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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
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TECHNICAL 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 since the forty-fourth session of the Technical Committee (TC) concerning the consideration of TGP documents; to provide background information to assist the TC 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 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.

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) / under revision
<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 TECHNICAL 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 concerning that document by the TWPs and CAJ at their sessions in 2008 and by the Enlarged Editorial Committee (TC-EDC), at its meeting on January 8, 2009. Notes on discussions of all aspects of the document 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) *Examination of characteristics using image analysis*

11. The TWA, at its thirty-seventh session, proposed to remove Section III: “Examination of characteristics using image analysis” from TGP/12 and to include that section in document TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”, on the basis that it did not concern characteristics, but methods of examining characteristics. The Technical Working Party on Automation and Computer

Programs (TWC), at its twenty-sixth session held in Jeju, Republic of Korea, from September 2 to 5, 2008 agreed with that proposal.

12. On the basis of the above considerations, Section III: “Examination of characteristics using image analysis” has been removed from document TGP/12 with a view to incorporating it in “Part II: Techniques Used in DUS Examination” of document TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability” (see comments below concerning document TGP/8).

(iv) *Disease resistance: nomenclature*

13. At its forty-second session, held in Cracow, Poland, from June 23 to 27, 2008, the Technical Working Party for Vegetables (TWV) received the following proposal from Mr. Kees van Ettehoven (Netherlands) concerning the nomenclature of disease resistance:

“In TGP/12, the principles on the use of disease resistance characteristics are given. Besides these principles there are other elements to consider when mentioning disease characteristics in UPOV guidelines:

“1. The nomenclature of the pathogens

“As in the plant kingdom, also in the field of pathogens the denomination of the subject is important in order to correctly identify the various diseases. As in the plant kingdom the names of pathogens sometimes change as a consequence of improved insight in the pathogen and its relation with other pathogens. The use of the proper name is therefore important. In principle, the UPOV Test Guidelines should follow the latest valid taxonomic views. This principle has two disadvantages: the UPOV Test Guidelines are not revised annually and in practice the users of the pathogen names may be familiar with the old name and not yet with the new name. In the ISF disease resistance coding working group, faced with the same problem, the following solution was introduced: a new denomination is given in brackets behind the old name with the prefix ‘new’ for a period of 5 years. After 5 years, the situation is reversed: the new name is given with behind it in brackets the old name with the prefix ‘old’ for a further period of 5 years. After the latter period of five years, only the new name is given. It is proposed to follow the same principles in the UPOV Test Guidelines in order to avoid confusion and have maximum clarity.

“2. The use of abbreviations

“In practice, the scientific binomial for the pathogens is often replaced by a code. In the ISF disease resistance coding working group a system of codes was introduced to ensure uniformity in the use of these codes. The codes are logically derived from the names of the pathogens and can also be found on the ISF website: www.worldseed.org. It is proposed to introduce the disease codes in the UPOV guidelines.

“3. The nomenclature of races and strains

“As with the names and codes of the diseases, also the correct naming of the races and strains needs to be observed to avoid confusion. It is proposed to implement the race nomenclature developed by ISF in the UPOV Test Guidelines.”

14. The TWV agreed that the proposal from Mr. van Ettehoven represented an appropriate means of managing the naming of disease resistances. It agreed that that approach should be incorporated in document TGP/12 “Special Characteristics” or TGP/7 “Development of Test Guidelines”, and agreed that a decision on which should be postponed until its forty-third session. In the meantime, the TWV agreed that this development should not delay the adoption of TGP/12, because TGP/12 could be revised at a future date if necessary. The TWV agreed that, for its forty-third session, Mr. van Ettehoven should prepare draft guidance for inclusion in document TGP/12 or TGP/7 on the basis of his proposal, set out above, subject to the following:

- (i) to include the names of the relevant pathogen naming organizations on which the names would be based;
- (ii) to include an explanation that the old and new name should be kept with the appropriate code, e.g. *Oidium lycopersicum* (Ol) (now *Oidium neolycopersici* (On)); and
- (iii) to explain that it would not be necessary to revise Test Guidelines in order to reflect changes in pathogen names.

