

Technical Committee

Sixtieth Session

Geneva, October 21 and 22, 2024

Administrative and Legal Committee

Eighty-First Session

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Council

Fifty-Eighth Ordinary Session

Geneva, October 25, 2024

SESSIONS/2024/2**Original:** English**Date:** September 5, 2024**DEVELOPMENT OF GUIDANCE AND DOCUMENTS PROPOSED FOR ADOPTION BY THE COUNCIL***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***EXECUTIVE SUMMARY**

1. The purpose of this document is to report on developments and to invite the Council, Technical Committee (TC) and Administrative and Legal Committee (CAJ) to consider relevant matters and/or documents put forward for adoption in 2024.

2. This document is presented in two sections:

“I. Documents proposed for adoption by the Council in 2024” provides information and invites adoption of relevant documents by the Council, subject to agreement by the TC and/or the CAJ;

“II. Matters for consideration by the Technical Committee” reports on developments concerning possible future revisions of guidance and information materials under discussion at the TC.

3. The Council is invited to adopt the following documents in 2024:

I. DOCUMENTS PROPOSED FOR ADOPTION BY THE COUNCIL IN 2024

Documents for adoption by the Council, subject to agreement by the TC and the CAJ

(a) Information documents:

UPOV/INF/16 Exchangeable Software (Revision)

UPOV/INF/22 Software and Equipment Used by Members of the Union (Revision)

(b) Explanatory Notes:

UPOV/EXN/DEN Explanatory Notes on Variety Denominations under the UPOV Convention (Revision)

– *New variety denomination classes for Prunus and situations when a denomination should be compared with other classes within a genus*

(c) TGP documents:

TGP/7 Development of Test Guidelines (Revision)

– *Additional Standard Wording (ASW) 3 “Explanation of the growing cycle”*

TGP/12 Guidance on Certain Physiological Characteristics (Revision)

– *Equivalence table for states of expression in quantitative disease resistance characteristics in Test Guidelines*

Documents for adoption by the Council, subject to agreement by the CAJ

UPOV/EXN/PPM Explanatory Notes on Propagating Material under the UPOV Convention (Revision)

Other documents for adoption by the Council

UPOV/INF/6 Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision)

UPOV/INF-EXN List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision)

TGP/0 List of TGP documents and latest issue dates (Revision)

4. The Council is invited to note developments concerning possible future revisions of guidance and information materials under discussion at the TC, as set out in paragraphs 43 to 62.

II. MATTERS FOR CONSIDERATION BY THE TECHNICAL COMMITTEE

5. The Technical Committee is invited to consider developments concerning possible future revisions of guidance and information materials under discussion at the TC, as set out in paragraphs 43 to 62, namely:

- (a) Document TGP/5 “Experience and Cooperation in DUS Testing”, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” (Revision)
- (b) Document TGP/7: Development of Test Guidelines (Revision)
- (c) Access to plant material for the purpose of management of variety collections and DUS examination

6. The following abbreviations are used in this document:

CAJ: Administrative and Legal Committee
 TC: Technical Committee
 TWA: Technical Working Party for Agricultural Crops
 TWF: Technical Working Party for Fruit Crops
 TWM: Technical Working Party on Testing Methods and Techniques
 TWO: Technical Working Party for Ornamental Plants and Forest Trees
 TWV: Technical Working Party for Vegetables
 TWPs: Technical Working Parties
 WG-HRV: Working group on harvested material and unauthorized use of propagating material

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BACKGROUND

8. The approved guidance and information materials are published on the UPOV website at: http://www.upov.int/upov_collection/en/.

I. DOCUMENTS PROPOSED FOR ADOPTION BY THE COUNCIL IN 2024

Documents for adoption by the Council, subject to agreement by the TC and the CAJ

9. The following documents are proposed for adoption by the Council in 2024, subject to approval by the TC and the CAJ, at their sessions in 2024.

UPOV/INF/16: Exchangeable Software (Revision) (document UPOV/INF/16/13 Draft 1)

10. The procedure for inclusion of information in document UPOV/INF/16 is set out in Section 4 of that document. The Office of the Union issued on March 25, 2024, Circular E-24/006 to the designated persons of the members of the Union in the TC and the Council, inviting them to provide or update information regarding: (1) software developed or customized by members of the Union for PVP purposes that they would wish to make available to other members of the Union; and (2) the use of the software included in document UPOV/INF/16/12 "Exchangeable software". Replies were received from Australia, Belarus, Bolivia (Plurinational State of), China, Croatia and Sweden. Information provided or updated by members, in case any, is indicated in document UPOV/INF/16/13 Draft 1.

Software proposed for inclusion in document UPOV/INF/16

11. The TWM¹, at its second session, agreed to recommend to the TC, at its sixtieth session, the inclusion of the DUSCEL software in document UPOV/INF/16.

Program name	Programming language	Function (brief summary)	Source & contact details	Condition for supply	UPOV member(s) using the software	Application by user(s)
DUSCEL	EXCEL+VBA+UI	1. Trial Design 2. Checking abnormal data by validation, boxplot and standard deviation methods 3. Analysis of uniformity by off-type, relative variance, COYU 4. Converting original data to note by standard varieties 5. Analysis of stability by COYS 6. Analysis of distinctness by notes, measured data and images 7. Methods for verification of characteristics and trial by correlation coefficient, frequency distribution by notes or measured data 8. Estimation of optimal sample size 9. Image checking, processing and analysis	Mr. Kun Yang E-mail: yangkun@caas.cn	DUSCEL3.0 and 3.5 are offered free of charge. DUSCEL4.0 is offered at a fee. User manual and interface available in English	CN	All species

12. Subject to agreement by the TC, at its sixtieth session, and the CAJ, at its eighty-first session, an agreed revision of document UPOV/INF/16/12 "Exchangeable Software", would be put forward for adoption by the Council, at its fifty-eighth ordinary session on the basis of the proposed revisions presented in document UPOV/INF/16/13 Draft 1.

¹ TWM, second session, held via electronic means, from April 8 to 11, 2024. See document TWM/2/21 "Report", paragraphs 21 to 24.

13. *The Council is invited to adopt a revision of document UPOV/INF/16/12 “Exchangeable Software”, on the basis of document UPOV/INF/16/13 Draft 1, subject to agreement by the TC and the CAJ, at their sessions in 2024.*

*UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision)
(document UPOV/INF/22/11 Draft 1)*

14. The Office of the Union issued on March 25, 2024, circular E-24/006 to the designated persons of the members of the Union in the TC and the Council, inviting them to provide or update information on their use of existing software and equipment in document UPOV/INF/22/10 “Software used by members of the Union”. Replies were received from Belarus, Croatia, Paraguay, Spain, Sweden and Ukraine. Information provided or updated by members, in case any, is indicated in document UPOV/INF/22/11 Draft 1.

15. Subject to agreement by the TC, at its sixtieth session, and the CAJ, at its eighty-first session, an agreed revision of document UPOV/INF/22/10 “Software and equipment used by members of the Union”, would be put forward for adoption by the Council, at its fifty-eighth ordinary session, on the basis of the proposed revisions presented in document UPOV/INF/22/11 Draft 1.

