva on October 27 and 28, 2008, the CAJ considered document TGP/11/1 Draft 5 "Examining Stability", in conjunction with document CAJ/58/2. Document CAJ/58/2 explained as follows:
 - "7. At its forty-fourth session, the TC noted the TWV proposal for the possible development of a document to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder's right and the status and use of the "official" variety description (see document TC/44/3, paragraph 17). The TC also noted the comments of the TC-EDC that there would be practical advantages in dealing with all aspects of stability in a single document and the proposal of the TC-EDC that the TC, in conjunction with the CAJ, might consider an amendment to the title of TGP/11, with the document being clearly separated into two parts:

"Part I: Examining Stability (Article 12 "Examination of the Application", of the 1991 Act of the UPOV Convention)

"Part II: Stability after the grant of a breeder's right (Article 22(1) "Cancellation of the Breeder's Right", of the 1991 Act of the UPOV Convention)

- "8. The TC agreed that the view of the CAJ should be sought with regard to whether it would be appropriate to pursue those proposals."
- 17. The CAJ agreed that document TGP/11 should consider only the examination of stability in the context of the DUS examination and that a separate document should be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder's right (see document CAJ/58/6 "Report on the Conclusions", paragraph 11).
- 18. At its forty-fifth session, the TC agreed to propose to the CAJ that, within its approach for the preparation of information materials concerning the UPOV Convention, a document be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty that are brought to the attention of an authority after the grant of a breeder's right. That matter is considered in document CAJ/60/8 "Matters arising after the grant of a breeders' right".

- 19. The TC considered document TGP/11/1 Draft 5 at its forty-fifth session and agreed that the following aspects should be addressed in the next draft:
 - (a) as agreed by the CAJ, to consider only the examination of stability in the context of the DUS examination;
 - (b) to explain the nature of stability and why it is connected to uniformity in such a way that the General Introduction states that "for many types of variety, when a variety has been shown to be uniform, it can also be considered to be stable" (General Introduction, Chapter 7.3.1.1);
 - (c) to avoid text stating that "stability is not examined" (see Sections 2.1.2, 2.1.3, 2.1.5(a));
 - (d) to avoid explanations of uniformity (e.g. Section 2.1.4 (a) and (b)) if necessary to explain aspects of uniformity, to make a reference to TGP/10/1 "Examining Uniformity" or to quote text of TGP/10/1;
 - (e) to focus the document on providing practical guidance on situations concerning specifically stability (not uniformity), e.g. Section 2.1.4 (c);
 - (f) in addition to guidance on the examination of stability through the examination of uniformity, to provide guidance on the direct examination of stability, with the assistance of experts from Australia; and
 - (g) in relation to Section 2.2.3, to note that the TC-EDC has proposed that the standard wording for stability in Test Guidelines be amended as follows (see document TGP/7/2 Draft 2: ASW 9 (TG Template: Chapter 4.3.2) Stability assessment: general):

"Where appropriate, or in cases of doubt, stability may be <u>further examined</u> tested, either by growing a further generation, or by testing a new [seed or plant] stock to ensure that it exhibits the same characteristics as those shown by the <u>previous initial</u> material supplied."

- 20. The TC noted that the forty-third session of the TWV, to be held in Beijing from April 20 to 24, 2009, was less than three weeks after the forty-fifth session of the TC. On that basis, it noted that it would not be feasible to prepare a new draft of document TGP/11/1 for consideration by the TWPs in 2009. Therefore, it agreed that, at their sessions in 2009, the TWPs should be invited to consider the comments made on document TGP/11/1 Draft 5 by the CAJ and the TC. On the basis of those comments and any further comments by the TWPs, a new draft of document TGP/11/1 (document TGP/11/1 Draft 6) would be prepared for consideration by the TC-EDC at its meeting in January 2010.
- 21. The TWV, at its forty-third session, had no comments concerning document TGP/11/1 Draft 5. The comments made at the twenty-seventh session of the TWC are reproduced in Annex I to this document. The comments made at the thirty-eighth session of the TWA, the forty-second session of the TWO and the fortieth session of the TWF, will be reported at the sixtieth session of the CAJ.

22. The CAJ is invited to consider document TGP/11/1 Draft 5 in conjunction with the comments in paragraph 19 and Annex I to this document and the comments of the TWA, TWO and TWF, as set out in paragraph 21.

