



TGP/5: Introduction Draft 2

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

DRAFT

Associated Document
to the
General Introduction to the Examination
of Distinctness, Uniformity and Stability and the
Development of Harmonized Descriptions of New Varieties of Plants (document TG/1/3)

DOCUMENT TGP/5

“EXPERIENCE AND COOPERATION IN DUS TESTING”

Introduction

Document prepared by the Office of the Union

to be considered by the

*Technical Committee at its forty-fourth session,
to be held in Geneva, from April 7 to 9, 2008*

*Administrative and Legal Committee at its fifty-seventh session,
to be held in Geneva, on April 10, 2008*

Note for Draft version

~~Strikethrough~~ indicates deletion from the currently adopted text, proposed by the Administrative and Legal Committee (CAJ) on the basis of all comments made by the Technical Committee (TC), Technical Working Parties (TWPs) and CAJ in 2007

Underlining indicates insertion to the currently adopted text, proposed by the CAJ on the basis of all comments made by the TC, TWPs and CAJ in 2007

INTRODUCTION

1. Cooperation with regard to DUS testing is an important benefit of the UPOV system. The UPOV Convention. (Article 12 of the 1991 Act) requires that a variety be examined for compliance with the distinctness, uniformity and stability criteria. The 1991 Act then clarifies that, “In the course of the examination, the authority may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out”. That wording indicates that an authority of a member of the Union may, for example, use one or more of the following arrangements:

(a) *the authority conducts growing trials, or other tests, itself;*

(b) *the authority arranges for another party / other parties to conduct the growing trials or other tests;*

In such an arrangement, another party could include, for example, another authority, an independent institute or the breeder.

(c) *the authority takes into account the results of ~~growing tests or other trials~~ growing trials, or other tests,⁴ which have already been carried out.*

This possibility allows for members of the Union to accept DUS reports on varieties already examined by another member of the Union. Such an approach is encouraged as an important means of minimizing the time for DUS examination and minimizing the cost of DUS examination by reducing duplication.

2. To facilitate cooperation in DUS testing as considered appropriate by members of the Union, UPOV has developed TGP/5 “Experience and Cooperation in DUS Testing”, which contains the following sections:

<i>Section 1</i>	<i>Model Administrative Agreement for International Cooperation in the Testing of Varieties</i>
<i>Section 2</i>	<i>UPOV Model Form for the Application for Plant Breeders’ Rights</i>
<i>Section 3</i>	<i>Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders’ Rights</i>
<i>Section 4</i>	<i>UPOV Model Form for the Designation of the Sample of the Variety</i>
<i>Section 5</i>	<i>UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results</i>
<i>Section 6</i>	<i>UPOV Report on Technical Examination and UPOV Variety Description</i>
<i>Section 7</i>	<i>UPOV Interim Report on Technical Examination</i>
<i>Section 8</i>	<i>Cooperation in Examination</i>
<i>Section 9</i>	<i>List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established</i>
<i>Section 10</i>	<i>Notification of Additional Characteristics</i>
<i>Section 11</i>	<i>Examples of Policies and Contracts for Material Submitted by the Breeder</i>

3. Section 1 “Model Administrative Agreement for International Cooperation in the Testing of Varieties” provides a model agreement for cooperation between authorities.

4. An administrative agreement based on the Model Administrative Agreement is not a prerequisite for all aspects of international cooperation and, in particular, the utilization by members of the Union of existing DUS reports provided by authorities of other members of the Union would not necessarily require the use of such an agreement. However, in cases where such an agreement is not in place, members of the Union requesting existing DUS reports are nevertheless encouraged to use the model form in Section 5 “UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results”.

[End of Introduction]

¹ The Enlarged Editorial Committee (TC-EDC), proposed to amend title in (c) from “growing tests or other trials” to “growing trials, or other tests”, for consistency with (a) and (b). The text is copied from TGP/6, except for this change in (c). In the General Introduction (document TG/1/3 “General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants”: see Chapter 2.3 “Design of the DUS Tests”) and TGP/6, the phrase “growing trials, or other tests” was used in preference to the term “growing tests or other trials”, used in the UPOV Convention.