



TC/43/9

ORIGINAL: English

DATE: February 16, 2007

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL COMMITTEE

Forty-Third Session
Geneva, March 26 to 28, 2007

PUBLICATION OF VARIETY DESCRIPTIONS

Document prepared by the Office of the Union

1. At its forty-second session, held in Geneva from April 3 to 5, 2006, the Technical Committee (TC) considered document TC/42/9, which reported on developments in the *Ad hoc* Working Group on the Publication of Variety Descriptions (WG-PVD) and the Technical Working Parties (TWPs) in 2005 and which set out recommendations of the WG-PVD for consideration by the TC. The TC noted the information provided in document TC/42/9 and, in particular, the aspects, set out in paragraph 31 of that document, which might be considered as part of a revision of document TGP/7/1 "Development of Test Guidelines".

2. The purpose of this document is to provide a report on developments in the WG-PVD, the Administrative and Legal Committee (CAJ) and the TWPs in 2006.

Ad hoc Working Group on the Publication of Variety Descriptions (WG-PVD)

3. It is recalled that, at its meeting on April 6, 2005, the WG-PVD made the following recommendations:

- (a) the model studies should be completed;
- (b) the TWPs and the TC should:

(i) review the results of the model studies and seek to draw conclusions on the sources and types of variation (e.g. regional variation, method of examination of characteristics);

(ii) draw conclusions in relation to the aim of the project concerning the possibility “to use appropriate elements of the variety description, in the process of examining distinctness, to eliminate varieties which do not require further comparison and to identify those varieties against which a further comparison is required”;

(iii) draw conclusions in relation to possible improvements in other relevant aspects of UPOV’s work, e.g. in relation to the development of Test Guidelines;

(c) the WG-PVD should consider the conclusions of the TWPs and the TC at its next meeting.

4. At its meeting on April 5, 2006, the WG-PVD considered the report on progress in the model studies (documents TC/41/9 and TC/42/9) and an oral report of the discussions in the forty-second session of the TC.

5. The WG-PVD recommended:

(a) to invite the TWPs and the TC to develop a list of criteria for the use of descriptions obtained from different locations and sources (the experts from France and Germany participating in the WG-PVD agreed to provide some key points as a starting point for discussion);

(b) to invite the TWPs to consider crops where those criteria might be satisfied such that the use of descriptions obtained from different locations and sources would be useful. For those selected crops, to investigate the value of the existing grouping / asterisked characteristics, or possibly other characteristics, in the grouping of varieties based on descriptions from different locations and sources (a “reality” check).

6. The WG-PVD provisionally set a meeting for April 2007.

Administrative and Legal Committee (CAJ)

7. The CAJ, at its fifty-third session, held in Geneva on April 6, 2006, received an oral report from the Vice Secretary-General on the meeting of the WG-PVD, held on April 5, 2006. The CAJ took note of that report.

Technical Working Parties (TWPs)

8. As explained in paragraph 5, at their sessions in 2006, the TWPs were invited to:

(a) develop a list of criteria for the use of descriptions obtained from different locations and sources; and

(b) to consider crops where those criteria might be satisfied such that the use of descriptions obtained from different locations and sources would be useful. For those

selected crops, to investigate the value of the existing grouping / asterisked characteristics, or possibly other characteristics, in the grouping of varieties based on descriptions from different locations and sources (a “reality” check).

9. In accordance with the discussions in the WG-PVD, the experts from France and Germany participating in the WG-PVD provided some key points as a starting point for discussion concerning a list of criteria for the use of descriptions obtained from different locations and sources. That list of criteria is provided as the Annex to this document.

Technical Working Party for Vegetables (TWV)

10. At its fortieth session, held in Guanajuato, Guanajuato State, Mexico, from June 12 to 16, 2006, the TWV considered document TWV/40/6. It agreed with the key points for a list of criteria, as set out in the Annex to this document (document TC/43/9). With regard to paragraph 4 (c) of the Annex to this document, it suggested that it should be clarified that there was only a small number of characteristics for grass varieties and that those characteristics were quantitative characteristics. A representative of the International Seed Federation (ISF) indicated that ISF would be in favor of open access to variety descriptions, but reported that ISF was also discussing whether it might be appropriate for access to be restricted to the breeder of the variety for a certain period, e.g. five years.

