



TC/42/5

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL COMMITTEE

Forty-Second Session
Geneva, April 3 to 5, 2006

TGP DOCUMENTS

Document prepared by the Office of the Union

1. The purpose of this document is to set out background information concerning the following:

- Part I: TGP documents to be considered by the Technical Committee (TC) at its forty-second session (documents TGP/4, TGP/8, TGP/9, TGP/10, TGP12 and TGP/13);
- Part II: TGP documents to be developed in future (documents TGP/3; TGP/14);
- Part III: Revisions to adopted TGP documents (documents TGP/5 and TGP/7); and
- Part IV: Program for the development of TGP documents.

PART I: DOCUMENTS TO BE CONSIDERED BY THE TECHNICAL COMMITTEE

2. As agreed by the TC at its forty-first session, held in Geneva from April 4 to 6, 2005 (see documents TC/41/12, paragraph 108 and TC/41/5 Add.), the TC has been invited to consider the following TGP documents at its forty-second session:

(a) *TGP documents to which the TC has given highest priority:*

TGP/4: Constitution and Management of Variety Collections
(document TGP/4/1 Draft 6)

TGP/9: Examining Distinctness (document TGP/9/1 Draft 6)

TGP/10: Examining Uniformity (document TGP/10/1 Draft 3)

(b) *Other TGP documents:*

TGP/8: Use of Statistical Procedures in DUS Testing
(document TGP/8/1 Draft 3)

TGP/12: Special Characteristics: Section 1: Characteristics Expressed in
Response to External Factors (document TGP/12 Section 1 Draft 2)

TGP/13: Guidance for New Types and Species (document TGP/13/1 Draft 5)

3. The documents presented to the TC reflect the comments received from the Technical Working Parties (TWPs) at their sessions in 2005 and the comments made by the Enlarged Editorial Committee (TC-EDC) at its meeting on January 10, 2006. The following background information is provided to assist the TC in its consideration of the documents:

TGP/4 “[Constitution and] Management of Variety Collections”

4. At its forty-first session, the TC agreed that document TGP/4/1 Draft 3 “[Constitution and] Management of Variety Collections”, as amended at that session, should be circulated to the TWPs at their sessions in 2005 on the basis that it represented the agreed situation in the TC.

5. Discussions of document TGP/4/1 Draft 4, at the sessions of the TWPs in 2005, identified some aspects where a modification of the document was considered to be appropriate. The main modification to the substance of the document has been in respect of the definition of “variety collection”. Document TGP/4/1 Draft 4: Section 1.3, stated that:

“Although not exhaustive, and taking into account that these aspects have to be considered on a worldwide basis, it is clear that the list of varieties whose existence is a matter of common knowledge (“varieties of common knowledge”) for a given species can be very large. Therefore, it may be appropriate to define a collection of varieties of common knowledge (a “variety collection”) from within which:

- (a) varieties which should be included in growing tests or other trials, as a part of the examination of distinctness, can be identified; and
- (b) where required, the necessary material of the varieties is available for inclusion in such tests and trials.”

In document TGP/4/1 Draft 6, Section 1.3 states that:

“Although not exhaustive, and taking into account that these aspects have to be considered on a worldwide basis, it is clear that the list of varieties of common knowledge for a given species can be very large. Therefore, it may be useful to employ a process to reduce the number of varieties of common knowledge which need to be included in growing trials or other tests for direct comparison against a variety which is the subject of an application for plant breeders’ rights (“candidate variety”). That process can be summarized in the following steps:

- Step 1: Making an inventory of the varieties of common knowledge;
- Step 2: Establishing a collection (“variety collection”) of varieties of common knowledge which are relevant for the examination of distinctness of candidate varieties according to Section 2 “Constitution of Variety Collections” of this document;
- Step 3: Selecting the varieties from the variety collection which should be included in the growing trial or other tests for the examination of distinctness of a particular candidate variety..”

6. In conjunction with the change of definition of variety collection, the structure of TGP/4 has been modified by the introduction of a section “Forms of variety collection” at the beginning of Section 2. That section was formed from Section 3.1.1 (Variety Descriptions) and Section 2.1.3 (Living Plant Material) of TGP/4 Draft 3. Other modifications have also been made in response to comments received through the TWPs and through the TC-EDC meeting on January 10, 2006.