16. *The Council is invited to adopt a revision of document UPOV/INF/22/10 “Software and equipment used by members of the Union”, on the basis of document UPOV/INF/22/11 Draft 1, subject to agreement by the TC and the CAJ, at their sessions in 2024.*

UPOV/EXN/DEN: Explanatory Notes on Variety Denominations under the UPOV Convention (Revision)

New variety denomination classes for *Prunus* and situations when a denomination should be compared with other classes within a genus

17. The TWPs, at their sessions in 2024, agreed with the proposal to create variety denomination classes for *Prunus*, as provided in Annex I to this document. The proposal includes draft guidance on situations when a denomination should be compared with other classes within a genus.

18. Subject to agreement by the TC, at its sixtieth session, and the CAJ, at its eighty-first session, an agreed version of document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/EXN/DEN/4) would be put forward for adoption by the Council, at its fifty-eighth ordinary session, on the basis of the proposed revisions presented in Annex I, section “Proposal: New variety denomination classes for *Prunus*”.

19. *The Council is invited to adopt a revision of document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/EXN/DEN/4), on the basis of the proposed revisions presented in Annex I, section “Proposal: New variety denomination classes for *Prunus*”, subject to agreement by the TC and the CAJ, at their sessions in 2024.*

TGP/7: Development of Test Guidelines (Revision)

Additional Standard Wording (ASW) 3 “Explanation of the growing cycle”

20. At their sessions in 2024, the TWV, TWO, TWA and TWF agreed with the proposal to amend the standard wording of growing cycle for “fruit species with clearly defined dormant period” in document TGP/7, ASW 3(a), as follows (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

“(a) Fruit species with clearly defined dormant period

“3.1.2 The growing cycle is considered to be the duration of a single growing season, beginning with the dormancy period, followed by bud burst (flowering and/or vegetative), flowering and fruit harvest and concluding when the following dormant period starts ~~ends with the swelling of new season buds.~~”

21. Subject to agreement by the TC, at its sixtieth session, and the CAJ, at its eighty-first session, an agreed version of document TGP/7 “Development of Test Guidelines” would be put forward for adoption by the Council, at its fifty-eighth ordinary session, on the basis of the proposed amendments set out in paragraph 20.

22. The Council is invited to adopt a revision of document TGP/7/9 “Development of Test Guidelines”, on the basis of the proposed amendments presented in paragraph 20, subject to agreement by the TC and the CAJ, at their sessions in 2024.

TGP/12: Guidance on Certain Physiological Characteristics (Revision)

Equivalence table for states of expression in quantitative disease resistance characteristics in Test Guidelines

23. The background to this matter is provided in Annex II to this document.

24. At its session in 2023, the TC agreed to invite the TWPs, at their sessions in 2024, to consider whether to amend document TGP/12 to include a table of equivalence of states of expression in Test Guidelines with terminology used in the vegetable seed sector. On the basis of the comments from the TWPs, at their sessions in 2024, a proposal is provided in Annex II to this document, section “Proposal”.

25. Subject to agreement by the TC, at its sixtieth session, and the CAJ, at its eighty-first session, an agreed version of document TGP/12 “Guidance on Certain Physiological Characteristics” would be put forward for adoption by the Council, at its fifty-eighth ordinary session, on the basis of the proposed amendments set out in Annex II to this document, section “Proposal”.

26. The Council is invited to adopt a revision of document TGP/12/4 “Guidance on Certain Physiological Characteristics”, on the basis of the proposed amendments presented in Annex II, section “Proposal”, subject to agreement by the TC and the CAJ, at their sessions in 2024.

Document for adoption by the Council, subject to agreement by the CAJ

27. The following document is proposed for adoption by the Council in 2024, subject to approval by the CAJ, at its session in 2024.

UPOV/EXN/PPM: Explanatory Notes on Propagating Material under the UPOV Convention (Revision) (document UPOV/EXN/PPM/2 Draft 1)

28. The Working Group on harvested material and unauthorized use of propagating material (WG-HRV), at its third meeting, held in Geneva on March 21, 2023, agreed to modify the section “Factors that have been considered in relation to propagating material” of document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention”, as presented below:

FACTORS THAT HAVE BEEN CONSIDERED IN RELATION TO PROPAGATING MATERIAL

The UPOV Convention does not provide a definition of “propagating material”. Propagating material encompasses reproductive and vegetative propagating material. The following are non-exhaustive examples of factors, one or more of which could be used to decide whether material is propagating material. Those factors should be considered in the context of each member of the Union and the particular circumstances.

- (i) plant or part of plants used for the variety reproduction;
- (ii) whether the material has been used to propagate the variety;
- (iii) whether the material has an innate capability of producing entire plants of the variety (e.g. seed, tubers);
- (iv) whether the material could be used as propagating material through the use of propagating techniques (e.g. cuttings, tissue culture);
- (v) whether there has been a custom/practice of using the material for propagating purposes or, as a result of new developments, there is a new custom/practice of using the material for that purpose;
- (vi) if, based on the nature and condition of the material and/or the form of its use, it can be determined that the material is “propagating material”;

- (vii) the variety material where conditions and mode of its production meet the purpose of reproduction of new plants of the variety but not of final consumption.

The above text is not intended as a definition of “propagating material”.

29. The WG-HRV agreed to propose to the CAJ, at its eighty-first session in October 2024, to approve the revision of the “Explanatory Notes on Propagating Material under the UPOV Convention” (document UPOV/EXN/PPM/1), as set out in paragraph 28 above, and presented in document UPOV/EXN/PPM/2 Draft 1 (see document WG-HRV/4/3 “Report”, paragraphs 6 and 7).

30. Subject to agreement by the CAJ at its eighty-first session, an agreed version of document UPOV/EXN/PPM “Explanatory Notes on Propagating Material under the UPOV Convention” would be put forward for adoption by the Council, at its fifty-eighth ordinary session, on the basis of the proposed revisions presented in document UPOV/EXN/PPM/2 Draft 1.

31. The Council is invited to adopt a revision of document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention”, on the basis of the proposed revisions presented in document UPOV/EXN/PPM/2 Draft 1, subject to agreement by the CAJ at its session in 2024.

Other documents for adoption by the Council

UPOV/INF/6: Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention (Revision) (document SESSIONS/2024/2, Annex VI)

32. Document UPOV/INF/6, Part II “Notes based on information materials concerning certain Articles of the 1991 Act of the UPOV Convention” includes extracts from explanatory notes.

33. The Council, at its fifty-seventh ordinary session, adopted a revision of document UPOV/EXN/EDV/2 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention” (document UPOV/EXN/EDV/3), on the basis of document UPOV/EXN/EDV/3 Draft 4.

34. The Council, at its fifty-eighth ordinary session, will be invited to adopt a revision of document UPOV/EXN/DEN/3 “Explanatory Notes on Variety Denominations under the UPOV Convention” (document UPOV/EXN/DEN/4), on the basis of the proposed revisions presented in Annex I, section “Proposal: New variety denomination classes for Prunus”, subject to agreement by the TC and the CAJ, at their sessions in 2024 (see paragraph 19 above).

35. The Council, at its fifty-eighth ordinary session, will be invited to adopt a revision of document UPOV/EXN/PPM/1 “Explanatory Notes on Propagating Material under the UPOV Convention”, on the basis of the proposed revisions presented in document UPOV/EXN/PPM/2 Draft 1, subject to agreement by the CAJ at its session in 2024 (see paragraph 31 above).

