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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

TECHNICAL COMMITTEE

Forty-Sixth Session
Geneva, March 22 to 24, 2010

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

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 Convention[1] 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	TGP/0/1 approved (2005) TGP/0/2 adopted by Council (2009) / *under revision*
TGP/1	*General Introduction with Explanations*	-
TGP/2	List of Test Guidelines Adopted by UPOV	Approved (2005)
TGP/3[2]	*Varieties of Common Knowledge*	-

[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	Title	Stage of development
TGP/4	Constitution and Maintenance of Variety Collections	Adopted by Council (2008)
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*
TGP/8	*Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability*	*under development*
TGP/9	Examining Distinctness	Adopted by Council (2008)
TGP/10	Examining Uniformity	Adopted by Council (2008)
TGP/11	*Examining Stability*	*under development*
TGP/12	Guidance on Certain Physiological Characteristics	Adopted by Council (2009)
TGP/13	Guidance for New Types and Species	Adopted by Council (2009)
TGP/14	*Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents*	*under development*
TGP/15	*New Types of Characteristics*	-

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) New TGP documents under development

(i) TGP documents scheduled for adoption in 2010

6. The program for the development of TGP documents, as agreed by the TC (see documents TC/45/5, Annex and TC/45/16 “Report”, paragraph 136) and the CAJ in 2009 (see documents CAJ/60/2, Annex II and CAJ/60/10 “Report on the Conclusions”, paragraph 13), scheduled the adoption of documents TGP/8/1 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability” and TGP/14/1 “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents” by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. The following background information is provided to assist in the consideration of those documents. Notes on discussions concerning the documents by the TWPs and CAJ at their sessions in 2009 and by the Enlarged Editorial Committee (TC-EDC), at its meeting on January 7, 2010, can be found in the endnotes to documents TGP/8/1 Draft 15 and TGP/14/1 Draft 11.

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

Background information

7. 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 11 for which development had not 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. 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.

8. 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, 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

9. In accordance with the recommendation of the TC-EDC, the above sections were omitted from document TGP/8/1 Draft 12, which was considered by the TC at its forty-fifth session, held in Geneva from March 30 to April 1, 2009, but were reproduced in document TC/45/14.

10. The TC, at its forty-fifth session, agreed that document TGP/8/1 should be scheduled for adoption in 2010 on the basis of the content included in document TGP/8/1 Draft 12. The TC further agreed that, at the same time, 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.

11. The TC, at its forty-fifth session, agreed that it would not be appropriate to change the structure of document TGP/8/1. However, to assist users to identify relevant sections in the

document more easily, it agreed that an orientation guide, possibly in the form of a grid or flow diagram, should be developed. It agreed that the guide should be considered alongside discussions on the draft of document TGP/8/1 with a view to its inclusion as an introduction in the document before its adoption, if considered appropriate. The TC invited proposals on such a guide, to be received by the Office of the Union by no later than April 17, 2009. However, no proposals were received by the Office of the Union.

Procedure for adoption of document TGP/8/1

12. Any changes to the text of document TGP/8/1 Draft 15 proposed by the TC at its forty-sixth session will be reported to the CAJ at its sixty-first session, to be held in Geneva on March 25, 2010. Subject to agreement of a common text by the TC and the CAJ, document TGP/8/1 will be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. 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/8/1 to the Council.

Future revision of document TGP/8/1 (document TGP/8/2)

13. The sections omitted from document TGP/8/1 Draft 12, reflecting comments made by the TC at its forty-fifth session, were considered by the TWPs at their sessions in 2009 (see documents TWA/38/10, TWC/27/11, TWF/40/10, TWO/42/10 and TWV/43/11 "Document TGP/8: Sections for separate development"). Revised versions of those sections, incorporating the comments and new proposals of the TWPs at their sessions in 2009, will be compiled by the Office of the Union, in conjunction with relevant experts, for consideration by the TWPs at their sessions in 2010.

14. The comments and proposals of the TWPs at their sessions in 2009 are not presented to the forty-sixth session of the TC, but will be compiled by the Office of the Union for consideration by the TC at its forty-seventh session, taking into account all the comments by the TWPs at their sessions in 2010. In addition to the comments and proposals made by the TWPs, the TC-EDC, at its meeting on January 7, 2010, considered the summary of requirements for the application of COYD (see document TGP/8/1 Draft 15, PART II: Section 3.1) and agreed that the requirement for at least 20 degrees of freedom for the application of COYD should not be amended without consideration by all the TWPs. Therefore, it proposed that the number of degrees of freedom should be considered as a part of the future revision of document TGP/8/1.