11. In accordance with the WG-PVD proposal, as set out in paragraph 8(b) of this document, the TWV proposed to investigate the value of grouping, asterisked and other characteristics in Pea and Tomato in both a global and regional approach. It was agreed that France would act as the coordinator for work on Pea and the European Community, working in conjunction with its examination offices, would act as the coordinator for work on Tomato. The TWV also agreed that it would be useful to discuss the possibilities for ringtests prior to the revision of Test Guidelines and agreed to discuss that matter at its forty-first session.

Technical Working Party on Automation and Computer Programs (TWC)

12. The TWC took note of the information provided in document TWC/24/6.

Technical Working Party for Agricultural Crops (TWA)

13. The TWA considered document TWA/35/6 at its thirty-fifth session, held in Beijing, China, from July 3 to 7, 2006. It was suggested that the cost of any project on the publication of variety descriptions should be added to the list of criteria. An expert from France noted that, for most agricultural crops, there were not very many grouping characteristics and that the value of a database would be limited for the purposes of the management of reference collections since the best way to ensure the quality of the management of the reference collection was to obtain plant material and to produce variety descriptions for the location in which the DUS test was conducted. She also raised particular concern with regard to publishing information concerning parent lines. The Chairperson expressed concern that the incorrect use of data in a database could lead to incorrect decisions and emphasized the need for clear guidance to minimize that risk if descriptions were published. The representative of the European Seed Association (ESA) and ISF suggested that the development of databases of variety descriptions could help to raise the quality of reference collections and, therefore, of DUS testing. The expert from Australia noted that the publication of variety descriptions would lead to greater transparency which could improve the quality of DUS testing and suggested that it would be possible to be clear that the purpose was to improve the

management of reference collections. He noted that the value of variety descriptions would vary according to the circumstances in each crop. An expert from the European Community wondered if it might be possible for authorities to publish variety descriptions of the grouping characteristics on a unilateral basis in order to ensure transparency.

14. In conclusion, the TWA noted that there were some potential benefits in the publication of variety descriptions, but noted that there were some risks and recognized that the work would have a significant cost. It also noted that there were no proposals for work within the TWA crops.

Technical Working Party for Fruit Crops (TWF)

15. At its thirty-seventh session, held in Salvador, Bahia State, Brazil, from August 21 to 25, 2006, the TWF noted the information provided in document TWF/37/6.

Technical Working Party for Ornamental Plants and Forest Trees (TWO)

16. At its thirty-ninth session, held in Fortaleza, Ceará State, Brazil, from August 28 to September 1, 2006, the TWO considered document TWO/39/6. The TWO concluded that, taking into account the particular situation of ornamental varieties which were distributed on a worldwide basis and which were, in general, distributed all over the world, the development of a project for the publication of variety description would imply a great effort and the involvement of a lot of work without clear benefit for DUS examination of ornamental varieties. Furthermore, there was sufficient information available on the internet and in commercial catalogues, and given the reduced number of breeders in relation to other species, the identification of relevant varieties and the availability of plant material was already good enough and did not justify the development of that project. The TWO did not suggest any crop for the project.

Matters for consideration by the Technical Committee

17. As explained in paragraph 5, the WG-PVD invited the TWPs and the TC to develop a list of criteria for the use of descriptions obtained from different locations and sources. In accordance with the discussions in the WG-PVD, the experts from France and Germany participating in the WG-PVD provided some key points as a starting point for discussion concerning a list of criteria for the use of descriptions obtained from different locations and sources. That list of criteria is provided as the Annex to this document.

18. The TWA has suggested that the cost of any project on the publication of variety descriptions should be added to the list of criteria (see paragraph 13).

19. In the absence of substantial developments, a meeting of the WG-PVD has not been arranged for 2007. The Office of the Union proposes that no further meeting of the WG-PVD be arranged unless or until specific proposals are developed for its consideration by the TC or by a TWP.

20. *The TC is invited to:*

(a) note the report on developments in the WG-PVD, CAJ and TWPs, as presented in this document;

(b) consider the list of criteria for the use of descriptions obtained from different locations and sources, as set out in the Annex to this document (see paragraphs 17 and 18); and

(c) agree that no further meeting of the WG-PVD be arranged unless or until specific proposals are developed for its consideration by the TC or by a TWP (see paragraph 19).