15. On the basis of the conclusions of the TWV, the above proposal for naming disease resistance has not been included in document TGP/12/1 Draft 7. The TC will be invited to consider whether the proposal for naming disease resistance should be incorporated in document TGP/12/1 “Special Characteristics”, a future revision of document TGP/12, or in the revision of document TGP/7 “Development of Test Guidelines”.

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

16. Any changes to the text of document TGP/12/1 Draft 7 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/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.

17. *The TC 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);*

(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 16; and*

(c) *invite the TWV to propose whether to include a section on the nomenclature of disease resistance in document TGP/7 or TGP/12.*

TGP/13 “Guidance for New Types and Species”

18. 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. The following background information is provided in relation to discussions on Section 2.4 of document TGP/13/1 Draft 14, by the TWPs and CAJ at their sessions in 2008. Notes on discussions of the other aspects of the document can be found in the endnotes to document TGP/13/1 Draft 14.

(i) Section 2.4 “Testing distinctness”

19. At the thirty-ninth session of the Technical Working Party for Fruit Crops (TWF), held in Lisbon, Portugal, from June 2 to 6, 2008, the TWF noted the explanation in paragraph 2.4.2 of document TGP/13/1 Draft 12 and discussed the need to consider practical issues of access to wild populations in order to determine if they might constitute varieties of common knowledge. It also discussed the issue of how to determine the boundary of populations. It was agreed that it could be helpful to encourage breeders to provide parent material or representative plants of the original population to assist in the DUS examination of new varieties. The TWF agreed that it would not be possible to provide detailed guidance on those matters in document TGP/13, but concluded that it would be of assistance to hear reports from experts on their particular experiences with new types and species. On that basis, the TWF agreed to add an item for such presentations at its fortieth session in 2009 and invited experts to prepare such reports. It also agreed that breeders might be invited to explain developments with regard to new types and species. The Technical Working Party for Ornamental Plants and Forest Trees (TWO), at its forty-first session, held in Wageningen, Netherlands, from June 9 to 13, 2008, agreed to add an item for reports from experts on their particular experiences with new types and species at its forty-second session in 2009 and invited experts to prepare such reports. It also agreed that breeders might be invited to explain developments with regard to new types and species.

20. With regard to document TGP/13/1 Draft 12, Section 2.4.2 (i) and (ii), the TWA, at its thirty-seventh session, held in Nelspruit, South Africa, from July 14 to 18, 2008, proposed that the views of the TC and CAJ should be sought concerning those explanations and the implication that a single plant selected from a population could be developed into a variety and protected without further crossing.

21. The CAJ, at its fifty-eighth session, held in Geneva on October 27 and 28, 2008, agreed that the explanations in Section 2.4.2 (i) and (ii) of document TGP/13/1 Draft 12 should be retained unchanged. In that respect, reference was made to the document “The Notion of Breeder and Common Knowledge in the Plant Variety Protection System based upon the UPOV Convention”

(http://www.upov.int/export/sites/upov/en/about/pdf/c_extr_19_2_rev.pdf), adopted by the Council of UPOV at its nineteenth extraordinary session on April 19, 2002, which includes the following explanation:

“The Text of the 1991 Act

“16. When the Convention was revised in 1991, notwithstanding the fact that the making of selections within pre-existing variation was regarded as a standard activity for plant breeders, it was thought to be useful to include a definition of breeder in order

to emphasize the fact that the UPOV Convention also provided protection for varieties that had been ‘discovered.’ At the Diplomatic Conference, delegates were conscious that discoveries were an important source of variety improvement but they also recognized that, in practice, a discovery must be evaluated and propagated before it can be exploited. This is the reason why the 1991 Act retained, in Article 1(iv), the notion of breeder as including the person who bred, or discovered and developed, a variety. The reference to the ‘origin,’ artificial or natural of the initial variation from which the variety has resulted in Article 6(1)(a) of the 1978 Act no longer appears. In the 1991 Act, ‘discovery’ describes the activity of ‘selection within natural variation’ while ‘development’ describes the process of ‘propagation and evaluation.’

“17. It has been suggested that the criterion of ‘development’ is only satisfied if the discovered plant itself is subsequently changed in some way and that the propagation of the plant unchanged would not constitute ‘development.’ This approach would require the discovered plant to be propagated sexually and for a selection to be made in the progeny in order to demonstrate development. It is suggested that this approach cannot be correct since selection in the progeny would constitute ‘breeding.’ This approach would also deny protection to most mutations, since the mutation is usually propagated unchanged.”

