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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Fifty-Ninth Session
Geneva, April 2, 2009

TGP DOCUMENTS

Document prepared by the Office of the Union

1. The purpose of this document is: to report on developments since the fifty-eighth session of the Administrative and Legal Committee (CAJ), concerning the consideration of TGP documents; to provide background information to assist the CAJ in its consideration of the drafts of individual TGP documents; and to present a tentative program for the development of TGP documents.

2. The following abbreviations are used in this document:

CAJ: Administrative and Legal Committee
TC: Technical Committee
TC-EDC: Enlarged Editorial Committee
TWA: Technical Working Party for Agricultural Crops
TWC: Technical Working Party on Automation and Computer Programs
TWF: Technical Working Party for Fruit Crops
TWO: Technical Working Party for Ornamental Plants and Forest Trees
TWV: Technical Working Party for Vegetables
TWPs: Technical Working Parties

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I. BACKGROUND

3. 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.

4. 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 Convention¹ 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 General Introduction and the TGP documents will form the basis of an advanced module on “Examination of Applications for Plant Breeders’ Rights” for inclusion in the Distance Learning program, which the Consultative Committee has entrusted the Office of the Union to develop.

5. 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> ²	<i>Varieties of Common Knowledge</i>	-
TGP/4	Constitution and Maintenance of Variety Collections	Adopted by Council (2008)

¹ The CAJ, at its fifty-second session, held in Geneva on October 24, 2005, agreed an approach for the preparation of information materials concerning the UPOV Convention, as explained in paragraphs 8 to 10 of document CAJ/52/4. It also agreed the establishment of an advisory group to the CAJ (“CAJ-AG”) to assist in the preparation of documents concerning such materials, as proposed in paragraphs 11 to 14 of document CAJ/52/4 (see paragraph 67 of document CAJ/52/5, Report).

² At its fifty-fifth session, held in Geneva on March 29, 2007, “[t]he CAJ endorsed the conclusion of the CAJ-AG that the General Introduction already provided guidance with respect to the term ‘common knowledge’ and that it would not be appropriate, for the time being, to pursue the development of document TGP/3 ‘Varieties of Common Knowledge’.” (see document CAJ/55/7, paragraph 46).

Document reference	Title	Stage of development
TGP/5	Experience and Cooperation in DUS Testing	Approved (2005) / Partial Revision Adopted by Council (2008)
TGP/6	Arrangements for DUS Testing	Approved (2005)
TGP/7	Development of Test Guidelines	Approved (2004) / <i>under revision</i>
<i>TGP/8</i>	<i>Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability</i>	<i>under development</i>
TGP/9	Examining Distinctness	Adopted by Council (2008)
TGP/10	Examining Uniformity	Adopted by Council (2008)
<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 ADMINISTRATIVE AND LEGAL COMMITTEE

(a) TGP documents scheduled for adoption in 2009

TGP/12 “[Special Characteristics] / [Guidance on Certain Physiological Characteristics]”

6. The program for the development of TGP documents, as agreed by the TC (see documents TC/44/5, Annex III and TC/44/13 “Report”, paragraph 147) and the CAJ (see documents CAJ/58/2, Annex and CAJ/58/6 “Report on the Conclusions”, paragraph 15), schedules the adoption of document TGP/12/1 by the Council in 2009. The following background information is provided on discussions on certain matters, of particular relevance for the CAJ. Notes on discussions of all aspects of the document by the TWPs and CAJ at their sessions in 2008, and by the TC-EDC at its meeting on January 8, 2009, can be found in the endnotes to document TGP/12/1 Draft 7.

(i) *Section 1.3 “Possible use of gene-specific molecular markers as predictors of traditional characteristics”*

7. Document TGP/12/1 Draft 7, Section 1.3 (text proposed for deletion) makes reference to documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add.. It is recalled that, at its seventy-fourth session, held in Geneva on October 24, 2007, the Consultative Committee recommended that consideration be given to the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. with regard to their reference in the introduction of document BMT Guidelines (proj.9) (see document TC/44/7 “Molecular Techniques”, paragraph 13). In particular, the Consultative Committee noted that the BMT Guidelines would be adopted by the Council, whereas documents TC/38/14-CAJ/45/5 and TC/38/14Add.-CAJ/45/5Add. had not been adopted by the Council.