7. The modifications to the drafts of document TGP/4 “[Constitution and] Management of Variety Collections” have required consequential modifications to the draft of document TGP/9 “Examining Distinctness”. The TC may wish to take account of the interdependence of documents TGP/4 and TGP/9 when considering the program for the development of TGP documents.

TGP/9 “Examining Distinctness”

8. In accordance with proposals made at the TWP sessions in 2005, details for the techniques provided as Annex I “The GAIA Methodology” and Annex II “The Combined Over-Years Distinctness Criterion (COYD)” of document TGP/9/1 Draft 3, as considered by the TC at its forty-first session, have been moved to document TGP/8.

TGP/10 “Examining Uniformity”

9. Document TGP/10/1 Draft 3 is the first draft of document TGP/10 to be considered by the TC.

TGP/8 [“Use of Statistical Procedures in DUS Testing”] / [“Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”]

10. In accordance with proposals made at the TWP sessions in 2005, the latest draft of document TGP/8 (document TGP/8/1 Draft 3) incorporates details for techniques used in the examination of DUS, which were previously included in the drafts of documents TGP/9 “Examining Distinctness” and TGP/10 “Examining Uniformity”. Previously, it was envisaged that document TGP/8 would cover only statistical procedures. As a result of this broader scope, it is proposed that a change of title to “Trial Design and

Techniques Used in the Examination of Distinctness, Uniformity and Stability” be considered for document TGP/8.

TGP/12 “Special Characteristics”

11. At its forty-first session, the TC considered document TGP/12 “Special Characteristics”: Section 2/1 Draft 2: Chemical Constituents: Protein Electrophoresis. It agreed that document TGP/12 Section 2 “Chemical Constituents: Protein Electrophoresis” should not be adopted at that time and should be brought forward for adoption in conjunction with the other sections of document TGP/12.

12. Document TGP/12 Section 1 Draft 2 “Characteristics Expressed in Response to External Factors” is the first draft of document TGP/12: Section 1 to be considered by the TC.

13. In relation to the development of document TGP/12 Section 3 “Examination of Combined Characteristics Using Image Analysis”, the Technical Working Party on Automation and Computer Programs (TWC) considered document TWC/23/20 at its twenty-third session held from June 13 to 16, 2005 in Ottawa, Canada. The TWC concluded that the possible development of a document for TGP/12 Section 3 should be considered at its next session, but that a new document should not be prepared.

TGP/13 “Guidance for New Types and Species”

14. Document TGP/13/1 Draft 5 is the first draft of document TGP/13 to be considered by the TC.

15. In considering the program for the development of TGP documents, the TC may wish to take particular note of the interrelationship between documents TGP/13 and TGP/9 and TGP/10 and may wish to consider awaiting adoption of documents TGP/9 and TGP/10 before finalizing document TGP/13.

PART II: TGP DOCUMENTS TO BE DEVELOPED IN FUTURE

TGP/3 “Varieties of Common Knowledge”

16. At its forty-first session, held in Geneva, from April 4 to 6, 2005, the TC considered document TGP/3/1 Draft 2 “Varieties of Common Knowledge”. It noted that, whilst the document used as the basis for document TGP/3/1 Draft 2 had been adopted by the Council (C(Extr.)/19/2 Rev. “The Notion of Breeder and Common Knowledge in the Plant Variety Protection System Based Upon the UPOV Convention”), the TC-EDC had wondered whether the document went beyond what was contained in the General Introduction, in terms of practical clarification in relation to varieties of common knowledge. It was, therefore, agreed that it would be better to try to elaborate a more practical and comprehensive document in respect of varieties of common knowledge in conjunction with the Administrative and Legal Committee (CAJ) (see document TC/41/12, paragraph 98).