36. The revisions in document UPOV/EXN/EDV/3 adopted by the Council at its session in 2023, and the proposed revisions of documents UPOV/EXN/DEN/3 and UPOV/EXN/PPM/1 to be adopted by the Council at its session in 2024, will need to be reflected in a revised version of document UPOV/INF/6/6 (document UPOV/INF/6/7), as set out in Annex VI to this document.

37. The Council is invited to adopt a revision of document UPOV/INF/6 “Guidance for the preparation of laws based on the 1991 Act of the UPOV Convention” (document UPOV/INF/6/7), on the basis of the revisions in document UPOV/EXN/EDV/3 adopted by the Council at its session in 2023, and the proposed revisions of documents UPOV/EXN/DEN/3 and UPOV/EXN/PPM/1 to be adopted by the Council at its session in 2024, subject to agreement by the CAJ at its session in 2024, as set out in Annex VI to this document.

UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/18 Draft 1)

38. In conjunction with the information documents that the Council will be invited to adopt in 2024, it is proposed to adopt a revision of document UPOV/INF-EXN/17 "List of UPOV/INF-EXN Documents and Latest Issue Dates" on the basis of document UPOV/INF-EXN/18 Draft 1.

39. The Council is invited to adopt a revision of document UPOV/INF-EXN/17, on the basis of document UPOV/INF-EXN/18 Draft 1, subject to adoption of the documents concerned.

TGP/0: List of TGP documents and latest issue dates (Revision) (document TGP/0/16 Draft 1)

40. In conjunction with the adoption of the revised TGP documents by the Council in 2024, it is proposed to adopt a revision of document TGP/0 "List of TGP documents and latest issue dates" (document TGP/0/15) on the basis of document TGP/0/16 Draft 1.

41. The Council is invited to adopt a revision of document TGP/0/15, on the basis of document TGP/0/16 Draft 1 "List of TGP documents and latest issue dates", subject to adoption of the documents concerned.

42. The Council is invited to note developments concerning possible future revisions of guidance and information materials under discussion at the TC, as set out in paragraphs 43 to 62.

II. MATTERS FOR CONSIDERATION BY THE TECHNICAL COMMITTEE

43. The following section presents matters for consideration only by the Technical Committee.

TGP/5 "Experience and Cooperation in DUS Testing", Section 6 "UPOV Report on Technical Examination and UPOV Variety Description" (Revision)

Subsection "UPOV Variety Description", item 16 "Similar varieties and differences from these varieties"

44. At its session in 2023, the TC² agreed to invite the TWPs, at their sessions in 2024, to consider the proposal of the TWF to include additional explanations under item 16 "Similar varieties and differences from these varieties" and whether to provide further guidance on information about similar varieties considered in the examination.

45. Annex III to this document provides further background to this matter and comments from the TWPs, at their sessions in 2024.

Proposal

46. On the basis of the comments from the TWPs, at their sessions in 2024, the TC may wish to consider for inclusion in document TGP/5, Section 6, the following additional explanations on item 16 "Similar varieties and differences from these varieties" (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

"16. Similar Varieties and Differences from These Varieties

Denomination(s) of variety(ies) similar to the candidate variety	Characteristic(s) in which the candidate variety differs from the similar variety(ies) ¹⁾	State of expression of the characteristic(s) for the similar variety(ies) ²⁾	State of expression of the characteristic(s) for the candidate variety ²⁾
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¹⁾ ~~A similar variety(ies) should be indicated. If no similar variety was identified, 'none' should be stated.~~

²⁾ see document TC/59/28 "Report", paragraphs 33 and 34.

"2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing facility and period of testing indicated in 11 and 12."

[...]

"(d) Ad Number 16 (Annex: UPOV Variety Description)

"1) A similar variety(ies) should be indicated. If no similar variety was identified, 'none' should be stated.

"2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing station, place facility and period of testing indicated in 11 and 12.

"3) Only those characteristics that show sufficient differences to establish distinctness should be given. Information on differences between two varieties should always contain the states of expression with their notes for both varieties; if possible, in columns if more varieties are mentioned."

"4) In the case of identical states of expression of both varieties, please indicate the size of the difference."

47. The TC is invited to consider additional explanations for document TGP/5, Section 6, item 16 "Similar varieties and differences from these varieties", as provided in paragraph 46 of this document.

Subsection "UPOV Variety Description", item 17 "Additional Information"

48. At its session in 2023, the TC agreed to invite the TWPs, at their sessions in 2024, to consider a proposal to revise document TGP/5, Section 6, item 17 "Additional Information", and whether to provide further guidance on additional information that could be provided with variety descriptions.

Proposal

49. On the basis of the comments from the TWPs, at their sessions in 2024, the TC may wish to consider amending document TGP/5, Section 6, to introduce a new explanation to item 17 "Additional information" to read as follows (additions indicated with highlighting and underline):

"Ad. Number 17 (Annex: UPOV Variety Description)

"Further situations and type of additional information to be provided may be agreed bilaterally, according to the crop type and variety examined."

50. The TC is invited to consider a proposal to amend document TGP/5, Section 6, item 17 "Additional information", as provided in paragraph 49 of this document.

Structure of document TGP/5, Section 6 "UPOV Report on Technical Examination and UPOV Variety Description"

51. The TWA³, at its fifty-third session, noted that the "UPOV Report on Technical Examination" mentioned the "UPOV Variety Description" as its Annex. The TWA agreed to propose revising the structure of document TGP/5, Section 6 to clarify that the "UPOV Variety Description" was an Annex to the "UPOV Report on Technical Examination" and item 18 "Explanatory Notes to the Annex: UPOV Variety Description" was another separate section of the guidance.

52. Following the proposal from the TWA, the TC may wish to consider inviting the Office of the Union to revise the structure of document TGP/5, Section 6 to clarify that the "UPOV Variety Description" is an Annex to the "UPOV Report on Technical Examination" and item 18 "Explanatory Notes to the Annex: UPOV Variety Description" a separate section of the guidance.

53. The TC is invited to consider the proposal to revise the structure of document TGP/5, Section 6, as provided in paragraphs 51 and 52 of this document.

³ TWA, fifty-third session, held via electronic means from May 27 to 30, 2024. See document TWA/53/9 "Report", paragraph 13.

TGP/7: Development of Test Guidelines (Revision)

54. The background to this matter is provided in Annex IV to this document.

Additional Standard Wording (ASW) 7(b) “Number of plants / parts of plants to be examined”

55. At their sessions in 2024, the TWV, TWO, TWA and TWF considered the proposal to amend document TGP/7, ASW 7(b), on the number of parts to be examined from single plants, as reported in Annex IV to this document, paragraphs 6 to 15.

56. The TWF⁴, at its fifty-fifth session, agreed to invite the expert from France to compile examples when the number of parts required to be taken from each plant could be higher than defined in the Test Guidelines. The TWF agreed to invite the expert from France to explore options to indicate that the assessment of characteristics could be performed on different sample sizes according to the level of precision required.

57. The TC is invited to note discussions on possible amendments to document TGP/7, Additional Standard Wording (ASW) 7(b) “Number of plants / parts of plants to be examined”, as reported in Annex IV, paragraphs 6 to 15.