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

- 23. Document TGP/14/1 Draft 9 is the first draft of document TGP/14 "Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents" that the CAJ has been invited to consider. The following background information is provided in order to explain the current content of document TGP/14/1 Draft 9 and the plans for additions to the content of document TGP/14 after its initial adoption.
- 24. At its meeting on January 8, 2009, the TC-EDC noted the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 "Color" ("TGP/14 Workshop"), held on May 30 and 31, 2008, and the related discussions by the TWPs at their sessions in 2008 (see document TWC/27/12, Annex II). It concluded that TGP/14 Section 2, Subsection 3 "Color" (Color Subsection) would require substantial further development before it could be considered for adoption. At the same time, the TC-EDC noted that the other sections within TGP/14 were well-established and could already provide useful guidance. Therefore, the TC-EDC proposed that the TC should be invited to consider adoption of a first version of document TGP/14 (document TGP/14/1) without the Color Subsection. The TC-EDC also noted that such a procedure would make it realistic to translate document TGP/14/1 Draft 8. With regard to the Color Subsection, which would not be included in the first version of document TGP/14 (document TGP/14/1), the TC-EDC proposed that it should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14 (document TGP/14/2) at the earliest opportunity.
- 25. The Color Subsection, omitted from document TGP/14/1 Draft 9, and the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 "Color" ("TGP/14 Workshop"), held on May 30 and 31, 2008, and the related discussions by the TWPs at their sessions in 2008, are reproduced in Annexes I and II to document TWC/27/12, respectively.
- 26. The TC, at its forty-fifth session, agreed that document TGP/14/1 should be scheduled for adoption in 2010 on the basis of the content included in document TGP/14/1 Draft 8. At the same time, the TC agreed that, separately from consideration of the draft of document TGP/14/1, the Color Subsection should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14/1 (i.e. document TGP/14/2) at the earliest opportunity.
- 27. Document TGP/14/1 Draft 9 will be considered by the TWPs at their sessions in 2009 and by the CAJ at its sixtieth session. Document TGP/14 Draft 9 is available in all UPOV languages; however, the French, German and Spanish versions follow the English alphabetic order of indexed terms. Therefore, to facilitate the reading of the document in those languages, a supplement (document TGP/14/1 Draft 9 Supplement) has been prepared in each language with the indexed terms presented in alphabetic order of the languages concerned.

- 28. Document TGP/14/1 Draft 9 is based on document TGP/14/1 Draft 8, as amended by the TC at its forty-fifth session. In addition, the TC agreed to combine synonymous terms within a single entry (e.g. Breeder's Right, Plant Breeder's Right and PBR), but to list the terms individually in the index. That change has not yet been made for two reasons: firstly, the complication in indexing (for example, the index for "PBR" would require a page number and a reference to the relevant term ("Plant Breeder's Right") in that page in order to be able to find the term "PBR") would mean that it would be impractical to undertake that exercise before all terms in the document are finalized; and secondly, in order to allow further consideration of any consequences in terms of ease of use of the document.
- 29. The comments made on document TGP/14/1 Draft 9 at the forty-third session of the TWV and the twenty-seventh session of the TWC are reproduced in Annex I to this document. The comments made at the thirty-eighth session of the TWA, the forty-second session of the TWO and the fortieth session of the TWF, will be reported at the sixtieth session of the CAJ.
- 30. With regard to document TGP/14/1 Draft 9, the CAJ may have a particular interest in Section 1 "Institutional and Technical Terms". In its consideration of Section I, the CAJ may wish to note that the definitions have, in general, been reproduced from approved UPOV documents as indicated by the cross-references. With regard to the references to "(see "[...]" website reference to be provided)" in the following definitions, the information that will be provided will be from the "Terms of reference and composition of the UPOV bodies and a brief history of their development", which were presented to the Consultative Committee at its seventy-fourth session, held in Geneva on October 24, 2007.

Administrative and	UPOV Administrative and Legal Committee (abbreviated to "CAJ")
Legal Committee	(see "[]" website reference to be provided)
BMT	abbreviation of "UPOV Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular" (see "[]" website reference
CAT	to be provided)
CAJ	abbreviation of "UPOV Administrative and Legal Committee" (see "[]" website reference to be provided)
CC	abbreviation of "Consultative Committee of UPOV" (see "[]" website reference to be provided)
Consultative	"Consultative Committee of UPOV" (see "[]" website reference to be
Committee	provided)
Council	Council of UPOV (see "[]" website reference to be provided)
Editorial Committee	see "Enlarged Editorial Committee (TC-EDC)"
Enlarged Editorial	Enlarged Editorial Committee of the Technical Committee (TC-EDC)
Committee	(abbreviated to "TC-EDC") (see "[]" website reference to be provided)
TC	abbreviation of "UPOV Technical Committee" (see "[]" website reference to be provided)
TC-EDC	abbreviation of "Enlarged Editorial Committee"
Technical Committee	UPOV Technical Committee (abbreviated to "TC") (see "[]" website reference to be provided)
Technical Working	UPOV Technical Working Party (abbreviated to "TWP") (see "[]"
Party	website reference to be provided)
Technical Working	UPOV Technical Working Party for Agricultural Crops (abbreviated to
Party for Agricultural	"TWA") (see "[]" website reference to be provided)
Crops	
Technical Working	UPOV Technical Working Party for Fruit Crops (abbreviated to "TWF")
Party for Fruit Crops	(see "[]" website reference to be provided)