17. At its fifty-second session, held in Geneva on October 24 and 25, 2005, the CAJ agreed on an approach to prepare information materials concerning the UPOV Convention (see document CAJ/52/5 Prov., paragraph 67. As a part of that approach, the CAJ has endorsed

the establishment of an advisory group (CAJ-AG) to assist in the preparation of documents for the CAJ. The first meeting of the CAJ-AG will be held on October 20, 2006. Included in the proposed list of provisions of the UPOV Convention to be considered by the CAJ-AG is Article 7 of the 1991 Act “Distinctness”, and specific reference has been made to the proposal of the TC concerning the development of document TGP/3 “Varieties of Common Knowledge” in conjunction with the CAJ.

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

18. The TC has scheduled a draft of document TGP/14 “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents” to be prepared for its consideration in April 2007. Substantial progress has been made through correspondence and discussions of draft documents at the Technical Working Party for Fruit Crops (TWF) and the Technical Working Party for Ornamental Plants and Forest Trees (TWO). However, given the degree of interest of experts from different TWPs, the TWF and the TWO proposed a meeting of the drafters and interested experts in order to advance a draft for submission to the TC in April 2007. A meeting is proposed to take place in conjunction with the forty-second session of the TC to be held in Geneva from April 3 to 5, 2006, subject to availability of relevant drafters and interested experts.

PART III: REVISIONS TO ADOPTED TGP DOCUMENTS

TGP/5/1 “Experience and Cooperation in DUS Testing”

19. At its forty-first session, the TC approved document TGP/5/1 “Experience and Cooperation in DUS Testing”. The TC noted that sections 1 to 7 of document TGP/5 represented texts which were contained in the UPOV publication 644(E) “Important Texts and Documents”. It observed that some of those texts had been adopted several years ago and would benefit from updating. However, it recognized that those texts represented the adopted UPOV position and also noted that UPOV publication 644(E) was no longer available and that many new members of the Union did not have easy access to those texts. Therefore, it approved Sections 1 to 7 but, in addition, agreed to develop a program for updating of those sections, based on priority, in conjunction with the CAJ and Council, as appropriate. The Office of the Union (Office) agreed to prepare a proposal for consideration by the TC at its forty-second session. With regard to elements which should be considered in any revision to the texts, the following comments were made:

- (a) to make suitable provisions for genetically modified varieties in relevant sections;
- (b) in Section 1 “Model Administrative Agreement for International Cooperation in the Testing of Varieties”:
 - (i) to review Article 6 with regard to the possibility to include the maintenance of reference collections in the main agreement rather than as a matter to be settled between the authorities by correspondence;
 - (ii) to review Article 7 with regard to the amount of 350 Swiss francs;
- (c) in Section 5 “UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results”: to consider amending the wording in the “UPOV Answer

to the Request for Examination Results”, paragraphs 5 and 6, to reflect the possibility for invoicing to be made directly to breeders.

20. The approval of document TGP/5/1 “Experience and Cooperation in DUS Testing” by the TC was also made on the basis that, with regard to Section 10/1, there would be a review of the notification of additional characteristics on the UPOV website after three years of operation.

21. Given the need for the CAJ to be involved in any revision of Sections 1 to 7, the CAJ was notified of developments in the TC in the oral report made by Ms. Julia Borys, Chair of the TC, at the fifty-first session of the CAJ held in Geneva on April 7, 2005. As explained in paragraph 17, the CAJ has endorsed the establishment of an advisory group (CAJ-AG) to assist in the preparation of documents for the CAJ. The first meeting of the CAJ-AG will be held on October 20, 2006. Included in the proposed list of provisions of the UPOV Convention to be considered by the CAJ-AG are Articles 7, 8 and 9 of the 1991 Act and the CAJ-AG will be invited to consider the review of document TGP/5/1 within that context. Subject to considerations by the CAJ-AG, first drafts of revisions to Sections 1 to 7 could be prepared for consideration by the TC and the CAJ-AG in 2007. Further consideration of those revisions in 2008 could be held in parallel with the review of Section 10/1.

TGP/7 “Development of Test Guidelines”

22. At its forty-first session, the TC agreed that, where proposals to update document TGP/7/1 “Development of Test Guidelines” were agreed by the TC, document TGP/7/1 should be revised and a new version adopted (document TGP/7/2 in the first instance). Such revisions would also be reflected in the electronic template and drafters’ kit.

