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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

ADMINISTRATIVE AND LEGAL COMMITTEE

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TGP DOCUMENTS

Document prepared by the Office of the Union

1. The purpose of this document is to report on developments concerning TGP documents, to provide background information to assist the Administrative and Legal Committee (CAJ) in its consideration 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 |

3. The structure of this document is as follows:

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I. BACKGROUND

4. 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.

5. As noted by the Chair at the fifty-fourth session of the Administrative and Legal Committee (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.

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

| Document reference | Issue | Title | Issue date |
|--------------------|-------|--|-----------------------------|
| TGP/0 | /5 | List of TGP Documents and Latest Issue Dates | November 1, 2012 |
| 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 |
| 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 |

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 | Issue | Title | Issue date |
|--------------------|-------|---|------------------|
| 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 | /2 | Notification of Additional Characteristics | October 20, 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 | /3 | Development of Test Guidelines | October 20, 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 |
| TGP/11 | /1 | Examining Stability | October 20, 2011 |
| TGP/12 | /2 | Guidance on Certain Physiological Characteristics | November 1, 2012 |
| 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 (DUS)] | not yet issued |

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

II. DOCUMENTS TO BE CONSIDERED BY THE CAJ

TGP documents for adoption in 2013

(i) *New TGP Document*

TGP/15: ~~[New Types of Characteristics]~~ [Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)]

- see document TGP/15/1 Draft 4: "~~[New Types of Characteristics]~~ [Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)]"

7. The TC, at its forty-seventh session, held in Geneva from April 4 to 6, 2011, and the CAJ, at its sixty-third session held in Geneva on April 7, 2011, agreed that document TGP/15 should be developed separately, but in parallel, to document BMT/DUS on the basis that document BMT/DUS³ would provide a report on the development and consideration of all models within UPOV and that document TGP/15 would provide guidance for the use of those models that had received a positive assessment and for which accepted examples could be provided, i.e. Models "Characteristic-specific molecular markers" (Section 3.1.1) and "Combining phenotypic [characteristics] and molecular distances in the management of variety collections" (Section 3.1.2) for the time being. It agreed that the purpose of both documents should be clarified within the documents and noted that both documents would need to be adopted by the Council. The TC and CAJ also agreed that consideration should be given to how to maintain both documents in an efficient way (see document TC/47/26 "Report on the Conclusions", paragraph 16).

8. The TC, at its forty-eighth session held in Geneva from March 26 to 28, 2012, considered document TGP/15/1 Draft 2 "Guidance on the Use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)", in conjunction with document TC/48/5 "TGP Documents" (see document TC/48/22 "Report on the Conclusions", paragraphs 31 and 32).

9. The TC, at its forty-eighth session, agreed with the recommendation of the TC-EDC, as set out in paragraphs 7 to 9 of document TC/48/5, that document TGP/15/1 Draft 1 should be redrafted (restructured) to provide the following:

- firstly, to present the principles, including the assumptions which provided the basis for the positive assessment of the examples in the approved models; and
- secondly, to provide practical experience in the form of examples in the implementation of the principles.

(see document TC/48/22 "Report on the Conclusions", paragraph 33).

10. With regard to TGP/15/1 Draft 2, Annex I, paragraph 3(a), the representative of the International Seed Federation (ISF) questioned whether it was necessary for markers to be examined more than once on the same sample. He also suggested that paragraph 3(b) be amended to clarify that, if there was a difference between the information provided in the Technical Questionnaire and the result of the bioassay, the result of the bioassay would prevail (see document TC/48/22 "Report on the Conclusions", paragraph 34).

11. The TC, at its forty-eighth session, agreed that, on the basis of the comments above, a new draft should be prepared by the Office of the Union in conjunction with the Chairman of the TC and the Chairman of the BMT, which would be presented to the Enlarged Editorial Committee (TC-EDC) at its meeting in January 2013 and a further draft presented to the TC at its forty-ninth session. The TC noted that the timetable for the development of document TGP/15 would be reported to the TWPs at their sessions in 2012 (see document TC/48/22 "Report on the Conclusions", paragraph 35).

³ Adopted as document UPOV/INF/18/1 "Possible use of Biochemical and Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)."

12. The CAJ, at its sixty-fifth session held in Geneva, on March 29, 2012, agreed with the conclusion of the TC that document TGP/15/1 Draft 1 be redrafted (restructured) as follows, as set out in paragraph 8 of this document:

- firstly, to present the principles, including the assumptions which provided the basis for the positive assessment of the examples in the approved models; and
- secondly, to provide practical experience in the form of examples in the implementation of the principles.