15. The TC is invited to:

(a) consider document TGP/8/1 Draft 15 as the basis for adoption of document TGP/8/1 by the Council, as set out in paragraph 12; and

(b) approve the approach for the revision of document TGP/8/1 (document TGP/8/2), as set out in paragraphs 13 and 14.

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

Background information

16. At its meeting on January 8, 2009, the 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 TWPs at their sessions in 2008 (see document TWO/42/11 "Document TGP/14: Sections for separate development", Annex II). 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. 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.

17. The TC, at its forty-fifth session, agreed that document TGP/14/1 should 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 TC agreed 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.

18. At its forty-fifth session, the TC agreed to combine synonymous terms within a single entry (e.g. Breeder's Right, Plant Breeder's Right and PBR), but to list the terms individually in the index. That change has not yet been made for two reasons: firstly, the complication in indexing would mean that it would be impractical to undertake that exercise before all terms in the document are finalized (for example, the index for "PBR" would require a page number and a reference to the relevant term ("Plant Breeder's Right") in that page in order to be able to find the term "PBR")); and secondly, in order to allow further consideration of any consequences in terms of ease of use of the document.

19. Document TGP/14 Draft 11 is available in all UPOV languages; however, the French, German and Spanish versions follow the English alphabetic order. Therefore, to facilitate the reading of the document in those languages, a supplement (document TGP/14/1 Draft 11 Supplement) has been prepared in each language with the indexed terms presented in alphabetic order of the languages concerned.

Procedure for adoption of document TGP/14/1

20. Any changes to the text of document TGP/14/1 Draft 11 proposed by the TC at its forty-sixth session will be reported to the CAJ at its sixty-first session, to be held in Geneva on March 25, 2010. Subject to agreement of a common text by the TC and the CAJ, document TGP/14/1 will be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. 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/14/1 to the Council.

Future revision of document TGP/14/1 (document TGP/14/2)

21. The Color Subsection, omitted from document TGP/14/1 Draft 9, and 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 TWPs at their sessions in 2008, were considered by the TWPs at their sessions in 2009 (see documents TWA/38/11 Rev., TWC/27/12, TWF/40/11, TWO/42/11 and TWV/43/12 "Document TGP/14: Sections for Separate Development"). A revised version of the Color Subsection, incorporating the comments of the TWPs at their sessions in 2009, will be considered by the TWPs at their sessions in 2010.

22. One of the conclusions of the TGP/14 Workshop included a proposal that the use of characteristics for "number of colors" should be avoided as the starting point for describing color distribution and patterns. Instead, it was agreed that the colors should first be described, followed by characteristics explaining the area, distribution, pattern etc. of each color. That approach to describing colors was also called the "Lisbon approach". In order to develop and test that approach to color characteristics the TWO agreed to conduct an exercise on color in Alstroemeria, Canna and Phalaenopsis to see if characteristics based on that approach would be more effective than the traditional approach. The TWO agreed that Mr. Ton Kwakkenbos (European Union) should coordinate a subgroup to develop proposals for an exercise to be conducted, in which the "Lisbon approach" and the approach in the Test Guidelines would be evaluated. Experts from Australia, France, Germany, Japan, Mexico, the Netherlands, New Zealand, Republic of Korea, United Kingdom, CIOPORA and the Office of the Union participated in the subgroup. Experts from the Netherlands provided photographs of Phalaenopsis and Alstroemeria varieties and experts from France provided photographs of Canna varieties. The photographs were circulated to the participants of the subgroup who were invited to describe the color characteristics of the flowers as contained in the relevant Test Guidelines, and according to the "Lisbon approach". A full report on the exercise is presented in documents TWO/42/13 and TWO/42/13 Add..