Guidance Note (GN) 28 “Example Varieties” – Example varieties for asterisked quantitative characteristics when illustrations are provided

58. The TWPs, at their sessions in 2024, considered a proposal to amend document TGP/7, Guidance Note (GN) 28 “Example Varieties” to address situations where illustrations could replace example varieties and their complementary role to clarify the states of expression of a characteristic. The report on comments of the TWPs, at their sessions in 2024, is provided in Annex IV to this document, paragraphs 15 to 25.

59. The TC is invited to note:

(a) discussions on a proposal to amend document TGP/7, Guidance Note (GN) 28 “Example Varieties” to address situations where illustrations could replace example varieties, as reported in Annex IV to this document, paragraphs 15 to 25; and

(b) the invitation for the drafter from Germany to provide further explanations on the criteria for decision and examples when illustrations could replace example varieties.

Access to plant material for the purpose of management of variety collections and DUS examination

60. The background to this matter is provided in Annex V to this document.

61. The TWPs, at their sessions in 2024, considered elements for inclusion in requests for submission of plant material of candidate varieties and varieties of common knowledge for DUS examination, as reported in Annex V to this document, paragraphs 4 to 11.

62. The TC is invited to note discussions on elements for inclusion in requests for the submission of plant material of candidate varieties and varieties of common knowledge for DUS examination, as reported in Annex V, paragraphs 4 to 11.

[Annexes follow]

⁴ TWF, fifty-fifth session, held via electronic means from June 3 to 6, 2024. See document TWF/55/9 “Report”, paragraph 24.

ANNEX I

REVISION OF DOCUMENT UPOV/EXN/DEN/3: "EXPLANATORY NOTES ON VARIETY DENOMINATIONS UNDER THE UPOV CONVENTION" (DOCUMENT UPOV/EXN/DEN/4)

New variety denomination classes for *Prunus* and situations when a denomination should be compared with other classes within a genus*Background*

1. The genus *Prunus* currently follows the General Rule (one genus/one denomination class)¹.
2. At its session in 2023, the TC considered the creation of new variety denomination classes within the genus *Prunus*. The TC considered the proposed explanation that "denominations of interspecific hybrids must be different from denominations in the denomination classes of all the parent species" and agreed that the situation was applicable to all the genera in the list of classes within a genus and not only to *Prunus*. The TC agreed to invite the TWPs, at their sessions in 2024, to consider other situations when a denomination should be compared with denominations in other classes within a genus or the entire genus (see document TC/59/28 "Report", paragraphs 23 to 25).

Discussions by the TWPs in 2024

3. At their sessions in 2024, the TWV, TWO, TWA and TWF agreed that the situation described for *Prunus* would be applicable to denominations in other classes within a genus, i.e. denominations of interspecific hybrids should be different from those in the classes of all parent species; and denominations for varieties from one of the "Classes within a genus" should be different from denominations of interspecific hybrids with one parent in that class (see documents TWV/58/11 "Report", paragraphs 6 and 7; TWO/56/9 "Report", paragraphs 6 to 9; TWA/53/9 "Report", paragraphs 6 to 8 and TWF/55/9 "Report", paragraphs 6 to 10).
4. The TWO noted that applications for ornamental varieties were often filed with information on the genus only and agreed that, in such a case, the variety denominations should be different from other denominations within that genus. The TWA and TWF agreed that applications filed with information on the genus only for the genera included in the list of "Classes within a genus" should be different from other denominations within that genus.
5. The TWO recalled that UPOV guidance on variety denominations followed the general rule of "one genus/one class". The TWO agreed to invite the Netherlands (Kingdom of) to inform the IUBS Commission responsible for the International Code for the Nomenclature of Cultivated Plants (ICNCP) about the exceptions introduced to the general rule for the purpose of plant variety protection.
6. The TWF noted the existence of other species regarded as plums and agreed that the new denomination class 6.2 should include *Prunus cerasifera*, *P. insititia*, *P. maritima* and *P. subcordata*.
7. The TWF agreed that the UPOV codes for interspecific hybrids of *Prunus* should be indicated in the GENIE database as belonging to the denomination classes of all the parent species.

Proposal: New variety denomination classes for Prunus

8. On the basis of comments from the TWPs, at their sessions in 2024, it is proposed to create variety denomination classes for *Prunus*, as provided below. The proposal includes draft guidance on situations when a denomination should be compared with other classes within a genus, as follows:

¹ "Explanatory Notes on Variety Denominations under the UPOV Convention" (document UPOV/EXN/DEN/3) states that "2.5.2 The variety denomination classes are as follows:
 "(a) General Rule (one genus / one class): for genera and species not covered by the List of Classes in Annex I, a genus is considered to be a class;
 "(b) Exceptions to the General Rule (list of classes):
 "(i) classes within a genus: List of classes in Annex I: Part I;
 "(ii) classes encompassing more than one genus: List of classes in Annex I: Part II."

LIST OF CLASSES

Part I*Classes within a genus*

“The following applies to denominations in the list of classes within a genus:

“a) The general rule of “one genus / one class” should apply to varieties identified at the genus level only: the proposed denomination should be different from all denominations in all classes within that genus.

“b) The proposed denomination of interspecific hybrids with parents from different classes within a genus, must be different from denominations in the classes within a genus of all parents of the interspecific hybrid.

“c) The registered denomination of an interspecific hybrid variety with parents from different classes within a genus should be introduced in all the classes within a genus of the parent species. The UPOV code for an interspecific hybrid variety with parents from different classes within a genus should be associated with the variety denomination classes of all the parent species.

	<u>Botanical names</u>	<u>UPOV codes</u>
	[...]	
New Class 6.1	<i>Prunus avium</i> (L.) L. <i>Prunus cerasus</i> L.	PRUNU_AVI PRUNU_CSS In the case of interspecific hybrids, the classes of all parent species should be considered.
New Class 6.2	<i>Prunus armeniaca</i> L. <i>Prunus cerasifera</i> Ehrh <i>Prunus domestica</i> L. <i>Prunus maritima</i> Marshall <i>Prunus mume</i> Siebold & Zucc. <i>Prunus salicina</i> Lindley <i>Prunus subcordata</i> Benth.	PRUNU_ARM PRUNU_CSF PRUNU_DOM PRUNU_MAR PRUNU_MUM PRUNU_SAL In the case of interspecific hybrids, the classes of all parent species should be considered.
New Class 6.3	<i>Prunus dulcis</i> (Mill.) D. A. Webb <i>Prunus persica</i> (L.) Batsch.	PRUNU_DUL PRUNU_PER In the case of interspecific hybrids, the classes of all parent species should be considered.
New Class 6.4	<i>Prunus</i> other than classes 6.1, 6.2 and 6.3, including PRUNU in more than one class.	other than classes 6.1, 6.2 and 6.3, including PRUNU in more than one class.

9. The proposal does not mention *Prunus insititia* as it has been reclassified as a synonym of *P. domestica* L. subsp. *insititia* (L.) C. K. Schneid and is therefore contained within *P. domestica* L. (PRUNU_DOM). There is currently no UPOV code for *Prunus subcordata* as no varieties have been reported by data contributors to the PLUTO database.