(ii) Procedure for adoption of document TGP/13

22. 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.

23. The TC is invited to:

(a) 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 22; and

(b) note that the TWF and TWO, at their sessions in 2009, will invite reports from experts on their particular experiences with new types and species (see paragraph 19).

(b) New TGP documents under development

TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”

(i) Background information

24. The program for the development of TGP documents as set out in document TC/44/5, Annex III (see document TC/44/13 “Report”, paragraph 147), does not indicate a target date for adoption of document TGP/8 “Trial Design and Techniques Used in the Examination of

Distinctness, Uniformity and Stability”. At its meeting on January 8, 2009, the Enlarged Editorial Committee (TC-EDC) noted that there were a number of sections within document TGP/8/1 Draft 1 for which development had not yet started, or for which substantial further development would be required. At the same time, the TC-EDC noted that there were a number of important sections within TGP/8 that were well-established and could already provide useful guidance. Therefore, the TC-EDC proposed that the TC should be invited to consider the adoption of a first version of document TGP/8 (document TGP/8/1) without the sections of that document that would require further substantial development. The TC-EDC also noted that the identification of well-established text within document TGP/8 would justify translation of those sections. With regard to the sections of document TGP/8 that would not be included in the first version of document TGP/8 (document TGP/8/1), the TC-EDC proposed that those sections should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8 (document TGP/8/2) at the earliest opportunity.

25. With regard to new proposals concerning the content of document TGP/8, the TWA, at its thirty-seventh session, proposed to remove Section III: “Examination of characteristics using image analysis” from TGP/12 and to include that section in document TGP/8, on the basis that it did not concern characteristics, but methods of examining characteristics. As explained in paragraph 11 above, the TWC, at its twenty-sixth session, agreed with that proposal. The TC-EDC, at its meeting on January 8, 2009, noted that the section on the examination of characteristics using image analysis would require further substantial development and would not be finalized in time for the initial adoption of document TGP/8 (document TGP/8/1).

26. The TC-EDC agreed that the following sections of document TGP/8/1 Draft 11, considered by the TC-EDC at its meeting on January 8, 2009 (see http://www.upov.int/restrict/en/tc_edc/index_tc_edc_jan09.htm), would require further substantial development:

Part I: DUS Trial Design and Data Analysis:

2. *Data to be recorded*
3. *Control of variation due to different observers*
6. *Data processing for the assessment of distinctness and for producing variety descriptions*

Part II: Techniques Used in DUS Examination

- 3.5 *Statistical methods for very small sample sizes*
5. *Examining DUS in bulk samples*
6. *Examination of characteristics using image analysis*
7. *Methods for data processing for the assessment of distinctness and for producing variety descriptions*

27. In accordance with the recommendation of the TC-EDC, the above sections have been omitted from document TGP/8/1 Draft 12, but have been reproduced in document TC/45/14, Annex I (English only).

(ii) *Procedure for adoption of document TGP/8*

28. In conclusion, the recommendation of the TC-EDC is that document TGP/8/1 be scheduled for adoption in 2010 on the basis of the content included in document TGP/8/1 Draft 12. At the same time, the recommendation of the TC-EDC is that, separately from consideration of the draft of document TGP/8/1, the sections omitted from document TGP/8/1 Draft 12, as reproduced in document TC/45/14, Annex I, should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8/1 (i.e. document TGP/8/2) at the earliest opportunity.

29. *The TC is invited to:*

(a) *consider the procedure for the adoption of document TGP/8, as set out in paragraph 28;*

(b) *consider document TGP/8/1 Draft 12; and*

(c) *consider document TC/45/14, Annex I.*

TGP/11 “Examination of Stability”

30. At its forty-fourth session, held in Geneva from April 7 to 9, 2008, the TC noted the TWV proposal for the possible development of a document to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder’s right and the status and use of the “official” variety description. The TC also noted the comments of the TC-EDC that there would be practical advantages in dealing with all aspects of stability in a single document and the proposal of the TC-EDC that the TC, in conjunction with the CAJ, might consider an amendment to the title of TGP/11, with the document being clearly separated into two parts:

Part I: Examining Stability (Article 12 “Examination of the Application”, of the 1991 Act of the UPOV Convention)

Part II: Stability after the grant of a breeder’s right (Article 22(1) “Cancellation of the Breeder’s Right”, of the 1991 Act of the UPOV Convention)

31. The TC agreed that the view of the CAJ should be sought with regard to whether it would be appropriate to pursue those proposals (see document TC/44/13 “Report”, paragraph 118).