23. At its forty-second session, on the basis of the color exercise, the TWO concluded *inter alia* that the approach contained in the relevant Test Guidelines and the "Lisbon approach" were both useful options that should be considered on a case-by-case basis. A report of all the conclusions of the TWO can be found in document TWO/42/18 "Report", paragraphs 65 to 69. The TWO agreed that its conclusions should be incorporated by Mr. Kwakkenbos in guidance in the form of a section to be introduced in document TGP/14. It was agreed that a first draft of that section should be circulated for comment to the subgroup of experts from Australia, France, Germany, Japan, Mexico, Netherlands, New Zealand, Republic of Korea, United Kingdom and the Office of the Union, involved in preparing the exercise on color. The date for circulation of the draft was agreed as December 18, 2009, with comments from the subgroup to be received by Mr. Kwakkenbos by the end of January 2010. That timetable would then allow Mr. Kwakkenbos to prepare a revised draft for submission to the Office of the Union by the end of March 2010, in order that it could be presented to all Technical Working Parties in 2010.

24. The TWO and TWF at their forty-second and fortieth sessions, respectively, proposed to add a term to cover spike / branch in, for example, Vriesea (see document TG/VRIES(proj.3)) in Section 2: Botanical Terms: Subsection 2: Shapes and Structures: II. STRUCTURE: Section 3.4, of a future revision of document TGP/14.

25. The TC-EDC, at its meeting on January 7, 2010, agreed that an explanation of the need to define the perspective from which to observe plant shapes should be included in a future

revision of document TGP/14: Section 2: Botanical Terms: Subsection 2: Shapes and Structures: I. SHAPE: 2 “Developing Shape-Related Characteristics”, on the basis of a text to be developed by an expert from New Zealand.

26. The TWA, at its thirty-eighth session, held in Seoul, Republic of Korea, from August 31 to September 4, 2009, agreed that, in the future revision of document TGP/14 (TGP/14/2), Section 3 “Statistical Terms” should be updated with any further terms that are added to TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability” before its adoption. In addition, it proposed that terms in Section 3 “Statistical Terms” that are not used in UPOV documents should be deleted.

27. The TC is invited to:

(a) consider document TGP/14/1 Draft 11 as the basis for adoption of document TGP/14/1 by the Council, as set out in paragraph 20; and

(b) approve the consideration of the items set out in paragraphs 21 to 26 in the revision of document TGP/14/1 (document TGP/14/2).

(ii) New TGP documents under development

TGP/11 “Examination of Stability”

28. The TC considered document TGP/11/1 Draft 5 at its forty-fifth session and agreed that the following aspects should be addressed in the next draft:

(a) as agreed by the CAJ [see document CAJ/58/6 “Report on the Conclusions”, paragraph 11], 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);

(f) in addition to guidance on the examination of stability through the examination of uniformity, to provide guidance on the direct examination of stability, with the assistance of experts from Australia; and

(g) 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 <u>further examined</u> ~~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~~ <u>initial</u> material supplied."

29. The TC noted that the forty-third session of the TWV, to be held in Beijing from April 20 to 24, 2009, was less than three weeks after the forty-fifth session of the TC. On that basis, the TC noted that it would not be feasible to prepare a new draft of document TGP/11/1 for consideration by the TWPs in 2009. Therefore, it agreed that, at their sessions in 2009, the TWPs should 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) would be prepared for consideration by the TC-EDC at its meeting in January 2010.

30. In accordance with the procedure set out in paragraphs 28 and 29, an expert from the European Union prepared document TGP/11/1 Draft 6, which was considered by the TC-EDC at its meeting held in Geneva on January 7, 2010. The TC-EDC concluded that, given the extent of the changes to document TGP/11/1 Draft 5 resulting from the comments of the TC at its forty-fifth session and the extent of the comments by the TC-EDC at its meeting on January 7, 2010, it would not be appropriate to seek to produce a draft of document TGP/11 for consideration by the TC at its forty-sixth session, to be held in Geneva from March 22 to 24, 2010. In particular, it noted that, because of the need for translation, there would be only three weeks for the expert from the European Union to produce such a draft. In order to develop document TGP/11 without delay, the TC-EDC proposed that the TC-EDC should be invited to consider a new draft of document TGP/11 (document TGP/11/1 Draft 7 (English only)) at its meeting in March 2010. On the basis of the comments of the TC-EDC in March 2010, a further draft (document TGP/11/1 Draft 8) would be developed for consideration by the TWPs at their sessions in 2010 and by the CAJ at its sixty-second session, to be held in Geneva on October 18 and 19, 2010. On the basis of the comments of the TWPs and the CAJ, a draft of document TGP/11 (document TGP/11/1 Draft 9) would be prepared for consideration by the TC and the CAJ in April 2011.

