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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**ADMINISTRATIVE AND LEGAL COMMITTEE**

**Sixty-Third Session**  
**Geneva, April 7, 2011**

TGP DOCUMENTS

*Document prepared by the Office of the Union*

1. The purpose of this document is: to report on developments concerning the consideration of TGP documents; to provide background information to assist the Administrative and Legal Committee (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  
T WV: Technical Working Party for Vegetables  
T WPs: 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 Convention<sup>1</sup> 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	Issue	Title	Issue date
TGP/0	/3	List of TGP Documents and Latest Issue Dates	October 21, 2010
TGP/1		General Introduction With Explanations	not yet issued
TGP/2	/1	List of Test Guidelines Adopted by UPOV	April 6, 2005
TGP/3		Varieties of Common Knowledge	not yet issued <sup>2</sup>
TGP/4	/1	Constitution and Maintenance of Variety Collections	April 11, 2008

<sup>1</sup> 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).

<sup>2</sup> 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 47).

Document reference	Issue	Title	Issue date
TGP/5		Experience and Cooperation in DUS Testing	
Introduction		Introduction	October 30, 2008
Section 1	/2	Model Administrative Agreement for International Cooperation in the Testing of Varieties	October 30, 2008
Section 2	/3	UPOV Model Form for the Application for Plant Breeders' Rights	October 21, 2010
Section 3	/1	Technical Questionnaire to be Completed in Connection with an Application for Plant Breeders' Rights	April 6, 2005
Section 4	/2	UPOV Model Form for the Designation of the Sample of the Variety	October 30, 2008
Section 5	/2	UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results	October 30, 2008
Section 6	/2	UPOV Report on Technical Examination and UPOV Variety Description	October 30, 2008
Section 7	/2	UPOV Interim Report on Technical Examination	October 30, 2008
Section 8	/1	Cooperation in Examination	April 6, 2005
Section 9	/1	List of Species in Which Practical Knowledge has Been Acquired or for Which National Test Guidelines Have Been Established	April 6, 2005
Section 10	/1	Notification of Additional Characteristics	April 6, 2005
Section 11	/1	Examples of Policies and Contracts for Material Submitted by the Breeder	October 30, 2008
TGP/6	/1	Arrangements for DUS Testing	
Section 1	/1	Introduction	April 6, 2005
Section 2	/1	Examples of Arrangements for DUS Testing	April 6, 2005
Section 3	/1	Declaration on the Conditions for the Examination of a Variety Based on Trials Carried Out by or on behalf of the Breeder	April 6, 2005
TGP/7	/2	Development of Test Guidelines	October 21, 2010
TGP/8	/1	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability	October 21, 2010
TGP/9	/1	Examining Distinctness	April 11, 2008
TGP/10	/1	Examining Uniformity	October 30, 2008
TGP/11		Examining Stability	not yet issued
TGP/12	/1	Guidance on Certain Physiological Characteristics	October 22, 2009
TGP/13	/1	Guidance for New Types and Species	October 22, 2009
TGP/14	/1	Glossary of Terms Used in UPOV Documents	October 21, 2010
TGP/15		New Types of Characteristics	not yet issued

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](http://www.upov.int/en/publications/list_publications.htm).

## II. DOCUMENTS TO BE CONSIDERED BY THE ADMINISTRATIVE AND LEGAL COMMITTEE

### (a) New TGP documents

#### *TGP/11 “Examining Stability”*

6. The program for the development of TGP documents, as agreed by the TC (see documents TC/46/5, Annex and TC/46/16 “Report”, paragraph 124) and the CAJ in 2010 (see documents CAJ/62/2, Annex and CAJ/62/8 “Report on the Conclusions”, paragraph 9), scheduled the adoption of document TGP/11 “Examining Stability” by the Council at its forty-fifth ordinary session, to be held in Geneva on October 20, 2011.

7. Document TGP/11/1 Draft 10 has been prepared for consideration by the TC at its forty-sixth session, to be held in Geneva from March 22 to 24, 2010 and by the CAJ at its sixty-third session, to be held on April 7, 2011. That document incorporates the amendments proposed by the Enlarged Editorial Committee (TC-EDC) at its meeting on January 6, 2011 and presents the comments of the TWPs at their sessions in 2010 in the form of endnotes.

