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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixty-Fourth Session
Geneva, October 17, 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 draft revision of document TGP/7 "Development of Test Guidelines"; 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	Issue	Title	Issue date
TGP/0	/3	List of TGP Documents and Latest Issue Dates	October 21, 2010
	(/4)		(proposed for adoption by Council in October 2011)
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 ²

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 47).

Document reference	Issue	Title	Issue date
TGP/4	/1	Constitution and Maintenance of Variety Collections	April 11, 2008
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
	(/2)		(proposed for adoption by Council in October 2011)
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
	(/3)		(proposed for adoption by Council in October 2011)
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

Document reference	Issue	Title	Issue date
TGP/11	(/1)	Examining Stability	(proposed for adoption by Council in October 2011)
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] / [Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability]	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.

II. DOCUMENT TO BE CONSIDERED BY THE ADMINISTRATIVE AND LEGAL COMMITTEE

Revision of document TGP/7/2 “Development of Test Guidelines”

Background

6. The wording of Chapter 4.1.4 of the Test Guidelines, according to document TGP/7/2, is as follows:

“4.1.4 Number of Plants / Parts of Plants to be Examined

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

“{ **ASW 7(b)** (Chapter 4.1.4) – Number of Plants / Parts of Plants to be Examined }”

7. ASW 7(b) states as follows:

“The following sentence may be added where appropriate:

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

8. The Technical Working Party for Fruit Crops (TWF), at its forty-first session, held in Cuernavaca, Morelos State, Mexico, made the following comments with regard to the guidance in document TGP/7/2:

“33. The TWF noted that the number of plants to be examined for distinctness would be different for different characteristics. For example, it recalled that characteristics such as time of flowering would need to be observed on all plants in the test (disregarding off-

types), or at least on more plants than would need to be observed for certain characteristics observed on parts of plants. In that regard, it noted that, for each characteristic, the number of plants to be observed for distinctness was linked to the number of plants to be observed for uniformity and, indirectly, stability. Therefore, it concluded that it would be more appropriate to revert to the structure in document TGP/7/1 which, in Chapter 3.5 “Number of Plants / Parts of Plants to be Examined”, indicates the number of plants to be observed and not just the number of plants to be observed for distinctness. In particular, it agreed that it would be inappropriate to introduce Chapter 4.1.4 “Number of Plants / Parts of Plants to be Examined” [observations for the purposes of distinctness] in Test Guidelines and recommended that the Technical Committee replace that chapter in all Test Guidelines put forward for adoption and amend document TGP/7/2 at the earliest opportunity.

“34. However, the TWF agreed that the Additional Standard Wording (ASW 7) provided for Chapter 3.5 “Number of Plants / Parts of Plants to be Examined” in document TGP/7/1, needed to be amended in order to allow for off-type plants, within the number allowed, to be disregarded from the test.”

9. The Enlarged Editorial Committee (TC-EDC), at its meeting on January 6, 2011, agreed that the standard wording of Chapter 4.1.4 of the Test Guidelines in document TGP/7/2, as adopted by the Council at its forty-fourth ordinary session, held in Geneva on October 21, 2010, should not be followed in the draft Test Guidelines to be put forward for adoption by the Technical Committee at its forty-seventh session, held in Geneva from April 4 to 6, 2011.

10. The TC agreed (see document TC/47/26 “Report on the Conclusions”, paragraph 65) that the wording in Chapter 4.1.4 of Test Guidelines in document TGP/7/2 should be amended according to the following models:

Alternative 1: “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.”

Alternative 2: “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. 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 }.”

11. The TC further agreed that the wording of document TGP/7/2, as adopted by the Council at its forty-fourth ordinary session, held in Geneva on October 21, 2010, with regard to Chapter 4.1.4 should not be followed in the Test Guidelines to be adopted at its forty-seventh session. It agreed that the Test Guidelines to be adopted by the TC should incorporate the amended wording for Chapter 4.1.4, as set out in paragraph 10.

12. The TC noted that the Council, at its forty-fifth ordinary session to be held on October 20, 2011, would need to adopt the revised text for document TGP/7 before the Test Guidelines could be adopted. Therefore, it agreed to adopt the Test Guidelines subject to the Council adopting the necessary revision to document TGP/7.

Proposal

13. On the basis above and subject to the agreement of the CAJ, the Council will be invited to amend document TGP/7, to read as follows:

TGP/7/2 – Annex 1: TG Template

“4.1.4 Number of Plants / Parts of Plants to be Examined

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

“{ **ASW 7(b)** (Chapter 4.1.4) – Number of Plants / Parts of Plants to be Examined }”

TGP/7/2 – Annex 2: Additional Standard Wording (ASW) for the TG Template

“ASW 7(b) (Chapter 4.1.4) – Number of plants / parts of plants to be examined

“The following sentence may be added where appropriate:

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

14. The CAJ is invited to propose to the Council, at its forty-fifth ordinary session, to be held in Geneva on October 20, 2011, that it amend document TGP/7 “Development of Test Guidelines”, as set out in paragraph 13.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

15. 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-seventh session and the CAJ at its sixty-third session.

16. 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 ^a 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.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
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)	(revision)	TGP/7/3 Adopt	(revision)	(revision)	(revision)	---	---	TGP/7/4 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] [Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)]		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

[End of Annex and of document]