10. The creation of variety denomination classes for *Prunus* should be followed by updating the variety denomination classes of UPOV codes for the interspecific hybrids of *Prunus*, which should be indicated in the GENIE database as belonging to the denomination classes of all the parent species used in the respective crossings.

[Annex II follows]

ANNEX II

DOCUMENT TGP/12: GUIDANCE ON CERTAIN PHYSIOLOGICAL CHARACTERISTICS (REVISION)

Equivalence table for states of expression in quantitative disease resistance characteristics in Test Guidelines*Background*

1. At its session in 2023, the TWV¹ received a presentation on “Disease resistance characteristics” by an expert from Euroseeds, on behalf of CropLife International, Euroseeds and the International Seed Federation (ISF). A copy of the presentation is presented in document TWV/57/10 Add. (see document TWV/57/26 “Report”, paragraphs 25 to 28).
2. The TWV noted that the terminology used in the condensed scale of notes (notes 1; 2; 3) for quantitative disease resistance characteristics in UPOV Test Guidelines differed from the terminology used in the vegetable seed sector. The TWV agreed that the following table provided the equivalence of states of expression in UPOV Test Guidelines with the terminology used in the vegetable seed sector²:

Equivalence of states of expression in UPOV Test Guidelines with the terminology used in the vegetable seed sector		
	State of expression in UPOV Test Guidelines	Terminology used in the vegetable seed sector ³
UPOV notes	Resistance to (disease resistance name) is:	Reaction of a plant variety to a specific pest is:
1	absent or low	Susceptibility (S)
2	medium	Intermediate Resistance (IR)
3	high	High Resistance (HR)

3. The TWV agreed to propose that the table of equivalence be added to document TGP/12 “Guidance on Certain Physiological Characteristics” as part of the explanations to the Standard Resistance Protocol in that document. The TWV agreed that the same table should be included in explanations for quantitative disease resistance characteristics when the condensed scale of notes was used.
4. At its session in 2023, the TC⁴ considered the proposal from the TWV. The TC agreed to invite the TWPs, at their sessions in 2024, to consider whether to amend document TGP/12 to include a table of equivalence of states of expression in Test Guidelines with terminology used in the vegetable seed sector.
5. The TC agreed to invite the TWPs to consider whether to add an explanation that the table could be used in case of equivalence between the states of expression according to the method described in the explanation of the characteristic (Section 8.2 of the Test Guidelines).

Consideration by the Technical Working Parties (TWPs) in 2024

6. At their sessions in 2024, the TWV, TWA and TWF agreed with the proposal to amend document TGP/12 “Guidance on Certain Physiological Characteristics” to include a table of equivalence of states of expression in Test Guidelines with terminology used in the vegetable seed sector, as presented in paragraph 2 above.
7. The TWV agreed with the proposal to add an explanation in document TGP/12 that the table could be used as a reference in case of equivalence between the states of expression according to the method described in the explanation of the characteristic in Section 8.2 of the Test Guidelines.
8. The TWA agreed with the proposal to add an explanation that the table could only be used in case of known equivalence between the states of expression according to the method described in the explanation of the characteristic in Section 8.2 of the Test Guidelines.

¹ TWV, fifty-seventh session, held in Antalya, Türkiye, from May 1 to 5, 2023.

² see document TWV/57/26 “Report”, paragraphs 25 to 28.

³ source: <https://worldseed.org/>

⁴ see document TC/59/28 “Report”, paragraphs 41 and 42.

9. The TWO noted that, in general, disease resistance characteristics were not used in ornamental plants and agreed there was not enough experience among experts in the meeting to provide a particular view on the proposal.

10. The TWF agreed with the TWA that guidance in document TGP/12 should clarify that the use of the table should be determined on a case-by-case basis and the terminology used in the vegetable sector would not represent a general equivalence of states of expression in Test Guidelines.

Proposal

11. On the basis of the comments from the TWP, at their sessions in 2024, it is proposed to include the following table and explanations on “equivalence of states of expression in Test Guidelines with terminology used in the vegetable seed sector” to document TGP/12, Section 2.3.2 “Quantitative characteristics”:

“2.3.2 Quantitative characteristics

[...]

“The terminology used for quantitative disease resistance characteristics in Test Guidelines may differ from the vegetable seed sector. This may relate to the division of range or wording of states of expression.

“There is no general equivalence between states of expression in Test Guidelines and the terminology used in the vegetable sector. The equivalence can be established on a case-by-case basis according to the method of assessment of the characteristic provided in Section 8.2 of the Test Guidelines (“Explanation for individual characteristics”).

“The following table provides a reference in case of equivalence between the states of expression for quantitative disease resistance characteristics in Test Guidelines and the terminology used in the vegetable seed sector:

“Table 2: States of expression in Test Guidelines and terminology used in the vegetable seed sector:

	States of expression in Test Guidelines	Terminology used in the vegetable seed sector ⁵
notes	Resistance to [disease name]:	Reaction of a plant variety to a specific pest is:
1	absent or low	Susceptibility (S)
2	medium	Intermediate Resistance (IR)
3	high	High Resistance (HR)

[Annex III follows]

⁵ source: <https://worldseed.org/>

ANNEX III

DOCUMENT TGP/5 “EXPERIENCE AND COOPERATION IN DUS TESTING”, SECTION 6
“UPOV REPORT ON TECHNICAL EXAMINATION AND UPOV VARIETY DESCRIPTION” (REVISION)SUBSECTION “UPOV VARIETY DESCRIPTION”
ITEM 16 “SIMILAR VARIETIES AND DIFFERENCES FROM THESE VARIETIES”*Background*

1. To facilitate cooperation in DUS testing as considered appropriate by members of the Union, UPOV has developed document TGP/5 “Experience and Cooperation in DUS Testing”, which contains Section 6 “UPOV Report on Technical Examination and UPOV Variety Description”. Document TGP/5, Section 6, provides an information template for authorities to take into account the results of growing trials, or other tests, which have already been carried out by another member of the Union.

2. The “UPOV Variety Description” in document TGP/5, Section 6, invites the reporting authority to provide the following information under item 16:

“16. Similar Varieties and Differences from These Varieties

Denomination(s) of variety(ies) similar to the candidate variety	Characteristic(s) in which the candidate variety differs from the similar variety(ies) ¹⁾	State of expression of the characteristic(s) for the similar variety(ies) ²⁾	State of expression of the characteristic(s) for the candidate variety ²⁾
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“1) In the case of identical states of expression of both varieties, please indicate the size of the difference.

“2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing station, place and period of testing indicated in 11 and 12.”

3. The following explanation is provided on item 16 “Similar varieties and differences from these varieties”:

“(d) Ad Number 16 (Annex: UPOV Variety Description)

“Only those characteristics that show sufficient differences to establish distinctness should be given. Information on differences between two varieties should always contain the states of expression with their notes for both varieties; if possible, in columns if more varieties are mentioned.”

4. At its session in 2023, the TWF¹ considered document TWF/54/7 “Cooperation in examination”, presented by an expert from New Zealand (see document TWF/54/13 “Report”, paragraphs 17 and 18).

5. The TWF agreed to propose amending document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” to provide further guidance on information about similar varieties considered in the examination.