31. The TC is invited to consider the schedule for the development of document TGP/11/1, as set out in paragraph 30.

(b) Revision of TGP documents

TGP/7 "Development of Test Guidelines"

Background

32. The program for the development of TGP documents, as agreed by the TC (see documents TC/45/5, Annex and TC/45/16 "Report", paragraph 136) and the CAJ in 2009 (see documents CAJ/60/2, Annex II and CAJ/60/10 "Report on the Conclusions", paragraph 13), scheduled the adoption of the revision of document TGP/7/1 "Development of Test Guidelines" (document TGP/7/2) by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

33. The background to the proposed revisions to document TGP/7/1 is presented in the form of endnotes in document TGP/7/2 Draft 5.

34. Reference to document TGP/7 is made in certain adopted TGP documents (e.g. document TGP/9/1 "Examining Distinctness", 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 5 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.

35. The TC, at its forty-fifth session, agreed that the following aspects concerning the "Collection of Approved Characteristics" should be addressed in parallel with the revision of document TGP/7. Where appropriate, an amendment would be made to document TGP/7/1, Annex 4, paragraphs 1 and 2:

Annex 4: Collection of Approved Characteristics	
Introduction	*(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))* *(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 the information might not be appropriate for other Test Guidelines)* *(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)*

Collection	*(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.))* *(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))* *(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)*

36. The TC, at its forty-fifth session, noted that the Office of the Union planned to develop an improved TG Template and to integrate the Collection of Approved Characteristics into that template in a user-friendly package for drafters of Test Guidelines. However, on the basis of feedback at the TWP sessions in 2009 and the experience with draft Test Guidelines, the Office of the Union concluded that the Collection of Approved Characteristics was not, in general, used by Leading Experts in the drafting of Test Guidelines on a regular basis. Therefore, the Office of the Union has concluded that it would not be a good use of resources to invest a substantial effort in integrating the Collection of Approved Characteristics into the TG Template for the time-being.

Procedure for adoption of document TGP/7/2

37. Any changes to the text of document TGP/7/2 Draft 5 proposed by the TC at its forty-sixth session will be reported to the CAJ at its sixty-first session, to be held in Geneva on March 25, 2010. Subject to agreement of a common text by the TC and the CAJ, document TGP/7/2 Draft 5 will be put forward for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010. 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/7/2 to the Council.

Possible items to be considered for a future revision of TGP/7 (document TGP/7/3)

38. Discussions in the sessions of the TWPs, the TC-EDC and the CAJ indicated a number of aspects which should be considered in relation to document TGP/7, but which could not be addressed within the timetable agreed for the adoption of document TGP/7/2. Those matters are as follows:

Standard References

39. As a part of its discussions on "Electronic application systems", the CAJ, at its sixtieth session, held in Geneva on October 19, 2009, considered "Proposal 1: Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ", on the basis of paragraphs 21 to 30 of document CAJ/60/5 (reproduced in document TC/46/13, paragraphs 20 to 29) and approved the:

(i) standard UPOV references for the UPOV Model Application Form and UPOV Model TQ, as set out in Annexes II and IV of document CAJ/60/5 (reproduced in document TC/46/13, Annexes II and IV);

(ii) inclusion of an explanation of the standard references in the revision of document TGP/7 and in a revision of document TGP/5 Section 2/2;

(iii) posting of standard references and "linear blank forms" (in "Word" format) on the freely-accessible area of UPOV website, on the basis of Annexes II and IV of document CAJ/60/5 (reproduced in document TC/46/13, Annexes II and IV); and

(iv) translation of "linear blank forms" into other languages, as set out in paragraph 26 of document CAJ/60/5 (reproduced in document TC/46/13, paragraph 25).

40. The CAJ agreed that Proposal 1 "Standardized reference by authorities to the UPOV Model Application Form and UPOV Model TQ", as approved by the CAJ at its sixtieth session, should be put forward for adoption by the Council in October 2010 (see document CAJ/60/10 "Report on the Conclusions", paragraph 31).

41. With regard to the proposal of the CAJ concerning document TGP/7, in paragraph 39 (ii) above, the TC-EDC, at its meeting on January 7, 2010, agreed that inclusion of an explanation of the standard references for the UPOV Model TQ and for Test Guidelines, as set out in Annexes II and IV of document CAJ/60/5 (reproduced in document TC/46/13, Annexes II and IV), would benefit from discussion in the TWPs and TC and suggested that the matter should not be included in document TGP/7/2, but should be considered for a future revision of document TGP/7 (document TGP/7/3).