23. A number of specific proposals have been made with regard to the revision of document TGP/7/1. Those proposals, and references to the origin of those proposals, are set out in Annex I to this document. It has become apparent that certain proposals arise as a consequence of discussions concerning other TGP documents and, in particular, TGP/9 “Examining Distinctness” and TGP/14 “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents”. On that basis, the TC may wish to delay the start of the revision of document TGP/7 until 2008, when it is anticipated that document TGP/9 might have been approved by the TC and document TGP/14 should have attained a good level of agreement.

PART IV: PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

24. Annex II to this document presents a tentative program of development for TGP documents on the basis of the program agreed by the TC at its forty-first session and the discussions at the TWP sessions in 2005. That program reflects the request of the Technical Working Party for Agricultural Crops (TWA) for an opportunity for the TWA to see new drafts of documents TGP/9/1, TGP/10/1, TGP/8/1 and TGP/13/1 at its thirty-fifth session in 2006. The TWA noted that document TGP/10/1 Draft 1 was more advanced in its development than document TGP/9/1 Draft 4 and that an early adoption of the document would be welcome, but also noted that there were practical advantages to adopting documents TGP/9, TGP/10 and possibly TGP/8 at the same time.

25. It is recalled that, at its thirty-ninth session, the TC confirmed that documents TGP/4, TGP/9 and TGP/10 should continue to receive the next highest priority after document TGP/7.

26. *The TC is invited to:*

(a) consider a change of title for document TGP/8 to “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”;

(b) note that the CAJ-AG will be invited to consider the development of document TGP/3 and the revision of document TGP/5, in preparation for submission of documents to the CAJ;

(c) consider the program for the development of TGP documents as set out in Annex II, noting that it is proposed that:

(i) documents TGP/4, TGP/9 and TGP/10 are scheduled to be approved in parallel;

(ii) revision of document TGP/5 is scheduled to allow a review of Section 10 in parallel with revisions of Sections 1 to 7;

(iii) revision of document TGP/7 is scheduled to start in 2008, after document TGP/9 has been approved by the TC and in anticipation of document TGP/14 attaining a good level of agreement; and

(iv) finalization of document TGP/13 is scheduled after the approval of documents TGP/4, TGP/9 and TGP/10.

[Annexes follow]

PROPOSED REVISIONS TO TGP/7/1

Section 2: Procedure for the Introduction and Revision of UPOV Test Guidelines

2.2.4	<p>consideration to be given to introducing deadlines for the submission of non-final draft Test Guidelines to the Technical Working Parties.</p> <p>(TWA: document TWA/34/14, paragraph 36)</p>
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Annex 1: TG Template

3.5 / ASW 7	<p><i>3.5 Number of Plants / Parts of Plants to be Examined</i></p> <p>Paragraph 3.5 to be moved within Section 4.1 “Distinctness”, to clarify that this section recommends the number of plants / parts of plants to be examined for distinctness. In addition, ASW 7 to be amended to the following:</p> <p><u>“ASW 7 (Chapter 3.5) – Number of plants / parts of plants to be examined</u></p> <p>Alternative 1:</p> <p>Unless otherwise indicated, all observations should be made on {x} plants or parts taken from each of {x} plants.</p> <p>Alternative 2:</p> <p>Unless otherwise indicated, all observations should be made on {x} plants or parts taken from each of {x} plants. In the case of observations of parts of plants, the number of parts to be taken from each of the plants should be {y}.”</p> <p>(Mrs. Beate Rücker (Germany))</p>
6.3	<p><u>Quantitative characteristics</u></p> <p>the Test Guidelines should explain the use of the 3, 5, 7 abbreviated notes in the 1-9 scale for quantitative characteristics.</p> <p>(TWV: document TWV/38/9, paragraph 57)</p>