6. The TWF agreed to propose including the following additional explanations under item 16 “Similar varieties and differences from these varieties” to clarify which varieties should be reported in the UPOV variety description (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

- All similar/closest/reference varieties as determined by the Examiner. If there is no such variety(s), a sentence such as “No similar/closest variety was identified in the growing trial” should be stated.
- Only varieties which have been tested under the same growing conditions as the candidate variety.
- Varieties that express the least number of characteristic differences from the candidate variety.
- All characteristics are treated equally, with all characteristics providing distinctness to be included for each similar variety.

¹ TWF, fifty-fourth session, held in Nîmes, France, from July 3 to 7, 2023.

7. At its session in 2023, the TC² agreed to invite the TWP, at their sessions in 2024, to consider the proposal of the TWF to include additional explanations under item 16 “Similar varieties and differences from these varieties” and whether to provide further guidance on information about similar varieties considered in the examination.

Comments of the Technical Working Parties in 2024

8. At their sessions in 2024, the TWV, TWO, TWA and TWF considered the additional explanations proposed for inclusion under Item 16 “Similar varieties and differences from these varieties” in the “UPOV Variety Description (see document TWP/8/1, paragraphs 15 to 18).

9. The TWV agreed that information on similar varieties and differences from the candidate variety were important to facilitate cooperation and the exchange of DUS test reports.

10. The TWV agreed that variety descriptions should always provide information on most similar varieties, even if it was a parent or sibling of the candidate. The TWV agreed that the lack of information in item 16 led to uncertainty whether the variety description had been duly filled. The TWV agreed that a standard wording should be developed for such situations.

11. The TWO agreed with the TWV that it would not be practical to report in a variety description all the varieties in a collection or a list of varieties tested along with a candidate variety.

12. The TWO agreed that item 16 in variety descriptions should not be left unanswered and agreed to propose the first bulleted point to read as follows:

- All similar/closest/reference varieties ~~should be considered as determined by the Examiner~~. If there is no such variety(s), a sentence such as “No similar/closest variety was identified in the growing trial” should be stated.

13. The TWA agreed with the TWO that item 16 “Similar varieties and differences from these varieties” should not be left unanswered in variety descriptions.

14. The TWF agreed with the TWA that the first proposed additional explanation to item 16 should read:

“A similar variety/varieties should be indicated. If no similar variety was identified, ‘none’ should be stated.”

15. The TWO recalled that the current explanation in Section 16, paragraph 2 provided as follows:

“2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing station, place and period of testing indicated in 11 [Testing facility(ies) and location(s)] and 12 [Period of testing].”

16. The TWO agreed that the following proposed explanation in the second bullet point should not be included in the guidance as it could create confusion in relation to varieties not grown in the same trial:

- “Only varieties which have been tested under the same growing conditions as the candidate variety”

17. The TWF agreed that the situation described in the second proposed additional explanation was already addressed in Section 16, paragraph 2 and should not be included in the guidance.

18. The TWO agreed that the wording in the third bullet should be improved to explain that “information on the closest similar variety(ies) to the candidate should be provided”, instead of “varieties that express the least number of characteristic differences from the candidate variety.”

19. The TWO agreed that information provided under item 16 should list the most relevant characteristics where the candidate differed from the most similar varieties. The TWO agreed that the proposal in the last bullet point (reproduced below) should not be included in the guidance as it could lead to extensive lists with characteristics with only small differences between the candidate and most similar varieties.

² see document TC/59/28 “Report”, paragraphs 33 and 34.

- “All characteristics are treated equally, with all characteristics providing distinctness to be included for each similar variety.”

20. The TWA agreed that the second and third proposed additional explanations should not be included in the guidance. The TWA agreed that the last proposed additional explanation and the last bullet point should be amended to read:

“All characteristics where differences have been observed should be indicated.”

21. The TWF agreed that the remaining two proposed additional explanations should be replaced by the following: “All characteristics providing distinctness between the closest / similar variety(ies) to the candidate should be provided.”

Proposal

22. On the basis of the comments from the TWPs, at their sessions in 2024, the TC may wish to consider amending in document TGP/5, Section 6, the explanation on item 16 “Similar varieties and differences from these varieties” to read as follows (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strike through~~):

“16. Similar Varieties and Differences from These Varieties

Denomination(s) of variety(ies) similar to the candidate variety	Characteristic(s) in which the candidate variety differs from the similar variety(ies) ¹⁾	State of expression of the characteristic(s) for the similar variety(ies) ²⁾	State of expression of the characteristic(s) for the candidate variety ²⁾
--	--	---	--

“1) A similar variety(ies) should be indicated. If no similar variety was identified, ‘none’ should be stated.

“2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing ~~station, place~~ facility and period of testing indicated in 11 and 12.”

“3) Only those characteristics that show sufficient differences to establish distinctness should be given. Information on differences between two varieties should always contain the states of expression with their notes for both varieties; if possible, in columns if more varieties are mentioned.

[...]

~~“(d) Ad Number 16 (Annex: UPOV Variety Description)~~

~~“Only those characteristics that show sufficient differences to establish distinctness should be given. Information on differences between two varieties should always contain the states of expression with their notes for both varieties; if possible, in columns if more varieties are mentioned.”~~

23. Following the proposal from the TWA, the TC may wish to consider inviting the Office of the Union to revise the structure of document TGP/5, Section 6 to clarify that the “UPOV Variety Description” is an Annex to the “UPOV Report on Technical Examination” and item 18 “Explanatory Note to the Annex: UPOV Variety Description” a separate section of the guidance.

SUBSECTION “UPOV VARIETY DESCRIPTION”, ITEM 17 “ADDITIONAL INFORMATION”

Background

24. The “UPOV Variety Description” in document TGP/5, Section 6, invites the reporting authority to provide the following information under item 17 “Additional information”:

“17. Additional Information

- “(a) Additional Data
- “(b) Photograph (if appropriate)
- “(c) RHS Colour Chart version used (if appropriate)
- “(d) Remarks”

25. At its session in 2023, The TWO³ considered document TWO/55/6 presented by an expert from New Zealand (see document TWO/55/11 “Report”, paragraphs 21 to 25). The TWO considered the proposal presented in document TWO/55/6 “Information required to enhance the use of existing DUS test reports” to amend document TGP/5, Section 6 “UPOV variety description”, item 17 “Additional information” to include examples of “(a) additional data” that could be provided with variety descriptions.

26. The TWO agreed to propose that the following non-exhaustive list of examples of additional data was considered for inclusion in document TGP/5, Section 6 (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

“(a) Additional Data (e.g. COYU or COYD results, measured data supporting certain characteristics, scales for measured characters for example varieties)”

27. The TWO agreed to propose including the following additional element in the list of “Additional Information” under Section 17 of document TGP/5, Section 6:

“(d) Example varieties used in testing in the growing trial”

28. At its session in 2023, the TC agreed to invite the TWPs, at their sessions in 2024, to consider the following revision to document TGP/5, Section 6, item 17 “Additional information”, and whether to provide further guidance on additional information for variety descriptions (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

17. Additional Information

- (a) Additional Data (e.g. COYU or COYD results, measured data supporting certain characteristics, scales for measured characters for example varieties)
- (b) Photograph (if appropriate)
- (c) RHS Colour Chart version used (if appropriate)
- (d) Examples varieties used in testing
- (e) Remarks

Comments of the Technical Working Parties in 2024

29. At their sessions in 2024, the TWV, TWO, TWA and TWF considered the additional explanations proposed for inclusion under item 17 “Additional Information” in the “UPOV Variety Description”, as set out in paragraph 28 above.