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Technical Working	UPOV Technical Working Party for Ornamental Plants and Forest Trees
Party for Ornamental	(abbreviated to "TWO") (see "[]" website reference to be provided)
Plants and Forest	
Trees	
Technical Working	UPOV Technical Working Party for Vegetables (abbreviated to "TWV") (see
Party for Vegetables	"[]" website reference to be provided)
Technical Working	UPOV Technical Working Party on Automation and Computer Programs
Party on Automation	(abbreviated to "TWC") (see "[]" website reference to be provided)
and Computer	
Programs	
TWA	abbreviation of "UPOV Technical Working Party for Agricultural Crops"
	(see "[]" website reference to be provided)
TWC	abbreviation of "UPOV Technical Working Party on Automation and
	Computer Programs" (see "[]" website reference to be provided)
TWF	abbreviation of "UPOV Technical Working Party for Fruit Crops" (see
	"[]" website reference to be provided)
TWO	abbreviation of "UPOV Technical Working Party for Ornamental Plants and
	Forest Trees" (see "[]" website reference to be provided)
TWP	abbreviation of "UPOV Technical Working Party" (see "[]" website
	reference to be provided)
TWV	abbreviation of "UPOV Technical Working Party for Vegetables" (see
D	"[]" website reference to be provided)
Working Group on	UPOV Working Group on Biochemical and Molecular Techniques, and
Biochemical and	DNA-Profiling in Particular (BMT) (abbreviated to "BMT") (see "[]"
Molecular	website reference to be provided)
Techniques, and	
DNA-Profiling in	
Particular	

- 31. The change in title proposed for document TGP/12, from "Special Characteristics" to "Guidance on Certain Physiological Characteristics" (see document CAJ/59/5 "Report on the Conclusions", paragraph 10), means that it may be appropriate to delete the definition of "Special characteristic" in Section I of document TGP/14/1 Draft 9.
- 32. The program for the development of TGP documents proposed by the TC, as set out in Annex II to this document, anticipates that the CAJ would be invited to consider a further draft of document TGP/14/1 at its sixty-first session, in March 2010, and that the Council would be invited to consider document TGP/14/1 for adoption at its forty-fourth session, in October 2010.

33. The CAJ is invited to:

- (a) note the proposed procedure for the adoption of document TGP/14, as set out in paragraph 26; and
- (b) consider document TGP/14/1 Draft 9, in conjunction with the comments in paragraphs 28 to 31 and Annex I to this document and the comments of the TWA, TWO and TWF, as set out in paragraph 29.

(b) Revision of TGP Documents

TGP/7 "Development of Test Guidelines"

- 34. The background to the proposed revisions to document TGP/7/1 is presented in the form of endnotes in document TGP/7/2 Draft 3.
- 35. Reference to document TGP/7 is made in certain adopted TGP documents (e.g. document TGP/9/1 "Examining Distinctness", Section 2.3.1.2.2, refers to "document TGP/7/1, Annex 3: GN 13.4"). For that reason, document TGP/7/2 Draft 3 seeks to conserve the numbering from document TGP/7/1 as far as possible. In that respect, additional items are added after the last number for Additional Standard Wording (ASW) and Guidance Notes (GN), or are accommodated by sub-numbering, e.g. GN 11.1 and 11.2.
- 36. The TWO, at its forty-first session, proposed to include guidance on modifying the states of expression of characteristics in the Table of Characteristics, including asterisked characteristics. It was proposed that such changes might be notified to UPOV by means of document TGP/5 "Experience and Cooperation in DUS Testing": Section 10 Notification of Additional Characteristics (see document TGP/7/2 Draft 2, Introduction, Section 1.2.1.9 "(e) Modification of Test Guidelines characteristics"). The TWO noted that such an approach would require a corresponding revision of document TGP/5: Section 10/1. In that regard, the TC agreed to review whether Section 1.2.1.9 in document TGP/7/2 Draft 3 was necessary, given the possibility for partial revisions of Test Guidelines.
- 37. At its forty-fifth session, the TC agreed that the following matters, which the TC had previously agreed should be considered in the revision of document TGP/7/1, should not be pursued:

Annex 3:	Guidance Notes (GN) for the TG Template
GN 20	(to consider whether the revision of Test Guidelines might not fully follow the guidance on the presentation of characteristics in document TGP/7 if that would involve substantial revision of databases of variety descriptions, which would not otherwise be necessary.)
GN 29	(to consider the possibility of introducing a table of trade names associated with the denominations of the example varieties)

Annex 4: Collection of Approved Characteristics		
Collection	(to consider incorporating characteristics which are used in most Test Guidelines (e.g. Leaf: length) into the electronic template. To consider developing electronic templates for variety types (e.g. seed-propagated vegetables) which would incorporate more standard characteristics for the varieties concerned)	