KEY POINTS AS A STARTING POINT FOR THE DEVELOPMENT OF A LIST OF
CRITERIA FOR THE USE OF DESCRIPTIONS OBTAINED FROM DIFFERENT
LOCATIONS AND SOURCES

prepared by experts from France and Germany

Introduction

1. At its meeting on April 5, 2006, the *Ad hoc* Working Group on the Publication of Variety Descriptions (WG-PVD) recommended that the Technical Working Parties (TWPs) and the Technical Committee (TC) should develop a list of criteria for the use of descriptions obtained from different locations and sources. It was agreed that the experts from France and Germany should provide some key points as a starting point for discussion, which is the basis for this paper.

2. Several pilot studies have been conducted in the framework of the TWPs or other bodies of UPOV during the last years. All of them involved comparisons of descriptions made by different member states on a set of common varieties. They gave useful indications on the level of harmonization of the descriptions which allowed the technical aspects of the project to be considered.

3. The pilot studies showed that as soon as more than one country conducts DUS tests in a given species, there is no unique description of a variety. This was found even on crops for which the observations were conducted in semi controlled or fully controlled conditions (greenhouses, growth chambers...). The reasons for such discrepancies were found to include the nature of the material observed (living material), the natural variability of the experimental conditions, and the subjectivity linked to the human observation. Two main sources of variation were identified: the environmental effect (soil and climate) and the observer effect (method of observation). The observer effect can be reduced by technical exchanges between crop experts, whereas the variation due to the locations of the trials cannot be avoided. Controlling the existence and the importance of such variations in a given crop appeared as one of the key aspects when evaluating the interest of constructing an international data base with variety descriptions.

4. Recognizing the unavoidable level of “disharmonization” between descriptions leads to several considerations:

(a) It is in general not appropriate to use the information on variety descriptions available in an international database directly to take decision on distinctness. This cannot be the aim of the project of publication of variety descriptions¹.

¹ The aim of the project to consider the publication of variety descriptions is:

(a) to increase the availability of variety description information to interested parties (i.e. DUS examiners, breeders and maintainers of varieties of common knowledge) and thereby to maximize the effectiveness of the examination of distinctness; and

(b) to use appropriate elements of the variety description, in the process of examining distinctness, to eliminate varieties which do not require further comparison and to identify those varieties against which a further comparison is required.

(b) The main interest foreseen from the pilot studies lies in the management of variety collections: having easy access to descriptions of varieties of common knowledge is seen by certain crop experts as a potential help to make the selection of close varieties and the elimination of very distinct varieties from the growing trials. Achieving this aim requires, firstly, to know the level of harmonization between members of the Union providing descriptions. Then, it is necessary to define carefully which information should be published (grouping characteristics, asterisk characteristics, others, conditions of observations, locations, years...). For those characteristics where the information cannot be fully harmonized, it is necessary to define the methods to be used in the process of selection/elimination of reference varieties. In particular, the minimum distances applied when comparing data coming from different origins and locations should control the risk associated with the decision taken “on paper”, without “seeing” the concerned varieties in one’s own conditions.

(c) The interest of the publication of variety descriptions varies from crop to crop, according to the specificity of the crop and the expected benefits. The interest appears higher for an ornamental crop observed in a greenhouse, described with many qualitative characteristics and spread all over the world, than for a grass variety observed outdoors, described with few quantitative characteristics and highly influenced by the year and location, and regionally cultivated. The decision to establish and update an international database with variety descriptions requires the evaluation of these criteria and crop-by-crop investigation of the advantages brought by the new data which would be made available, bearing in mind the extra work required to build the database and to update and to make use of the information. Only a positive balance would be acceptable.

Key points for a list of criteria

5. On the basis explained above, the following key points are proposed for consideration by the TWPs as a starting point for the development of a list of criteria for the use of descriptions obtained from different locations and sources:

- (a) to consider the species for which they see a real interest in creating an international database with variety descriptions;
- (b) to specify the aim and benefits expected;
- (c) to select the characteristics for which descriptions should be published;
- (d) to specify for each characteristic the degree of harmonization already achieved or aimed at (in the latter case, to specify if actions should be planned in order to improve the level of harmonization: ring tests, revision of the description of the way of observation in the guideline, ...);
- (e) to study the pertinence of a “regional approach”, rather than an “international approach” (to consider groups of countries and to compare descriptions within those groups only);
- (f) to propose minimum distances when making comparisons of data, for the relevant characteristics;
- (g) to list the countries which would contribute to the publication; and
- (h) to consider the type of access (free or restricted to the contributors).

[End of Annex and of document]