(see document CAJ/65/12 "Report on the Conclusions", paragraph 26).

13. The TC-EDC, at its meeting held in Geneva on January 9 and 10, 2013, considered documents TC-EDC/Jan13/2 "TGP Documents" and TGP/15/1 Draft 3. The TC-EDC agreed that document TGP/15/1 Draft 4, to be considered by the Technical Committee at its forty-ninth session, would be an appropriate basis for the adoption of document TGP/15 by the Council in 2013. The TC-EDC also noted that the document could be revised in the future, for instance to incorporate additional examples for the models.

14. The TC, at its forty-ninth session, to be held on March 18 to 20, 2013, will be invited to consider document TGP/15/1 Draft 4. The comments of the TC, at its forty-ninth session, concerning document TGP/15/1 Draft 4 will be reported to the CAJ at its sixty-seventh session (see document CAJ/67/13 "Report on developments in the Technical Committee"). The program for the development of TGP documents anticipates the adoption of document TGP/15/1 by the Council at its forty-seventh ordinary session to be held in Geneva on October 24, 2013. 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/15/1 to the Council.

15. *The CAJ is invited to:*

(a) consider document TGP/15/1 Draft 4 as the basis for the adoption of document TGP/15/1 by the Council, as set out in paragraph 14; and

(b) note that document TGP/15/1 could be revised in the future, for instance to incorporate additional examples for the models.

(ii) Revision of TGP Documents

TGP/14: Glossary of Terms Used in UPOV Documents

- *Revision of existing sections of document TGP/14: Section 2: Botanical Terms, Subsection 2: Shapes and Structures (document CAJ/67/11)*
- *Revision of document TGP/14: Section 2: Botanical Terms, Subsection 3: Color (document CAJ/67/12)*

16. The TC, at its forty-ninth session will consider the proposed revision to document TGP/14, as presented in documents CAJ/67/11 and CAJ/67/12. The comments of the TC, at its forty-ninth session, concerning document TGP/14, will be reported to the CAJ, at its sixty-seventh session (see document CAJ/67/13 "Report on developments in the Technical Committee"). The program for the development of TGP documents anticipates the adoption of the revision of document TGP/14 by the Council at its forty-seventh ordinary session to be held in Geneva on October 24, 2013. The updating of definitions of terms and indices, and the checking of the French, German and Spanish translations of the original English text by the relevant members of the Editorial Committee, will be done prior to submission of the draft of document TGP/14/2 to the Council.

TGP/0: List of TGP Documents and Latest Issue Dates

17. The CAJ is invited to note that the program for the development of TGP documents, set out in the Annex to this document, anticipates the adoption of TGP/0/6 by the Council at its forty-seventh ordinary session to be held in Geneva on October 24, 2013, in order to reflect the adoption of documents TGP/15/1 and TGP/14/2.

18. *The CAJ is invited to:*

(a) *consider documents CAJ/67/11 and CAJ/67/12, in conjunction with the comments of the TC at its forty-ninth session, as the basis for the adoption of document TGP/14/2 by the Council at its forty-seventh ordinary session to be held in Geneva on October 24, 2013, as set out in paragraph 16; and*

(b) *note that the Council will be invited to adopt document TGP/0/6, in order to reflect the adoption of documents TGP/15/1 and TGP/14/2.*

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

19. The Annex to this document proposes the program for the development of TGP documents on the basis of the program agreed by the TC, at its forty-eighth session, and the CAJ, at its sixty-fifth session (see document TC/48/22 "Report on the Conclusions", paragraph 78, and document CAJ/65/13 "Report on the Conclusions", paragraph 33, respectively), in conjunction with the comments of the TWPs, at their sessions in 2012, and of the TC-EDC at its meeting on January 9 and 10, 2013.

20. The comments of the TC, at its forty-ninth session, concerning the program for the development of TGP documents, will be reported to the CAJ at its sixty-seventh session (see document CAJ/67/13 "Report on developments in the Technical Committee").

21. *The CAJ is invited to consider the program for the development of TGP documents, as set out in the Annex to this document in conjunction with the comments of the TC at its forty-ninth session.*

[Annex follows]

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ANNEX I

See Excel spreadsheet.

[Appendices follow]

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APPENDIX I

See Excel spreadsheet.

[Appendix II follows]

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APPENDIX II

See Excel spreadsheet.

[End of Appendix II and of document]