38. The TC agreed that the following aspects concerning the "Collection of Approved Characteristics" should be addressed in parallel with the revision of document TGP/7. Where appropriate, an amendment will be made to document TGP/7/1, Annex 4, paragraphs 1 and 2:

Annex 4: Collection of Approved Characteristic	Annex 4:	Collection	of Approved	Characteristic
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Introduction

(to be clarified that characteristics contained in adopted UPOV Test Guidelines may be omitted from the "Collection of approved characteristics" (document TGP/7, Annex 4) where considered appropriate by the TC, on the basis of recommendations by the Enlarged Editorial Committee (TC-EDC))

(to explain that the indication of the characteristic number, the method of observation, type of characteristic and the indications of (+) and (*) had been retained from the Table of Characteristics from which the characteristic had originated, but to clarify that the information might not be appropriate for other Test Guidelines)

(to explain to drafters of Test Guidelines that, for characteristics where any element of the characteristic is changed after copying from the collection, the translations into French, German and Spanish should be deleted)

Collection

(examples of color characteristics developed in conjunction with TGP/14 Section 2.3: "Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents: Botanical Terms: Color" to be incorporated into TGP/7: Annex 4 "Collection of Approved Characteristics". (It was noted that that might require the organization of the TGP/7 to be modified to some extent.))

(to consider including a collection of approved illustrations and to consider making that collection available to breeders to assist in their applications for PBR. (see also TGP/14 Section 2.1: Plant shapes))

(to consider the development of tools such as CD-ROMs containing photographs to enhance the understanding of the characteristics used in the Test Guidelines and thereby reduce observer error)

- 39. The TC noted that the Office of the Union planned to develop an improved TG Template and to integrate the Collection of Approved Characteristics into that template in a user-friendly package for drafters of Test Guidelines.
- 40. The comments made on document TGP/7/2 Draft 3 at the forty-third session of the TWV and the twenty-seventh session of the TWC are reproduced in Annex I to this document. The comments made at the thirty-eighth session of the TWA, the forty-second session of the TWO and the fortieth session of the TWF, will be reported at the sixtieth session of the CAJ.
- 41. The program for the development of TGP documents proposed by the TC, as set out in Annex II to this document, anticipates that the CAJ would be invited to consider a further draft of document TGP/7/2 at its sixty-first session, in March 2010, and that the Council would be invited to consider document TGP/7/2 for adoption at its forty-fourth session, in October 2010.
 - 42. The CAJ is invited to consider document TGP/7/2 Draft 3, in conjunction with the comments in Annex I to this document and the comments of the TWA, TWO and TWF, as set out in paragraph 40.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

43. Annex II to this document presents the program for the development of TGP documents as agreed by the TC at its forty-fifth session.

44. The CAJ is invited to consider the proposed program for the development of TGP documents, as set out in Annex II to this document.

[Annex I follows]

CAJ/60/2

ANNEX I (in English only)

COMMENTS ON TGP DOCUMENTS MADE BY THE TECHNICAL WORKING PARTY FOR VEGETABLES AND THE TECHNICAL WORKING PARTY ON AUTOMATION AND COMPUTER PROGRAMS

The following comments on draft TGP documents were made by the Technical Working Party for Vegetables (TWV), at its forty-third session, held in Beijing, China, from April 20 to 24, 2009, and by the Technical Working Party on Automation and Computer Programs (TWC), at its twenty-seventh session, held in Alexandria, Virginia, United States of America, from June 16 to 19, 2009.

(a) New TGP documents

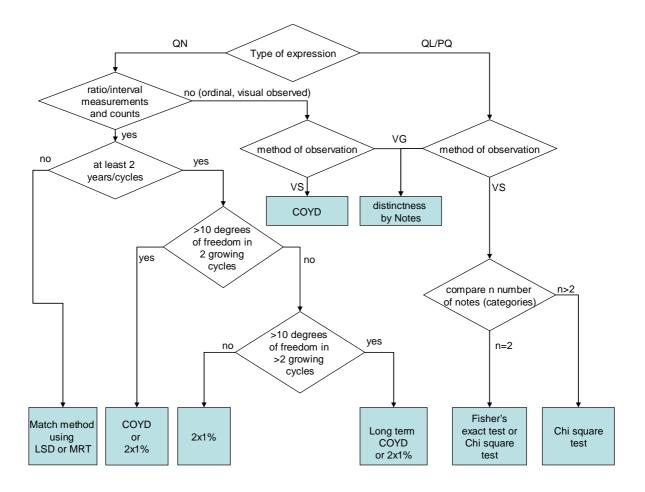
TGP/8 "Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability"

Comments on document TGP/8/1 Draft 13:

