

# Guidance for DUS testing Procedure in the European Union

Geneva, 19. March 2010  
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1

## Introduction

- The CPVO received so far 36.000 applications spread over more than 1420 species
  - Existing test guidelines cover a relatively low number of species
  - As soon as a UPOV test guideline is approved, interest in developing a CPVO protocol

## Which UPOV guidelines are implemented?

- For species where there are CPVO applications
- Even if the species in question does not grow in the European Community



The Community plant variety rights system

## The procedure

- Overview
  1. Preparation of a project by the CPVO
  2. Discussion in expert groups
  3. Formal approval by the Administrative Council



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## The procedure

### 1. Preparation of a project by the CPVO

- Definition of administrative and legal issues like:
  - Liaison with the applicant
  - Deadlines for reporting,
  - Date of entry into force



## The procedure

### 1. Preparation of a project by the CPVO

- Definition of technical matters like the reference to the procedure to use additional characteristics :
  - Legally, additional characteristics for the purpose of establishing distinctness need to be approved by the President of CPVO
  - Separate procedure developed:
    - Utilisation only if distinctness cannot be established with existing characteristics
    - Verification that the characteristic fulfills the UPOV definition and reporting to the CPVO
    - Description of the conditions of observation



## The procedure

### 1. Preparation of a project by the CPVO

- Definition of technical matters like:
  - No definition of quantity and quality of material to be supplied
    - Protocols used by different examination offices
    - reference to a publication of the Office
  - For a given species, requirements might depend on the examination office.



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## The procedure

### 2. Discussion in expert groups

- Quality of plant material to be supplied, harmonisation where possible:
  - Health status aspects especially for fruit species
  - Stage of development of plants for vegetatively propagated species, germination rate for seed propagated species



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# The procedure

## 2. Discussion in expert groups

- Quantity of plant material to be supplied:
  - For vegetatively propagated species, number of plants allowing potential losses during establishment.
    - Handling of 'spare plants' in a separate procedure
  - Larger quantities for seed propagated species taking into account the need to keep a standard sample.
  - Special situations:
    - additional plant material for phytosanitary tests (lilies)
    - Split sample (vegetables inbred lines)



# The procedure

## 2. Discussion in expert groups

- Selection of characteristics:
  - General principle: all characteristics as defined in the UPOV guideline should be taken over
  - From the standard characteristics, removal sometimes of characteristics difficult to observe under EU conditions for outdoor crops
  - All characteristics of the CPVO protocol should be observed
  - Exceptions:
    - disease characteristics for vegetable species which require special equipment



## The procedure

### 2. Discussion in expert groups

- UPOV & CPVO numbering of characteristics:

CPVO N°	UPOV N°	Observation	Characteristics	Examples	Note
1.	1. (*)	VG	<b>Plant: growth habit</b>		
(+)	(+)		upright	Benton, Darselect, Gorella	1
QN	QN	(a)	semi-upright	Grafine, Senga Sengana	2
G			spreading	Darsidor, Pantagruella	3
2.	2.	VG	<b>Plant: density of foliage</b>		
(+)	(+)		sparse	Giforette, Elista	3
QN	QN	(a)	medium	Grafine, Gorella	5
			dense	Grano, Talisman	7



## The procedure

### 2. Discussion in expert groups

- Example varieties:
  - Sometimes, different examples varieties more readily available in the EU but corresponding to the state of expression



## The procedure

### 2. Discussion in expert groups

- Modification of the protocol:
  - Implementation of the new recommendation of UPOV to add a footnote in case a star characteristic is modified will be implemented
  - Timely notification to UPOV in case of:
    - Modification of the wording of characteristics necessary
    - Additional stage of expression
- New characteristics mentioned for the next revision of the guidelines



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## The procedure

### 2. Discussion in expert groups

- Date of entry into force:
  - In principle, date of the publication of the protocol on the web site of the office
  - Protocol in force only applicable to varieties for which the technical examination has not yet started by the date of entry into force



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# The procedure

## 2. Discussion in expert groups

- Date of entry into force:
  - Exception:  
Retroactive date of entry into force under the following conditions
    - Proposed as a result of a discussion with the relevant crop sector experts.
    - The observations should not have started at the date of approval of the protocol
    - The requirements for the submission of plant material should not be modified by the new protocol
    - The trial design should not be affected by the new protocol



# The procedure

## 2. Discussion in expert groups

- Additional question in the TQ:

Does not happen frequently. Additional questions from the past were found to be of common interest at UPOV level





## The procedure

### 3. Formal approval by the Administrative Council

- CPVO Administrative Council takes place 2 or 3 times a year
- Important for the purpose of harmonisation that the version of the CPVO protocol in force is always in line with the version of the UPOV guidelines adopted
- Important that final versions of UPOV protocols are made available rapidly after approval by the TC



## Conclusion

- UPOV test guidelines are the basis of harmonisation and cooperation
- The Office received last year requests from national authorities to make more than 700 reports of DUS testing available





Thank you for your attention