*8. The CAJ is invited to consider document TGP/11/1 Draft 10 as the basis for adoption of document TGP/11/1 by the Council, as set out in paragraphs 6 and 7.*

### (b) Revision of TGP documents

#### *TGP/5, Section 10/1 “Notification of Additional Characteristics”*

9. Document TGP/5, Section 10/1 “Notification of Additional Characteristics”, states as follows:

“1. The General Introduction states in section 4.2.3 that “The characteristics included in the individual Test Guidelines are not necessarily exhaustive and may be expanded with additional characteristics if that proves to be useful and the characteristics meet the conditions set out [in section 4.2.1]”. It further clarifies in section 4.8, “Functional Categorization of Characteristics” that the function of additional characteristics is:

“1. To identify new characteristics, not included in the Test Guidelines, that have been used by members of the Union in the examination of DUS and which should be considered for inclusion in future Test Guidelines”; and

“2. To facilitate harmonization in the development and use of new characteristics and provide opportunity for expert review.”

2. TGP/7 “Development of Test Guidelines”: GN 27 “Handling a long list of characteristics in the Table of Characteristics” states that “...in some circumstances the TWP may consider that it is unhelpful to include [in the Test Guidelines] all those characteristics which fulfill the criteria for inclusion and, if there is a full consensus amongst all interested experts, may agree to omit certain characteristics. Such omitted

characteristics would then be included in document TGP/5, Experience and Cooperation in DUS Testing, in the section on “Notification of Additional Characteristics”.

[...]

“4. The following table has been developed for the notification of additional characteristics. Additional characteristics notified to the Office of the Union will be presented on the password-restricted area of the UPOV website ([http://www.upov.int/restrict/en/index\\_drafters\\_kit.htm](http://www.upov.int/restrict/en/index_drafters_kit.htm)).”

10. Document TGP/7/2, Section 4 “Development of Individual Authorities’ Test Guidelines” reads as follows:

*“(e) Modification of Test Guidelines characteristics*

“4.1.9 It may become necessary for a characteristic in an individual authorities’ test guidelines to be changed over time, e.g. to create new states of expression arising from breeding developments. Such changes would mean that the characteristic in the individual authorities’ test guidelines would become different from that in the Test Guidelines. In order to retain internationally harmonized variety descriptions, in particular for asterisked characteristics, such changes should be reported at the relevant Technical Working Party and/or submitted to UPOV for inclusion in document TGP/5, Section 10 “Notification of Additional Characteristics”. In the interim, members of the Union may indicate in DUS reports that the characteristic in the individual authorities’ test guidelines has some differences to the characteristic in the Test Guidelines.”

11. At its forty-sixth session, held in Geneva from March 22 to 24, 2010, the TC noted that the wording in document TGP/7/2 for the reporting of modifications to characteristics in the Test Guidelines by means of document TGP/5 would require a corresponding revision of document TGP/5, Section 10/1. It further noted that the TC, in document TC/46/2, paragraphs 22 to 24, was invited to consider whether new characteristics and new states of expression notified by means of document TGP/5, Section 10 “Notification of Additional Characteristics”, should be presented for consideration at the session of the relevant TWP(s) and the TC before they are presented on the password-restricted area of the UPOV website. The TC agreed that the TWPs should be invited to consider those proposals at their sessions in 2010, on the basis of a draft text to be prepared by the Office of the Union, with a view to a revision of document TGP/5, Section 10/1 being considered by the TC and CAJ in 2011, for proposal to the Council in October 2011 (see TC/46/16 “Report”, paragraphs 120 and 121).

12. Document TGP/5, Section 10/2 Draft 2, to be considered by the TC at its forty-seventh session and by the CAJ at its sixty-third session, presents the comments of the TWPs, at their sessions in 2010, and the comments of the TC-EDC at its meeting on January 6, 2011, in the form of endnotes. The comments of the TC at its forty-seventh session will be reported to the CAJ at its sixty-third session.