32. At its fifty-eighth session, held in Geneva on October 27 and 28, 2008, the CAJ considered document TGP/11/1 Draft 5 “Examining Stability”, in conjunction with document CAJ/58/2. The CAJ agreed that document TGP/11 should consider only the examination of stability in the context of the DUS examination and that a separate document should be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder’s right (see document CAJ/58/6 “Report on the Conclusions”, paragraph 11). The TC will be invited to consider the possibility of developing a document to provide guidance on

matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder's right under agenda item 5 "Matters arising from the Technical Working Parties" (see document TC/45/3, Section I "Matters for information and for a possible decision to be taken by the Technical Committee").

33. At its meeting on January 8, 2009, the TC-EDC made the following general comments with regard to document TGP/11/1 Draft 5:

- (a) as agreed by the CAJ, to consider only the examination of stability in the context of the DUS examination;
- (b) to explain the nature of stability and why it is connected to uniformity in such a way that the General Introduction states that "for many types of variety, when a variety has been shown to be uniform, it can also be considered to be stable" (General Introduction, Chapter 7.3.1.1);
- (c) to avoid text stating that "stability is not examined" (see Sections 2.1.2, 2.1.3, 2.1.5(a));
- (d) to avoid explanations of uniformity (e.g. Section 2.1.4 (a) and (b)) – if necessary to explain aspects of uniformity, to make a reference to TGP/10/1 "Examining Uniformity" or to quote text of TGP/10/1;
- (e) to focus the document on providing practical guidance on situations concerning specifically stability (not uniformity), e.g. Section 2.1.4 (c); and
- (f) in relation to Section 2.2.3, to note that the TC-EDC has proposed that the standard wording for stability in Test Guidelines be amended as follows (see document TGP/7/2 Draft 2: ASW 9 (TG Template: Chapter 4.3.2) – Stability assessment: general):

"Where appropriate, or in cases of doubt, stability may be further examined ~~tested, either by growing a further generation, or~~ by testing a new [seed or plant] stock to ensure that it exhibits the same characteristics as those shown by the ~~previous~~ initial material supplied."

34. Given the scope of comments made by the CAJ and TC-EDC concerning document TGP/11/1 Draft 5, Mr. Sergio Semon (European Community), drafter of document TGP/11/1, in conjunction with the Office of the Union, concluded that it would not be feasible to prepare a new draft of document TGP/11/1 for consideration by the TC at its forty-fifth session. Furthermore, it was noted that the first TWP session of 2009 (the forty-third session of the TWV, to be held in Beijing, from April 20 to 24, 2009) would meet less than three weeks after the TC. On that basis, it was concluded that it would not be feasible to prepare a new draft of document TGP/11/1 for consideration by the TWPs in 2009. Therefore, at their sessions in 2009, the TWPs will be invited to consider the comments made on document TGP/11/1 Draft 5 by the CAJ and the TC. On the basis of those comments and any further comments by the TWPs, a new draft of document TGP/11/1 (document TGP/11/1 Draft 6) will be prepared for consideration by the TC-EDC at its meeting in January 2010 (see the Annex to this document).

35. *The TC is invited to consider document TGP/11/1 Draft 5 [in conjunction*

with the comments set out in paragraphs 32 and 33].

TGP/14 “Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents”

(i) Background information

36. The program for the development of TGP documents as set out in document TC/44/5, Annex III (see document TC/44/13 “Report”, paragraph 147), does not indicate a target date for adoption of document TGP/14 “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents”. At its meeting on January 8, 2009, the Enlarged Editorial Committee (TC-EDC) noted the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 “Color” (“TGP/14 Workshop”), held on May 30 and 31, 2008, and the related discussions by the TWP’s at their sessions in 2008 (see document TC/45/14, Annex III (English only)). It concluded that TGP/14 Section 2, Subsection 3 “Color” (Color Subsection) would require substantial further development before it could be considered for adoption. At the same time, the TC-EDC noted that the other sections within TGP/14 were well-established and could already provide useful guidance. Therefore, the TC-EDC proposed that the TC should be invited to consider adoption of a first version of document TGP/14 (document TGP/14/1) without the Color Subsection. The TC-EDC also noted that such a procedure would make it realistic to translate document TGP/14/1 Draft 8. With regard to the Color Subsection, which would not be included in the first version of document TGP/14 (document TGP/14/1), the TC-EDC proposed that it should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14 (document TGP/14/2) at the earliest opportunity.