Introduction	to read "PART II: TECHNIQUES USED IN DUS EXAMINATION: includes, in particular, details on certain techniques referred to in documents TGP/9 "Examining Distinctness", and TGP/10 "Examining Uniformity".	TWC
General	to provide an explanation of the term "reference variety" throughout the document (e.g. COY)	TWC
	PART I	
1.1	text in square brackets to be deleted	TWC
1.3.1.2	to delete "s 1.2.2.5 and"	TWC
1.3.2.2	to read "If multiple growing trials are used as explained in sections 1.3.1.(a) and (c), DUS could be examined at all growing trial locations. However, in general, DUS is not examined at all growing trials locations."	TWC
1.5.3.1.7 (table)	title of third row to read "Variety mean / Statistical analysis of records for a group of plants / [Replicate plots for group data records] / (MG/MS)	TWC
1.5.3.1.7 (table)	to explain the terms MG, MS, VG, VS	TWC
1.5.3.3.2	to be deleted	TWC
1.5.3.3.4.6	second sentence to read "The blocks should be formed so that the variation between plots within each block is minimized.	TWC
1.5.3.3.7.2.6 (table)	to delete " "	TWC
1.5.3.3.7.4	to be deleted	TWC
2.3	first paragraph to be deleted	TWC
2.3.1 (title)	to delete "[/variety means]"	TWC
2.3.1	to delete text in square brackets	TWC

2.3.1.1.3	to add blank line before 2.3.1.2	TWC
3.1	to delete note in box	TWC
3.2.1.3 (b)	to read "The 2x1% method to assess distinctness, which has also been developed by UPOV to analyze data from two or more years of growing trials where there are at least a certain minimum number of varieties in trial. Differences are assessed in each year using a statistical test based on a two-tailed LSD to compare the within-year variety means. Whether differences are sufficiently consistent is determined by the requirement that two varieties are significantly different in the same direction at the 1% level in both years, or, where trials are conducted in three years, in at least two out of three years. Details of the 2x1% method are given in document TGP/8 Part II section 4."	TWC
3.2.1.3 (c)	to read "The Match method to assess distinctness was developed for use where the trials are conducted by the breeder in the first year and examined by the testing authority in the second year (see document TGP/6 section 2/1). They typically involve relatively small scale trials. Whether differences are sufficiently consistent is tested using a statistical test (eg LSD, MRT, Chi-Square or Fisher's Exact) to gauge whether the differences in the second year are significant and agree with the "direction of the differences" declared by the breeder in the first year. The choice of statistical test depends on the type of expression of the characteristic concerned. Details of the Match method are given in document TGP/8 Part II, Section 5."	TWC
3.2.1.3	to delete the words "and is discussed below"	TWC
3.2.1.4, 3.2.1.5	to be deleted and to be replaced by an explanation that different statistical methods will produce different results and to consider that in the context of harmonization	TWV
3.2.1.4, 3.2.1.5	to be deleted and to be replaced by an explanation that "In the context of consistency and harmonization, it should be noted that different statistical methods will produce different results."	TWC
3.2.1.5	second sentence to be deleted	TWC
3.3 (title)	to read "Summary of selected statistical methods for examining distinctness"	TWV, TWC
3.3	- title of flow diagram to be amended and to avoid an indication that there is a preference of COYD over 2x1% method if there are more than 20 degrees of freedom	TWV
2.2.1 (table)	- to clarify that other statistical methods would not be excluded	TWC
3.3.1 (table)	- to update the minimum degrees of freedom according to changes agreed for the relevant methods (see below)	TWC
	- to delete "Distribution" column	
	- to replace Chi square and Fisher's exact test with row for Match method	
	- to add a column to indicate method of observation as "MS/VS" for COYD and Long Term COYD, with a note that those methods might also be applicable for MG and VG in certain circumstances; and to indicate "MS" for 2x1% method and "VS" for Match method	

3.3.1 flow diagram to read as follows:



PART II		
Title	to read "Selected techniques used in DUS examination"	TWV, TWC
General	to check that the term "clearly distinct" is replaced by "clearly distinguishable", "distinct" or another suitable term (e.g. 6.1.9)	TWV, TWC
3.1	to read "— there should be at least 10, and preferably at least 20, degrees of freedom for the varieties-by-years mean square in the COYD analysis of variance, or if there are not, then Long-Term COYD can be used (see 3.6.2 below);"	TWC
3.7	to read "The COYD method can be applied using TVRP module of the DUST package for the statistical analysis of DUS data, which is available from Dr. Sally Watson (Email: info@afbini.gov.uk) or from http://www.afbini.gov.uk/dustnt.htm . Sample outputs are given in Part II section 3.10 [cross ref.]."	TWC
3.9.2.1, 3.9.2.2	to replace "SE" with "standard error" (3 occurrences)	TWC
3.9.2.5	formula to be centrally aligned	TWC
4. (title)	to read "2X1% METHOD"	TWC