30. The TWV agreed with the proposal.

31. The TWO noted that some examples provided under “(a) Additional Data” were not common to ornamental plants, such as COYU or COYD results. The TWF agreed with the TWV and TWO that the elements provided under item 17 “Additional information” were examples to be considered on a case-by-case basis, as appropriate, according to crop type and variety described.

32. The TWA agreed that the examples provided along with “(a) Additional Data” were not appropriate and should not be included in the guidance.

33. The TWA considered the new proposed item “(d)” and agreed that it was not possible to support its inclusion before further clarification was provided on the situations when this information should be provided.

34. The TWA agreed that further information to be exchanged between authorities in variety examination reports should be agreed bilaterally.

³ TWO, fifty-fifth session, held via electronic means from June 12 to 16, 2023.

Proposal:

35. On the basis of the comments from the TWPs, at their sessions in 2024, the TC may wish to consider amending document TGP/5, Section 6, item 17 “Additional information” as follows (additions indicated with highlighting and underline):

“17. Additional Information

- “(a) Additional Data
- “(b) Photograph (if appropriate)
- “(c) RHS Colour Chart version used (if appropriate)
- “(d) Remarks”

“Further situations and type of additional information to be provided may be agreed bilaterally, according to the crop type and variety examined.”

STRUCTURE OF DOCUMENT TGP/5,
SECTION 6 “UPOV REPORT ON TECHNICAL EXAMINATION AND
UPOV VARIETY DESCRIPTION”

36. The TWA⁴, at its fifty-third session, noted that the “UPOV Report on Technical Examination” mentioned the “UPOV Variety Description” as its Annex. The TWA agreed to propose revising the structure of document TGP/5, Section 6 to clarify that the “UPOV Variety Description” was an Annex to the “UPOV Report on Technical Examination” and item 18 “Explanatory Note to the Annex: UPOV Variety Description” was another separate section of the guidance.

37. Following the proposal from the TWA, the TC may wish to consider inviting the Office of the Union to revise the structure of document TGP/5, Section 6 to clarify that the “UPOV Variety Description” is an Annex to the “UPOV Report on Technical Examination” and item 18 “Explanatory Note to the Annex: UPOV Variety Description” a separate section of the guidance.

[Annex IV follows]

⁴ TWA, fifty-third session, held via electronic means from May 27 to 30, 2024. See document TWA/53/9 “Report”, paragraph 13.

DOCUMENT TGP/7 “DEVELOPMENT OF TEST GUIDELINES” (REVISION)

ADDITIONAL STANDARD WORDING (ASW) 3 “EXPLANATION OF THE GROWING CYCLE”

1. At its session in 2023, the TC¹ agreed to invite the TWPs, at their sessions in 2024, to consider whether to amend the current standard wording of growing cycle for “fruit species with clearly defined dormant period”, to read as follows (additions indicated with highlighting and underline; and deletions indicated with highlighting and ~~strikethrough~~):

“(a) Fruit species with clearly defined dormant period

“3.1.2 The growing cycle is considered to be the duration of a single growing season, beginning with the dormancy period, followed by bud burst (flowering and/or vegetative), flowering and fruit harvest and concluding when the following dormant period starts ~~ends with the swelling of new season buds.~~”

2. At their sessions in 2024, the TWV, TWO, TWA and TWF agreed with the proposal to amend the standard wording of growing cycle for “fruit species with clearly defined dormant period” in document TGP/7, ASW 3(a), as set out in paragraph 1. The TWV and TWA noted that the situation was not common in vegetables and agricultural crops.

ADDITIONAL STANDARD WORDING (ASW) 7(B)
“NUMBER OF PLANTS / PARTS OF PLANTS TO BE EXAMINED”

Background

3. Chapter 4 of the Test Guidelines refers to the assessment of distinctness. Section 4.1.4 provides information on the number of plants or parts of plants to be examined. The following standard wording is provided in all Test Guidelines, where “{ x }” is the number of plants or parts of plants to be observed:

“Unless otherwise indicated, for the purposes of distinctness, all observations on single plants should be made on { x } plants or parts taken from each of { x } plants and any other observations made on all plants in the test, disregarding any off-type plants.”

4. The following additional sentence may be added, where appropriate (Additional Standard Wording (ASW) 7(b)):

“In the case of observations of parts taken from single plants, the number of parts to be taken from each of the plants should be { y }.”

5. At the request of the TWF, at its session in 2023, the TC² agreed to invite the TWPs, at their sessions in 2024, to consider a proposal to amend ASW 7(b) to clarify that the number provided was an indication of minimum quantity, to read as follows:

“In the case of observations of parts taken from single plants, the number of parts to be taken from each of the plants should be at least { y }.”

Comments of the Technical Working Parties in 2024

6. At their sessions in 2024, the TWV, TWO, TWA and TWF considered the proposal to amend document TGP/7, ASW 7(b), on the number of parts to be examined from single plants.

7. The TWV agreed that the number of parts to be taken from each plant was particularly relevant for assessments on small sample sizes. The TWV agreed that more information would be required on any consequences for international harmonization of not having a precise value provided in the Test Guidelines.

8. The TWO noted that the ASW 7(b) was not often used for ornamental plants and agreed with the TWV that the number of parts to be taken from each plant was particularly relevant for assessments on small sample

¹ see document TC/59/28 “Report”, paragraph 39.

² see document TC/59/28 “Report”, paragraph 40.

sizes and that more information would be required on any consequences for international harmonization of not having a precise value provided in the Test Guidelines.

9. The TWA agreed that it would not be appropriate to amend the additional standard wording ASW 7(b). The TWA agreed that ASW 7(b) should provide a defined number of plant parts to be observed for all characteristics in the Test Guidelines. The TWA agreed that in case different numbers of parts of plants should be observed for individual characteristics, they should be provided in Section 8 “Explanations on the Table of Characteristics”.

10. The TWF noted the guidance in document TGP/9 “Examining Distinctness” on number of plants and precision of records and the comments from the TWV, TWO and TWA on possible consequences for international harmonization of not providing a defined number of plant parts to be observed in Test Guidelines.

11. The TWF recalled that the assessment of characteristics in fruit crops was often based on three or five plants. The TWF agreed that sample sizes were increased with additional parts taken from each plant (internal replicates), such as leaves and fruits.

12. The TWF noted that the wording in ASW 7(b) provided a defined number of parts of plants to be observed for all characteristics in the Test Guidelines, unless otherwise indicated. The TWF agreed that certain characteristics such as fruit shape could require higher number of parts to be taken from each plant than defined in ASW 7(b).

13. The TWF considered different approaches to indicate different number of parts to be taken from each plant, such as according to the type of variety (e.g. resulting from crossing or mutation) as provided in the Test Guidelines for Apricot and Maize; explanations for individual characteristics; and indication of alternative methods of assessment (e.g. “MS/VG”).