8. At its meeting on January 8, 2009, the TC-EDC considered how to address the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. in document TGP/12. It agreed that a solution would be to delete Section 1.3 of document TGP/12, on the basis that Option 1(a) was not restricted to characteristics included in TGP/12 and that documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. were planned to be revised (see document TC/44/13 “Report”, paragraph 150).

9. The TC-EDC also noted a question raised at the meeting as to whether documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. might be considered to be approved by the Council when it “noted the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular, as given in document C/36/10 [“Progress report of the work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular”]” (see document C/36/13 “Report”, paragraph 21). The TC-EDC agreed that it would be a matter for the Consultative Committee to consider that question.

(ii) *Title of document TGP/12*

10. The Technical Working Party for Agricultural Crops (TWA), at its thirty-seventh session, held in Nelspruit, South Africa, from July 14 to 18, 2008, agreed that the title of document TGP/12 should be amended to remove reference to “special” characteristics, for example by renaming as “Characteristics based on a response to an external factor and characteristics for chemical constituents: protein electrophoresis”. The CAJ, at its fifty-eighth session, held in Geneva on October 27 and 28, 2008, agreed that the new title, proposed by the TWA, “Characteristics based on a response to an external factor and characteristics for chemical constituents: protein electrophoresis” was too long and proposed that a shorter, clearer title should be found. The TC-EDC at its meeting on January 8, 2009, considered that the title “Guidance on Certain Physiological Characteristics” was preferable to the original title but agreed that alternative titles should be considered if proposed in sufficient time for the TC session.

(iii) *Procedure for adoption of document TGP/12*

11. Any changes to the text of document TGP/12/1 Draft 7 proposed by the TC at its forty-fifth session, to be held in Geneva from March 30 to April 1, 2009, will be reported to the CAJ for consideration at its fifty-ninth session, to be held in Geneva on April 2, 2009. Subject to agreement of a common text by the TC and the CAJ, document TGP/12/1 will be put forward for adoption by the Council at its forty-third ordinary session, to be held in

Geneva on October 22, 2009. The French, German and Spanish translations of the original English text will be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/12/1 to the Council.

12. The CAJ is invited to:

(a) refer consideration of the status of documents TC/38/14-CAJ/45/5 and TC/38/14 Add.-CAJ/45/5 Add. to the Consultative Committee (see paragraph 9); and

(b) consider document TGP/12/1 Draft 7 as the basis for adoption of document TGP/12/1 by the Council, as set out in paragraph 11.

TGP/13 “Guidance for New Types and Species”

13. The program for the development of TGP documents, as agreed by the TC (see documents TC/44/5, Annex III and TC/44/13 “Report”, paragraph 147) and the CAJ (see documents CAJ/58/2, Annex and CAJ/58/6 “Report on the Conclusions”, paragraph 15), schedules the adoption of document TGP/13/1 by the Council in 2009. Notes on discussions of all aspects of the document by the TWPs and CAJ at their sessions in 2008, and by the TC-EDC on January 8, 2009, can be found in the endnotes to document TGP/13/1 Draft 14.

14. Any changes to the text of document TGP/13/1 Draft 14 proposed by the TC at its forty-fifth session will be reported to the CAJ for consideration at its fifty-ninth session, to be held in Geneva on April 2, 2009. Subject to agreement of a common text by the TC and the CAJ, document TGP/13/1 will be put forward for adoption by the Council at its forty-third ordinary session, to be held in Geneva on October 22, 2009. The French, German and Spanish translations of the original English text will be checked by the relevant members of the Editorial Committee prior to submission of the draft of document TGP/13/1 to the Council.

15. The CAJ is invited to consider document TGP/13/1 Draft 14 as the basis for adoption of document TGP/13/1 by the Council, as set out in paragraph 14.