4.1.1	to add indent to read "- there are at least 10, and preferably at least 20, degrees of freedom"	TWC
4.2 (title)	to read "The 2X1% method"	TWC
4.2.1	second sentence to read "The tests in each year are based on Student's two-tailed t-test of the differences between variety means with standard errors estimated using the residual mean square from the analysis of the variety x replicate plot means."	TWC
4.2.2	to delete final sentence of second indent	TWC
New Section (Match method)	to read "5. MATCH METHOD 5.1 Requirements for application of method	TWC
	5.1.1 The Match method is appropriate for assessing distinctness of varieties where: observations made on a plant (or plot) in the second year are compared to observations made by the breeder in the first year; there are claimed differences between plants (or plots) of a variety based on information from the first year trial; the requirements of the method depend on the particular statistical test that is used (e.g. LSD, Multiple Range Tests (MRT), Chi-Square or Fisher's Exact).	
	5.2 Match Method	
	5.2.1 The Match method to assess distinctness was developed for use where the trials are conducted by the breeder in the first year and examined by the testing authority in the second year (see document TGP/6 section 2/1). Whether differences are sufficiently consistent is tested using a statistical test (eg LSD, MRT, Chi-Square or Fisher's Exact) to gauge whether the differences in the second year are significant and agree with the "direction of the differences" declared by the breeders in the first year. The choice of statistical test depends on the type of expression of the characteristic concerned. For two varieties to be distinct using the Match method, the varieties need to be significantly different in the same direction claimed by the breeder in the first year.	
	5.2.2 The requirements of the method depend on the particular statistical test that is used (e.g. LSD, MRT, Chi-Square or Fisher's Exact). For quantitative characteristics, the statistical test may be based on a one-tailed LSD, if there is one candidate, or on a one-tailed MRT, if there is more than one candidate included in the growing trial. A Chi-square test or Fisher's exact test may be used for pseudo-qualitative or qualitative characteristics where the requirements for those tests are met.	
	5.2.3 The Match method typically involves relatively small scale trials. The number of candidate and reference varieties in the trial is limited to the most similar varieties of common knowledge. Although these tests are most useful in trials of cross-pollinated varieties, they can be similarly applied to trials of self-pollinated and vegetatively propagated varieties provided the relevant criteria are met.	

5.1.4	to delete "or establish that the type of data collected does not fit the parametric assumptions"	TWV					
5.1	to be deleted	TWC					
5.2	to be deleted	TWC					
5.3 title	to read "Chi-square test applied to contingency tables"	TWC					
5.3 general	section to be edited according to the comments below, the proposals agreed by the TWC at its twenty-sixth session (see document TWC/26/29 "Report", paragraph 29: items 21, 23, 21) and any written comments provided to Mr. Nik Hulse by July 3, 2009.						
	Mr. Hulse to prepare a new draft of the section for circulation by the Office by July 17, 2009 to the TWC, with a request for comments to be provided July 31, 2009. On the basis of comments received, Mr. Hulse to prepare a text by August 3, 2009, to be presented to the Technical Working Party for Agricultural Crops (TWA) and subsequent Technical Working Party sessions in 2009.						
5.3	(a) to provide list of requirements and circumstances for the use of Chisquare test applied to contingency tables, which would include:	TWC					
	- the only source of variation should be caused by random sampling, e.g. there should be no variation due to soil conditions, etc.						
	- useful where observations on a characteristic are allocated to two or more categories (classes)						
	- the minimum expected value in each category should be five						
	(b) to explain contingency tables						
5.3.2	to read "In some cases, distinctness may be established by classifying individual varieties into broad groups and demonstrating statistically different grouping patterns for different varieties. Such examples include counts based on the flower color groups - red, pink or white etc. and the disease/pest/nematode infection classes. Data based on counts of individuals in a sample/population belonging to each of several classes require a different kind of statistical analysis. A method commonly used for analyzing such enumeration data is called the <i>Chi-square</i> (χ^2)."	TWC					
5.3.6	to indicate "contingency table" in the title	TWC					
5.3.16 to 5.3.19	to be deleted	TWC					
6.	section to be edited according to the comments below and any written comments provided to Mr. Nik Hulse by July 3, 2009.	TWC					
	Mr. Hulse to prepare a new draft of the section for circulation by the Office by July 17, 2009, with a request for comments to be provided by July 31, 2009. On the basis of comments received, Mr. Hulse to prepare a text by August 3, 2009, to be presented to the Technical Working Party for Agricultural Crops (TWA) and subsequent Technical Working Party sessions in 2009. (as for Section 5)						
6.	to provide list of requirements and circumstances for the use of the method	TWC					
6.2	to be deleted and to be covered by new section in future revision of TGP/8 (see below)	TWV					