37. In accordance with the recommendation of the TC-EDC, the Color Subsection has been omitted from document TGP/14/1 Draft 8, but has been reproduced in document TC/45/14, Annex II (English only). In addition, an index of terms has been introduced in document TGP/14/1 Draft 8. Primarily to facilitate the work of the Office of the Union in preparing the index for future drafts of the document, the indexed terms in the document are presented in red font.

(ii) Procedure for adoption of document TGP/14

38. In conclusion, the recommendation of the TC-EDC is that document TGP/14/1 be scheduled for adoption in 2010 on the basis of the content included in document TGP/14/1 Draft 8. At the same time, the recommendation of the TC-EDC is that, separately from consideration of the draft of document TGP/14/1, the Color Subsection should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14/1 (i.e. document TGP/14/2) at the earliest opportunity.

39. *The TC is invited to:*

(a) consider the procedure for the adoption of document TGP/14, as set out in paragraph 38;

(b) consider document TGP/14/1 Draft 8; and

(c) consider document TC/45/14, Annexes II and III.

(c) *Revision of TGP Documents*

TGP/7 “Development of Test Guidelines”

40. The revisions proposed to document TGP/7/1, on the basis of the comments made by the TWPs and the CAJ at their sessions in 2008 by the TC-EDC at its meeting on January 8, 2009 and certain other proposals are incorporated in document TGP/7/2 Draft 2. The background to the proposed revisions is presented in the form of endnotes.

41. Reference to document TGP/7 is made in certain adopted TGP documents (e.g. document TGP/9/1, Section 2.3.1.2.2, refers to “document TGP/7/1, Annex 3: GN 13.4”). For that reason, document TGP/7/2 Draft 2 seeks to conserve the numbering from document TGP/7/1 as far as possible. In that respect, additional items are added after the last number for Additional Standard Wording (ASW) and Guidance Notes (GN), or are accommodated by sub-numbering, e.g. GN 11.1 and 11.2.

42. On the basis of the comments made by the TWPs and the CAJ, and agreed by the TC-EDC, the following matters, which the TC had previously agreed should be considered in the revision of document TGP/7/1, have not been pursued:

<i>Annex 3: Guidance Notes (GN) for the TG Template</i>	
GN 20	<p><i>(to consider whether the revision of Test Guidelines might not fully follow the guidance on the presentation of characteristics in document TGP/7 if that would involve substantial revision of databases of variety descriptions, which would not otherwise be necessary.)</i></p> <p>The TWF, TWO, TWV and TWA agreed that the need for a substantial revision of databases of variety descriptions should not be an automatic reason not to follow the guidance in document TGP/7 and agreed that the situation needed to be considered on a case-by-case basis.</p>
GN 29	<p><i>(to consider the possibility of introducing a table of trade names associated with the denominations of the example varieties)</i></p> <p>The TWF agreed in principle, but emphasized the need to explain the risks and the need to distinguish between trade names and trademarks.</p> <p>The TWO noted that trade names might not be registered (e.g. might or might not be trademarks) and noted, in particular, that trade names are not exclusively linked to a single variety. On that basis, it agreed that it would not be appropriate to seek to develop table of trade names in Test Guidelines.</p>

<i>Annex 4: Collection of Approved Characteristics</i>	
Collection	<p><i>(to consider incorporating characteristics which are used in most Test Guidelines (e.g. Leaf: length) into the electronic template. To consider developing electronic templates for variety types (e.g. seed-</i></p>

	<p><i>propagated vegetables) which would incorporate more standard characteristics for the varieties concerned)</i></p> <p>The TWV agreed that experience had demonstrated that such an approach would not be appropriate.</p>
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43. The following comments concern document TGP/7/1, Annex 4 “Collection of Approved Characteristics”. The “Collection of Approved Characteristics” is provided on the website (see http://www.upov.int/restrict/en/index_drafters_kit.htm) and a reference to that website is made in document TGP/7/1.