(b) Revision of TGP Documents

TGP/0 “List of TGP Documents and Latest Issue Dates”

16. Document TGP/0/1 was approved on April 6, 2005 (http://www.upov.int/export/sites/upov/en/publications/tgp/documents/tgp0_1.pdf) and does not reflect the adoption and revision of certain TGP documents since that date. Therefore, it is proposed that document TGP/0 be revised (to become document TGP/0/2) in conjunction with the scheduled adoption of document TGP/12 and TGP/13 by the Council at its forty-third ordinary session, to be held in Geneva on October 22, 2009.

17. The CAJ is invited to propose the adoption of document TGP/0/2 in conjunction with the adoption of documents TGP/12/1 and TGP/13/1, as set out in paragraph 16.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

18. The Annex to this document proposes a program for the development of TGP documents. Any changes to the proposed program agreed by the TC at its forty-fifth session will be reported to the CAJ for consideration at its fifty-ninth session, to be held in Geneva on April 2, 2009.

19. The CAJ is invited to consider the program for the development of TGP documents, as set out in the Annex to this document.

[Annex follows]

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ANNEX

Ref.	Title of document	Current approved* documents	Drafter (TWP)	Drafter (Name)	2009					2010						
					TC-EDC	TC/45	CAJ/59	TWPs	CAJ/60	C/43	TC-EDC	TC/46	CAJ/61	TWPs	CAJ/62	C/44
TGP/0	List of TGP Documents and Latest Issue Dates	TGP/0/1 ADOPTED								TGP/0/2 Adopt						
TGP/1	General Introduction with Explanations	-	Office		---	---	---	---		---	---	---	---	---	---	---
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/1 ADOPTED														
TGP/3	Varieties of Common Knowledge	C(Extr.)/19/2 Rev.	CAJ													
TGP/4	Constitution and Maintenance of Variety Collections	TGP/4/1 ADOPTED														
TGP/5	Experience and Cooperation in DUS Testing	ADOPTED														
TGP/6	Arrangements for DUS Testing	TGP/6/1 ADOPTED														
TGP/7	Development of Test Guidelines	TGP/7/1 ADOPTED			TGP/7/2 draft 1	TGP/7/2 draft 2	---	TGP/7/2 draft 3	TGP/7/2 draft 3	---	TGP/7/2 draft 4	TGP/7/2 draft 5 / approve	TGP/7/2 draft 5 / approve	---	---	TGP/7/2 draft 6 / Adopt
TGP/8	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (Coordinator: Office /TWC Chairperson)				draft 11	draft 12	---	TGP/8/1 draft 13 (& future sections)	TGP/8/1 draft 13	---	TGP/8/1 draft 14	TGP/8/1 draft 15 / approve	TGP/8/1 draft 15 / approve	(future sections)	---	TGP/8/1 draft 16 / Adopt
TGP/9	Examining Distinctness	TGP/9/1 ADOPTED														
TGP/10	Examining Uniformity	TGP/10/1 ADOPTED														
TGP/11	Examining Stability (Coordinator: Office)		TWV	Mr. Semon (QZ)	draft 5	draft 5	---	draft 5	draft 5	---	draft 6	draft 7	---	draft 8	draft 8	---
TGP/12	[Special Characteristics] / [Guidance on Certain Physiological Characteristics]				draft 6	draft 7 / approve	draft 7 / approve	---		draft 8 / Adopt						
TGP/13	Guidance for New Types and Species		TWO	Mr. Kwakkenbos (QZ)	draft 13	draft 14 / approve	draft 14 / approve	---		draft 15 / Adopt						
TGP/14	Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents (Coordinator: Office)				draft 7	draft 8	---	TGP/14/1 draft 9 (& Color Subsection)	TGP/14/1 draft 9	---	TGP/14/1 draft 10	TGP/14/1 draft 11 / approve	TGP/14/1 draft 11 / approve	(Color Subsection)	---	TGP/14/1 draft 12 / Adopt
TGP/15	New Types of Characteristics (Coordinator: Office)															

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