



CAJ/55/2

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Fifth Session
Geneva, March 29, 2007

TGP DOCUMENTS

Document prepared by the Office of the Union

1. The purpose of this document is to provide background information on the development of TGP documents, to provide information to assist the Administrative and Legal Committee (CAJ) in its consideration of documents TGP/4/1 Draft 9 “Constitution and [Management] / [Maintenance] of Variety Collections” and TGP/9/1 Draft 9 “Examining Distinctness” and, with regard to other TGP documents to be considered by the CAJ in future sessions, to report on the proposed program to be considered by the Technical Committee (TC) at its forty-third session, to be held in Geneva, from March 26 to 28, 2007.

I. BACKGROUND

2. The purpose of 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” (General Introduction), and the associated series of documents specifying Test Guidelines’ Procedures (TGP documents), is to set out the principles which are used in the examination of DUS. The only binding obligations for members of the Union are those contained in the UPOV Convention itself. However, on the basis of practical experience, the General Introduction and the TGP documents seek to provide general guidance for the examination of all species in accordance with the UPOV Convention. In addition, UPOV has developed “Guidelines for the Conduct of Tests for Distinctness,

Uniformity and Stability” (Test Guidelines), for many individual species or other variety groupings. The purpose of those Test Guidelines is to elaborate certain of the principles contained in the General Introduction and the associated TGP documents, into detailed practical guidance for the harmonized examination of DUS and, in particular, to identify appropriate characteristics for the examination of DUS and production of harmonized variety descriptions.

3. As noted by the Chair at the fifty-fourth session of the CAJ, held in Geneva on October 16 and 17, 2006, the development of TGP documents in relation to the DUS examination may be seen as another element in the preparation of information materials concerning the UPOV Convention and, in addition to being published in their own right, the TGP documents can be used in support of various UPOV activities. In particular, the Office of the Union anticipates that the General Introduction and the TGP documents will form the basis of an advanced module on “DUS Testing” for inclusion in the Distance Learning program.

4. The situation with regard to the development of TGP documents can be summarized as follows:

Document reference	Title	Stage of development
TGP/0	List of TGP Documents and Latest Issue Dates	Approved (2005)
<i>TGP/1</i>	<i>General Introduction With Explanations</i>	-
TGP/2	List of Test Guidelines Adopted by UPOV	Approved (2005)
<i>TGP/3</i>	<i>Varieties of Common Knowledge</i>	<i>under discussion by CAJ</i>
<i>TGP/4</i>	<i>Constitution and [Maintenance] / [Management] of Variety Collections</i>	<i>under development</i>
TGP/5	Experience and Cooperation in DUS Testing	Approved (2005)
TGP/6	Arrangements for DUS Testing	Approved (2005)
TGP/7	Development of Test Guidelines	Approved (2004)
<i>TGP/8</i>	<i>Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability</i>	<i>under development</i>
<i>TGP/9</i>	<i>Examining Distinctness</i>	<i>under development</i>
<i>TGP/10</i>	<i>Examining Uniformity</i>	<i>under development</i>
<i>TGP/11</i>	<i>Examining Stability</i>	<i>under development</i>
<i>TGP/12</i>	<i>Special Characteristics</i>	<i>under development</i>
<i>TGP/13</i>	<i>Guidance for New Types and Species</i>	<i>under development</i>
<i>TGP/14</i>	<i>Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents</i>	<i>under development</i>
<i>TGP/15</i>	<i>New Types of Characteristics</i>	-

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

II. DOCUMENTS TO BE CONSIDERED BY THE CAJ

5. At its fifty-fourth session, the CAJ considered drafts of documents TGP/4/1, TGP/9/1 and TGP/10/1. The Chair explained that the TC had invited the CAJ to comment on the drafts of those TGP documents because they concerned matters which had important administrative and legal aspects. He confirmed that the comments made by the CAJ would be considered by the TC at its forty-third session, to be held in Geneva, from March 26 to 28, 2007 and explained that the CAJ would have a further opportunity to consider new versions of those TGP documents at a future session.