6.2	to be deleted	TWC
7.1	note in square brackets to be deleted	TWC
7.1.5.4	note in square brackets to be deleted	TWC
8.1	to delete "COYU is an appropriate method for use in assessing the uniformity of varieties"	TWC
8.9	to read "The COYU criterion can be applied using COYU module of the DUST software package for the statistical analysis of DUS data. This is available from Dr. Sally Watson (Email: info@afbini.gov.uk) or from http://www.afbini.gov.uk/dustnt.htm."	TWC
8.11	to delete paragraph after Table 1	TWC
9.1 Title	to read "Uniformity assessment on the basis of relative variance method"	TWC
9.1 Introduction	to add an introduction based on Section 9.4.4 and to add a requirement that there should be a normal distribution for the method to be used.	TWC
9.1	to read "The relative variance method may be applied to any measured characteristic that is a continuous variable, irrespective of the method of propagation of the variety."	TWV, TWC
9.1.1	to add space before "∞"	TWC
9.6	to be deleted	TWC

TGP/11 "Examination of Stability"

Comments on document TGP/11/1 Draft 5:

General	The expert from Australia explained that, in Australia, stability was examined for seed-propagated varieties by growing two generations and verifying that there was no difference in the characteristics observed.	TWC
	An expert from the United States of America reported that, in the United States of America, distinct plants within a variety were identified according to the following definitions of "off-type" and "variant":	TWC
	"Variant: The term "variant" means any seed or plant which: (a) is distinct within the variety but occurs naturally in the variety; (b) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and (c) was originally a part of the variety as released. A variant is not an off-type."	
	"Off-type: The term "off-type" means any seed or plant not part of the variety in that it deviates in one or more characteristics from the variety as described and may include: a seed or plant of another variety; a seed or plant not necessarily any variety; a seed or plant resulting from cross-pollination by another kind or variety; a seed or plant resulting from uncontrolled self-pollination during production of hybrid seed; or segregates from any of the above."	

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

Comments on document TGP/14/1 Draft 9:

	SECTION 2. BOTANICAL TERMS SUBSECTION 2. SHAPES AND STRUCTURES I. SHAPE							
1.3	to introduce the possibility to provide a different definition for the terms "base" and "apex" where that would be appropriate for the Test Guidelines concerned, in particular to avoid confusion in the use of commonly used terms by breeders. On that basis, it was agreed that the definitions of the terms should always be provided in the Test Guidelines. Furthermore, in order to ensure that applicants used the correct terms in completing the Technical Questionnaire, it was agreed that the relevant illustration of shapes in the Test Guidelines should be added to the Technical Questionnaire.	TWV						
1.5	to retain the states "small" and "large" for ratio, but to add a clarification in brackets, e.g. for ratio length/width, to have "small (moderately compressed)", "large (moderately elongated)" etc.	TWV						
1.5 (second)	(after Chart for Other Plane Shapes) to remove reference to a decision-tree	TWV						
2.10	to update cross-references	TWV						
	SECTION 3 "STATISTICAL TERMS"							
General	To add the following introductory text: "The definitions included in the glossary are in relation to the use of these terms in DUS examination"	TWC						
Bivariate Normality	To add to following illustration:	TWC						
	Bivariate Normal Distribution							
	Y-variate X-variate							

Contingency Table								
	Characteristic Variety	State 1	State 2	State 3				
	Variety A Variety B	18	20 10	2 27				
	Variety C	6	24	10				
Random effect	To be deleted							
Random Term/ Random Factor	to read "Random Term / Random Factor: A factor is random when the levels under study can be considered a random sample drawn from some large homogeneous population. A goal of the study may be to make a statement regarding the larger population. See also factor."							

(b) Revision of TGP Documents:

TGP/7: Development of Test Guidelines

Comments on document TGP/7/2 Draft 3

General	to replace "range of variation" with "level of variation", or where the General Introduction is quoted, to explain that the term "level of variation" is considered to be more appropriate than the term "range of variation", which has been used in the General Introduction (see, for example, Chapter 6.4).	TWC
	Section 1	
1.2	to explain the importance for harmonization of variety descriptions of using the Test Guidelines as individual authorities' test guidelines. In cases where that would not be possible, to encourage the inclusion of references to the characteristic number in the Test Guidelines in the individual authorities' test guidelines.	TWV
1.2.1.5	to clarify that the harmonization of variety descriptions could be lost if different example varieties are used in individual authorities' test guidelines	TWV
1.2.1.7	to amend to cover information provided by breeders in a breeder testing system	TWV