14. The TWF noted the report from France that higher number of parts taken from each plant than defined in Test Guidelines could be used for increased precision of distinctness assessments in some cases. The TWF agreed that such procedure could be used in particular cases and should not increase the sample size determined in Test Guidelines for routine examinations.

15. The TWF agreed to invite the expert from France to compile examples when the number of parts required to be taken from each plant could be higher than defined in the Test Guidelines. The TWF agreed to invite the expert from France to explore options to indicate that the assessment of characteristics could be performed on different sample sizes according to the level of precision required.

GUIDANCE NOTE (GN) 28 “EXAMPLE VARIETIES” – EXAMPLE VARIETIES FOR ASTERISKED QUANTITATIVE CHARACTERISTICS WHEN ILLUSTRATIONS ARE PROVIDED

Background

16. At its session in 2023, the TC noted discussions on possible amendments to document TGP/7, GN 28 “Example Varieties” reported in document SESSIONS/2023/2, Annex III. The TC noted that the TWA had invited the expert from Germany to draft a proposal to amend the guidance in document TGP/7, GN 28, concerning the situations where illustrations could replace example varieties and their complementary role to clarify the states of expression of a characteristic for consideration at the TWP, at their sessions in 2024.

Comments of the Technical Working Parties in 2024

17. At their sessions in 2024, the TWV, TWO, TWA and TWF considered documents TWV/58/10, TWO/56/7, TWA/53/8 and TWF/55/8, respectively, presented by an expert from Germany.

18. The TWV, TWA and TWF agreed that Test Guidelines should have as much information as possible, including both example varieties and illustrations.

19. The TWV agreed that illustrations provided additional information and could be more informative than example varieties, in some cases.

20. The TWO agreed with the TWV agreed that illustrations were particularly useful when the example varieties in Test Guidelines were not available or not suitable for cultivation in certain growing conditions.

21. The TWV agreed with the proposal to provide further guidance on the situations where illustrations would complement or could replace example varieties.
22. The TWV and TWA considered paragraphs 2.1 to 2.3 of the proposal and agreed to invite the drafter from Germany to provide further explanation on the criteria for decision or examples when illustrations could replace example varieties.
23. The TWO recalled the examples provided previously on situations when illustrations could replace example varieties, as provided in the Annex to document TWO/56/7 and agreed to invite the drafter from Germany to consider their inclusion in the next draft of the guidance.
24. The TWF noted that restrictions to international movement of plant material could restrict access to plant material of example varieties of fruit crops. The TWF agreed with the TWV, TWA and TWO that illustrations were particularly useful when the example varieties in Test Guidelines were not available or not suitable for cultivation in certain growing conditions.
25. The TWF considered situations when illustrations could replace example varieties and recalled guidance on the development of regional sets when a universal set of example varieties applicable to all UPOV members was not appropriate.

[Annex V follows]

ANNEX V

ACCESS TO PLANT MATERIAL FOR THE PURPOSE OF MANAGEMENT OF VARIETY COLLECTIONS
AND DUS EXAMINATION*Background*

1. At its session in 2023, the TC¹ considered the proposal from the TWF to develop guidance on elements for inclusion in requests for the submission of plant material of candidate varieties and varieties of common knowledge for DUS examination.
2. The TC agreed that it would not be appropriate to include the proposed guidance in document TGP/5, Section 11 "Examples of policies and contracts for material submitted by the breeder". The TC agreed that a suitable place to make this information available should be identified and not necessarily in a TGP document.
3. The TC agreed to invite the TWPs, at their sessions in 2024, to consider the elements proposed by the TWF and further experiences and policies on requesting plant material from breeders, as follows:
 - Letter to be addressed to the PVP holder of the variety or their formal representative in the territory
 - Technical details, especially quality, quantity, date and place of submission. In the fruit sector, material of the desired quality often may need to be organized more than one year in advance. The authority should accept some flexibility in its availability.
 - Detailed explanation of the purpose
 - Variety collection
 - Side by side comparison with a potentially similar candidate variety
 - What will and will not be done with the material during and after the trial, including DNA sampling and DNA profiles
 - Responsible body to enforce the policy is the PVP authority
 - Triggering purpose is the DUS test
 - Physical location of the material, possibility to have access for the owner, description of due care and cultivation circumstances
 - Ownership of the material
 - Clarification of possible other uses, e.g. other official purposes, which ones
 - Under which circumstances the material may be made available to another party/authority
 - Clarification of situations requiring or not the consent from the breeder
 - Who has access to the material
 - Which information will need to be made available to the public as a requirement (photographs, descriptions)

Comments of the Technical Working Parties in 2024

4. The TWV, TWO, TWA and TWF considered the proposed elements for inclusion in requests for the submission of plant material of candidate varieties and varieties of common knowledge for DUS examination, as set out in paragraph 3 above.
5. The TWV noted the experiences reported with a model request for the submission of plant material from plant breeders based on existing regulations in the European Union and France.
6. The TWV agreed that information on the reasons for the request and intended use of the plant material could facilitate its provision by breeders. The TWV agreed to invite further information on experiences with requests for the submission of plant material to be considered in future meetings.
7. The TWV noted the reports from Germany and Japan on the existence of particular requirements from domestic regulations and agreed that it would not be appropriate to develop guidance on the matter at this stage.

¹ see document TC/59/28 "Report", paragraphs 35 to 37.

8. TWO agreed that the elements provided in the document were useful examples in case of difficulty to obtain plant material for examination of ornamental plants.
9. The TWO noted the experiences reported by the European Union and Germany with requests for the submission of plant material of candidate varieties and varieties of common knowledge and agreed there was no need for further guidance to be developed on this topic.
10. The TWA agreed with the TWO that there was no need for further guidance to be developed on this topic.
11. The TWF agreed to invite further information on experiences with requests for the submission of plant material to be reported in future meetings.

[Annex VI follows]

ANNEX VI

PROPOSED AMENDMENTS TO
DOCUMENT UPOV/INF/6/6 "GUIDANCE FOR THE PREPARATION OF LAWS
BASED ON THE 1991 ACT OF THE UPOV CONVENTION" (DOCUMENT UPOV/INF/6/7)

NOTES ON ARTICLE 14(1) ACTS IN RESPECT OF THE PROPAGATING MATERIAL

Subject to approval by the Council, at its fifty-eighth ordinary session, of the revision of document UPOV/EXN/PPM/1 "Explanatory Notes on Propagating Material under the UPOV Convention" (presented in document UPOV/EXN/PPM/2 Draft 1), to replace the text of "NOTES ON ARTICLE 14(1)" with the new text of document UPOV/EXN/PPM/2.

NOTES ON ARTICLE 14(5) ESSENTIALLY DERIVED AND CERTAIN OTHER VARIETIES

To replace the text of "NOTES ON ARTICLE 14(5)" with the new text of document UPOV/EXN/EDV/3 approved by the Council, at its fifty-seventh ordinary session.

NOTES ON ARTICLE 20 VARIETY DENOMINATION

Subject to approval by the Council, at its fifty-eighth ordinary session, of the revision of document UPOV/EXN/DEN/3 "Explanatory Notes on Variety Denominations under the UPOV Convention" (presented in Annex I to this document), to replace the text of "NOTES ON ARTICLE 20" with the new text of document UPOV/EXN/DEN/4.

[End of Annex VI and of document]