6. The schedule for the development of document TGP/10/1 agreed by the TC at its forty-second session (see document TC/42/12 "Report", paragraphs 104 and 105), indicated that document TGP/10/1 would be considered for final approval by the TC and CAJ at their sessions in 2007. However, at their sessions in 2006, the Technical Working Party for Agricultural Crops (TWA), the Technical Working Party for Fruit Crops (TWF) and the Technical Working Party for Ornamental Plants and Forest Trees (TWO) proposed that the Technical Working Parties (TWPs) should consider a new draft of document TGP/10/1 at their sessions in 2007. For that reason, the CAJ has not been presented with a new draft of document TGP/10/1. Drafts of documents TGP/4/1 and TGP/9/1 are presented for consideration by the CAJ at its fifty-fifth session as follows:

TGP/4 "Constitution and [Management] / [Maintenance] of Variety Collections"
TGP/9 "Examining Distinctness"

7. Documents TGP/4/1 Draft 9 and TGP/9/1 Draft 9 are to be considered by the TC at its forty-third session and by the CAJ at its fifty-fifth session, to be held in Geneva on March 29, 2007. The schedule for the development of TGP documents indicates that documents TGP/4/1 and TGP/9/1 may be approved by the TC and by the CAJ at those sessions.

8. Changes to the text agreed for documents TGP/4/1 and TGP/9/1 by the TC at its forty-second session, as a result of the considerations by the CAJ, the TWPs and the Enlarged Editorial Committee (TC-EDC), have been highlighted in TGP/4/1 Draft 9 and TGP/9/1 Draft 9, respectively. The background information concerning those changes has been summarized in the form of endnotes. Those endnotes will be deleted from the adopted versions of those documents. By contrast, the footnotes which appear in the documents are intended to remain in the adopted versions of those documents.

9. Any changes to the text of documents TGP/4/1 Draft 9 and TGP/9/1 Draft 9 proposed by the TC at its forty-third session will be reported to the CAJ for consideration at its fifty-fifth session. Subject to agreement of a common text by the TC and the CAJ, documents TGP/4/1 and TGP/9/1 would be put forward for adoption by the Council at its forty-first ordinary session, to be held in Geneva on October 25, 2007.

10. The CAJ is invited to consider, as set out in paragraph 9:

(a) document TGP/4/1 Draft 9 as the basis for adoption of document TGP/4/1 by the Council; and

(b) document TGP/9/1 Draft 9 as the basis for adoption of document TGP/9/1 by the Council.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

11. The proposed program for the development of TGP documents, to be considered by the TC at its forty-third session (see document TC/43/5, Annex IV), indicates that the CAJ would be invited to consider the following draft TGP documents at future sessions, on the basis that they are considered by the TC to include matters which have important administrative and legal aspects:

		<u>CAJ/56</u> (October 2007)	<u>CAJ</u> (2008)
TGP/5 "Experience and Cooperation in DUS Testing" (Revision)			
<i>Section 1</i>	<i>Model Administrative Agreement for International Cooperation in the Testing of Varieties</i>	discussion	approval
<i>Section 2</i>	<i>UPOV Model Form for the Application for Plant Breeders' Rights</i>	discussion	approval
<i>Section 3</i>	<i>Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders' Rights</i>	discussion	approval
<i>Section 4</i>	<i>UPOV Model Form for the Designation of the Sample of the Variety</i>	discussion	approval
<i>Section 5</i>	<i>UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results</i>	discussion	approval
<i>Section 6</i>	<i>UPOV Report on Technical Examination and UPOV Variety Description</i>	discussion	approval
<i>Section 7</i>	<i>UPOV Interim Report on Technical Examination</i>	discussion	approval
<i>[Possible new section]</i>	<i>[Examples of contracts / agreements between authorities and breeders]</i>	[discussion]	[approval]
TGP/10 "Examining Uniformity"		-	approval
TGP/11 "Examining Stability"			
<i>TGP/11.1</i>	<i>Examination of Stability and "Verification"</i>	-	discussion
TGP/13 "Guidance for New Types and Species"		-	approval

12. More detailed information on the proposed program and background information on the TGP documents concerned can be found in document TC/43/5.

13. The CAJ is invited to consider the proposed program for consideration of TGP documents by the CAJ, as set out in paragraph 11.

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