2.2.4.4	to read "In advance of the TWP session, the leading expert should prepare a preliminary draft of the Test Guidelines ("Subgroup draft") for comments by the subgroup. On the basis of the comments received from the subgroup, the leading expert should establish a first draft for the TWP. This draft is sent to the Office which will produce a document for distribution to the members of the TWP(s) concerned for discussion at their session(s). Prior to the TWP session, the Office will make a preliminary check that the draft has been prepared according to document TGP/7 and, in particular, that it conforms with the TG/Template (Annex 1 [cross ref.]). A result of that check will be provided to the Leading Expert at least one week before the session. []	TWV
	Annex 1: TG Template	
2.3	Netherlands to develop draft guidance on the quantity of plant material to be provided for Test Guidelines, for consideration at the forty-fourth session of the TWV with a view to its inclusion in a future revision of TGP/7 (document TGP/7/3)	TWV
4.1	to develop ASW for the assessment of distinctness of hybrids using the parental formula, on the basis of the wording in the Test Guidelines for Maize.	TWV
	Annex 2: Additional Standard Wording (ASW) for the TG Template	
ASW 13	to include an indication that the parental formula would be used	TWV
	Annex 3: Guidance Notes (GN) for the TG Template	
GN 28	the TWV noted that it would not be able to review any proposed amendments to GN 28 before the Technical Committee considered the approval of document TGP/7/2 in 2010. The TWV noted the importance of example varieties in Test Guidelines for vegetable crops and generally supported the text in GN 28. Therefore, to avoid a delay in the adoption of document TGP/7/2, it proposed that document TGP/7/2 should be adopted in 2010 without amendments to GN 28 and that any proposed amendments should be considered in a future revision of document TGP/7, if appropriate.	TWV
GN 31	to add the possibility to indicate that the variety is a parent line, with a reference to document TGP/5 "Experience and Cooperation in DUS Testing", Section 11/1 "Examples of Policies and Contracts for Material Submitted by the Breeder", which explains in paragraph 1.1 that "[] in the particular case of parent lines submitted as a part of the examination of a candidate hybrid variety, 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."	
GN 32	Three-Way Hybrid: to add a line to enter the name of the female hybrid parent	TWV

CAJ/60/2 ANNEX II

					2009					2010						
Ref.	Title of document	Current approved* documents	Drafter (TWP)	Drafter (Name)	TC- EDC	TC/45	CAJ/59	TWPs	CAJ/60	C/43	TC- EDC	TC/46	CAJ/61	TWPs	CAJ/62	C/44
TGP/0	List of TGP Documents and Latest Issue Dates	TGP/0/1 ADOPTED								TGP/0/2 Adopt						
TGP/1	General Introduction with Explanations	-	Office													
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/1 ADOPTED														
TGP/3	Varieties of Common Knowledge	C(Extr.)/19/2 Rev.	CAJ		\times	\times	>	>	\geq	\times	\times	>	>	\geq	>	\times
TGP/4	Constitution and Maintenance of Variety Collections	TGP/4/1 ADOPTED														
TGP/5	Experience and Cooperation in DUS Testing	ADOPTED														
TGP/6	Arrangements for DUS Testing	TGP/6/1 ADOPTED														
TGP/7	Development of Test Guidelines	TGP/7/1 ADOPTED			TGP/7/2 draft 1	TGP/7/2 draft 2		TGP/7/2 draft 3	TGP/7/2 draft 3		TGP/7/2 draft 4	TGP/7/2 draft 5 / approve	TGP/7/2 draft 5 / approve			TGP/7/2 draft 6 / Adopt
	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (Coordinator: Office / TWC Chairperson)				draft 11	draft 12		TGP/8/1 draft 13 (& future sections)	TGP/8/1 draft 13		TGP/8/1 draft 14	TGP/8/1 draft 15 / approve	TGP/8/1 draft 15 / approve	(future sections)		TGP/8/1 draft 16 / Adopt
TGP/9	Examining Distinctness	TGP/9/1 ADOPTED														
TGP/10	Examining Uniformity	TGP/10/1 ADOPTED														
TGP/11	Examining Stability (Coordinator: Office)		TWV	Mr. Semon (QZ)	draft 5	draft 5		draft 5	draft 5		draft 6	draft 7		draft 8	draft 8	
TGP/12	[Special Characteristics] / [Guidance on Certain Physiological Characteristics]				draft 6	draft 7 / approve	draft 7 / approve			draft 8 / Adopt						
TGP/13	Guidance for New Types and Species		TWO	Mr. Kwakkenbos (QZ)	draft 13	draft 14 / approve	draft 14 / approve			draft 15 / Adopt						
TGP/14	Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents (Coordinator: Office)				draft 7	draft 8		TGP/14/1 draft 9 (& Color Subsection)	TGP/14/1 draft 9		TGP/14/1 draft 10	TGP/14/1 draft 11 / approve	TGP/14/1 draft 11 / approve	(Color Subsection)		TGP/14/1 draft 12 / Adopt
TGP/15	New Types of Characteristics (Coordinator: Office)				\times		\times	\geq	\geq	\times	\times		\times		\geq	