44. The following aspects concerning the “Collection of Approved Characteristics” will be addressed in parallel with the revision of document TGP/7. Where considered appropriate, an amendment would be made to document TGP/7/1, Annex 4, paragraphs 1 and 2.

<i>Annex 4: Collection of Approved Characteristics</i>	
Introduction	<p><i>(to be clarified that characteristics contained in adopted UPOV Test Guidelines may be omitted from the “Collection of approved characteristics” (document TGP/7, Annex 4) where considered appropriate by the TC, on the basis of recommendations by the Enlarged Editorial Committee (TC-EDC))</i></p> <p>The TWF and TWO agreed. The TWV observed that that approach was not the most elegant means of addressing problematic characteristics.</p> <p><i>(to explain that the indication of the characteristic number, the method of observation, type of characteristic and the indications of (+) and (*) had been retained from the Table of Characteristics from which the characteristic had originated, but to clarify that that information might not be appropriate for other Test Guidelines)</i></p> <p><i>(to explain to drafters of Test Guidelines that, for characteristics where any element of the characteristic is changed after copying from the collection, the translations into French, German and Spanish should be deleted)</i></p> <p>The TWF, TWO and TWV agreed.</p>
Collection	<p><i>(examples of color characteristics developed in conjunction with TGP/14 Section 2.3: “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents: Botanical Terms: Color” to be incorporated into TGP/7: Annex 4 “Collection of Approved Characteristics”. (It was noted that that might require the organization of the TGP/7 to be modified to some extent.))</i></p> <p><i>(to consider including a collection of approved illustrations and to consider making that collection available to breeders to assist in their applications for PBR. (see also TGP/14 Section 2.1: Plant shapes))</i></p> <p><i>(to consider the development of tools such as CD-ROMs containing photographs to enhance the understanding of the characteristics used in the Test Guidelines and thereby reduce observer error)</i></p> <p>The TWF, TWO and TWV (except where indicated) agreed with the proposals above.</p>
	<p>The TWA noted that the Office of the Union planned to develop an improved TG Template and to integrate the Collection of Approved</p>

Characteristics into that template in a user-friendly package for drafters of Test Guidelines.
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45. The following matters, which arose from discussions on the revision of document TGP/7/1, were also raised by the TWPs and/or CAJ:

(i) *Revision of TGP/5 “Experience and Cooperation in DUS Testing”: Section 10 Notification of Additional Characteristics*

46. The TWO proposed to include guidance on modifying the states of expression of characteristics in the Table of Characteristics, including asterisked characteristics. It was proposed that such changes might be notified to UPOV by means of document TGP/5 “Experience and Cooperation in DUS Testing”: Section 10 Notification of Additional Characteristics (see document TGP/7/2 Draft 2, Introduction, Section 1.2.1.9 “(e) Modification of Test Guidelines characteristics”). The TWO noted that such an approach would require a corresponding revision of document TGP/5: Section 10/1.

(ii) *Disease resistance: nomenclature*

see comments on TGP/12 “Special Characteristics”, “(iv) Disease resistance: nomenclature”.

47. *The TC is invited to:*

(a) *consider document TGP/7/2 Draft 2;*

(b) *consider whether to initiate a revision of document TGP/5, Section 10 Notification of Additional Characteristics, as set out in paragraph 46; and*

(c) *refer to paragraph 17(c) concerning an invitation to the TWV to propose whether to include a section on the nomenclature of disease resistance in document TGP/7 or TGP/12.*

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

48. 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.

49. *The TC 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 48.*

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

50. 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-fourth session, the subsequent discussions at the CAJ and TWP sessions in 2008 and the recommendations of the TC-EDC at its meeting on January 8, 2009.

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

[Annex follows]

TC/45/5
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/1	General Introduction with Explanations	-	Office		---	---	---	---		---	---	---	---	---	---	---
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/1 ADOPTED														
TGP/3	Varities of Common Knowledge	C/Exec./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	Test 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 (OZ)	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 (OZ)	draft 13	draft 14 / approve	draft 14 / approve	---		draft 15 / Adopt						
TGP/14	Glossary of [Technical, Potential 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)															

[End of Annex and of document]