Annex 2: Additional Standard Wording (ASW) for the TG Template

ASW 4: 2(b)	<p><u>(TG Template: Chapter 3.3) – Conditions for conducting the examination: Information for conducting the examination of particular characteristics: Type of observation</u></p> <p>TGP/7 to be amended according to the wording agreed for TGP/9.</p> <p>(TWA: document TWA/34/14, paragraph 40 (Table ref. 4.1.2))</p>
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ASW 4: 2(d)	<p><u>(TG Template: Chapter 3.3) – Conditions for conducting the examination: Observation of color by eye</u></p> <p>to add that the color chart and the version of the color chart used should be specified with the variety description (TWF: document TWF/35/11, paragraph 54)</p>
ASW 16	<p><u>(TG Template: Chapter 10: TQ 7.3) – Where a photograph of the variety is to be provided</u></p> <p>to add text indicating that guidance would be provided by the authority to enhance the usefulness of the photograph (e.g. to include a metric scale in the picture, to define what parts of the plant should be included; light conditions, background color, etc).</p> <p>(see document TGP/9/1 “Examining Distinctness” Draft 6, Section 2.4.2)</p>
New 1.	<p><u>Chapter 1 of the Test Guidelines: Subject of these Test Guidelines</u></p> <p>to seek to develop Additional Standard Wording (ASW) for the following situations:</p> <ul style="list-style-type: none"> (i) where there are separate Test Guidelines for different types of variety within the same genus/species (TWF: document TWF/35/11, paragraph 55); (ii) for Test Guidelines for rootstock varieties which do not include flower or fruit characteristics (TWA: document TWA/33/16, paragraph 31); (iii) for Test Guidelines covering hybrids with species / genera which are covered by other Test Guidelines (TWF: document TWF/35/11, paragraph 40).
New 2.	<p><u>Chapter 3.1</u></p> <p>to provide a new Additional Standard Wording (ASW) for crops where the two independent growing cycles are recommended to be in the form of two separate plantings, e.g. “The two independent growing cycles should be in the form of two separate plantings”.</p> <p>(TWA: see proposals concerning Test Guidelines for Ryegrass TG/4/8(proj.3))</p>
New 3.	<p><u>Chapter 8</u></p> <p>to provide a standard definition of time of eating maturity .</p> <p>(TWF: document TWF/35/11, paragraph 54).</p>

Annex 3: Guidance Notes (GN) for the TG Template

GN 19 (3)	<p><u>Numbers</u></p> <p>requirement for numbers lower than 10 to be written and higher numbers to be indicated numerically to be deleted</p> <p>(Office)</p>
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GN 20 (1)	<p><u>Presentation of characteristics: States of expression according to type of expression of a characteristic</u></p> <p>to clarify that adjectives such as moderately, medium, etc. (e.g. much smaller (1), moderately smaller (3), etc. / light green (1), medium green (2), etc.) should be used for pseudo-qualitative characteristics and for quantitative characteristics where there are one or more fixed states (Office in communication with Mrs. Elise Buitendag (South Africa), Coordinator of document TGP/7)</p>
GN 20 (3)	<p><u>Quantitative characteristics: Explanation</u></p> <p>to explain that the notes for quantitative characteristics should be meaningful in relation to the range of variation of the characteristic and for the assessment of distinctness.</p> <p>(see TGP/9 “Examining Distinctness”)</p>
GN 20 (3)	<p><u>Quantitative characteristics</u></p> <p>to provide guidance on the use of a scale with more than 9 notes</p> <p>(TWA: document TWA/33/16, paragraph 67).</p>
GN 20 (3)	<p><u>3.5 “Condensed” range</u></p> <p>to consider accepting a 3-state range where there is no fixed point, e.g. weak/medium/strong, on the basis that the second state should read “intermediate”.</p> <p>(TC-EDC: January 2006)</p>

Annex 4: Collection of Approved Characteristics

Introduction	<p>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).</p> <p>(TWA: document TWA/34/14, paragraph 15)</p>
	<p>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 that information might not be appropriate for other Test Guidelines.</p> <p>(TWA: document TWA/34/14, paragraph 16)</p>
	<p>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.</p> <p>(TWV: document TWV/38/9, paragraph 40)</p>

Collection	<p>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.)</p> <p>(TWF: document TWA/36/8, paragraph 35)</p>
	<p>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.</p> <p>(T WV: document TWV/38/9, paragraph 40)</p>
	<p>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)</p> <p>(TWO: document TWO/38/12, paragraph 60)</p>
	<p>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.</p> <p>(TWA: document TWA/34/14, paragraph 54)</p>

[Annex II follows]