*13. The CAJ is invited to consider document TGP/5, Section 10/2 Draft 2 as the basis for adoption of document TGP/5, Section 10/2 by the Council, as set out in paragraphs 11 and 12.*

### III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

14. The Annex to this document proposes a program for the development of TGP documents on the basis of the program agreed by the TC at its forty-sixth session, the program agreed by the CAJ at its sixty-second session, the discussions at the TWP sessions in 2010 and the recommendations of the TC-EDC at its meeting on January 6, 2011.

*15. 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]

## ANNEX

Ref.	Title of document	Current approved* documents	2010						2011						2012					
			TC-EDC	TC/46	CAJ/61	TWPs	CAJ/62	C/44	TC-EDC	TC/47	CAJ/63	TWPs	CAJ/64	C/45	TC-EDC	TC/48	CAJ/65	TWPs	CAJ/66	C/46
TGP/0	List of TGP Documents and Latest Issue Dates	TGP/0/3 ADOPTED																		
TGP/1	General Introduction with Explanations	-	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/1 ADOPTED																		
TGP/3	Varieties of Common Knowledge	C(Extr.)/19/2 Rev.																		
TGP/4	Constitution and Maintenance of Variety Collections	TGP/4/1 ADOPTED																		
TGP/5	Experience and Cooperation in DUS Testing	ADOPTED																		
	Section 10: Notification of Additional Characteristics	Section 10/1 Adopted		TC/46/5	CAJ/61/2	(revisions)			Section 10/2 Draft 1	Section 10/2 Draft 2	Section 10/2 Draft 2				Section 10/2 Draft 3 Adopt					
TGP/6	Arrangements for DUS Testing	TGP/6/1 ADOPTED																		
TGP/7	Development of Test Guidelines	TGP/7/2 ADOPTED	TGP/7/2 Draft 4	TGP/7/2 Draft 5 / approve	TGP/7/2 Draft 5 / approve	(revisions)	---	TGP/7/2 Draft 6 / Adopt	TC- EDC/Jan11/2, 6, 7, 10	TC/47/16-19	---	(revisions)	---	---	TGP/7/3 Draft 1	TGP/7/3 Draft 2	TGP/7/3 Draft 2	---	---	TGP/7/3 Draft 3 / Adopt
TGP/8	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability	TGP/8/1 ADOPTED	TGP/8/1 Draft 14	TGP/8/1 Draft 15 / approve	TGP/8/1 Draft 15 / approve	(new sections & revisions)	---	TGP/8/1 Draft 16 / Adopt	TC- EDC/Jan11/8	TC/47/20	---	(new sections & revisions)	---	---	(new sections & revisions)	(new sections & revisions)	---	(new sections & revisions)	---	---
TGP/9	Examining Distinctness	TGP/9/1 ADOPTED																		
TGP/10	Examining Uniformity	TGP/10/1 ADOPTED																		
TGP/11	Examining Stability		TGP/11/1 Draft 6 & Draft 7	TC/46/5	---	TGP/11/1 Draft 8	TGP/11/1 Draft 8	---	TGP/11/1 Draft 9	TGP/11/1 Draft 10	TGP/11/1 Draft 10	---	---	TGP/11/1 Draft 11 Adopt						
TGP/12	Guidance on Certain Physiological Characteristics	TGP/12/1 ADOPTED							TC- EDC/Jan11/12	TC/47/23		(new sections & revisions)			TGP/12/2 Draft 1	TGP/12/2 Draft 2	TGP/12/2 Draft 2			TGP/12/2 Draft 3 / Adopt
TGP/13	Guidance for New Types and Species	TGP/13/1 ADOPTED																		
TGP/14	Glossary of Terms Used in UPOV Documents	TGP/14/1 ADOPTED	TGP/14/1 Draft 10	TGP/14/1 Draft 11 / approve	TGP/14/1 Draft 11 / approve	(Color Subsection & revisions)	---	TGP/14/1 Draft 12 / Adopt	TC- EDC/Jan11/13	TC/47/21, 22	---	(Color Subsection & revisions)	---	---	(Color Subsection & revisions)	(Color Subsection & revisions)	---	(Color Subsection & revisions)	---	---
TGP/15	New Types of Characteristics																			

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