42. This and other matters concerning electronic application systems will also be considered under agenda item 12 "Electronic application systems". The conclusions of the TC on this matter at its forty-sixth session will be reported to the CAJ at its sixty-first session.

Quantity of plant material

43. At the forty-third session of the TWV, held in Beijing, China, from April 20 to 24, 2009, it was agreed that an expert from the Netherlands should develop draft guidance on the quantity of plant material to be provided for Test Guidelines, for consideration at the forty-fourth session of the TWV, to be held in Veliko Tarnovo, Bulgaria, from July 5 to 9, 2010, with a view to its inclusion in a future revision of document TGP/7.

44. The TC-EDC, at its meeting on January 7, 2010, proposed the replacement of the following text of TGP/7/1, Section 4 "Development of individual authorities' test guidelines" with a reference to Guidance Note GN 7 "Quantity of plant material required":

> "[…] In cases where an authority requests a larger quantity of plant material than is required for the test, the authority will need to decide whether and how to consider any resultant "spare plants" in the DUS test. For example, for the assessment of uniformity by off-types, if there is a larger number of plants in the test than specified in the Test Guidelines, the sample size and number of off-types allowed would not match the specification in the Test Guidelines (see Test Guidelines, Chapter 4.2 "Uniformity" *[cross ref.]*). Alternatively, the authority might decide to disregard the "spare plants", in which case it would be advisable to consider in advance how to decide which of the plants were the "spare plants" and should be excluded from the DUS test. If that was

> not decided in advance, it could lead to some complications, for example if the test resulted in 6 plants, of which 1 was an off-type, where the Test Guidelines specified that "In the case of a sample size of 5 plants, no off-types are allowed."

In making that proposal, the TC-EDC considered that the text did not provide substantial guidance for the development of individual authorities' test guidelines and suggested that consideration should be given to the development of practical guidance, which might or might not be included in a future revision of document TGP/7. It agreed that it would be useful to consider that matter in conjunction with the development of a guidance on the quantity of plant material to be provided for Test Guidelines, as explained in paragraph 43. The TC-EDC proposed that the TC and TWPs should be invited to have an initial discussion on this matter before considering whether to seek to develop guidance for inclusion in document TGP/7.

Applications For Varieties With Low Germination

45. At its forty-fifth session, the TC heard that the TWV, at its forty-second session, held in Cracow, Poland, from June 23 to 27, 2008, had considered documents TWV/42/13 "Applications for varieties with low germination" and TWV/42/15 "Applications for varieties with low germination: ISF proposal". The TWV had agreed that it was important to consider how it might be possible to resolve the situation in a way which would allow breeders to obtain protection for varieties which would necessarily have low germination. In that respect, it was agreed that it would be necessary to have information on specific cases. An expert from the Netherlands had agreed to present results of work in the Netherlands on such varieties, at the forty-third session of the TWV (see document TC/45/3, paragraphs 15 to 20).

46. The TC noted that applications for varieties with low germination would be considered in conjunction with the revision of document TGP/7 "Development of Test Guidelines", in particular with respect to document TGP/7/2 Draft 2, ASW 1 (TG Template: Chapter 2.3) – Seed quality requirements) [(c) Types of varieties with low germination] (see document TC/45/16 "Report", paragraph 108).

47. The proposal in document TGP/7/2 Draft 5, concerning ASW 1 (TG Template: Chapter 2.3) – Seed quality requirements) is that item (c) "Types of varieties with low germination" should be deleted from document TGP/7/2. The relevant endnote in document TGP/7/2 Draft 5 states that "Netherlands to develop draft guidance on the quantity of plant material to be provided for Test Guidelines, for consideration at the forty-fourth session of the TWV with a view to its inclusion in a future revision of TGP/7 (document TGP/7/3)".

Asterisked characteristics

48. The TC-EDC, at its meeting on January 7, 2010, proposed the deletion of paragraph (c) in the following text of GN 12 "Selecting a characteristic for inclusion in the Table of Characteristics":

> "2. To be included in the Table of Characteristics, the characteristic must satisfy the criteria for a Standard Test Guidelines Characteristic, namely:
>
> > "(a) it must satisfy the criteria for use of any characteristic for DUS as set out in the General Introduction (Chapter 4.2) which are that it:
> >
> > […]

> "(b) it must have been used to develop a variety description by at least one member of the Union and
>
> "(c) where there is a long list of such characteristics and, where considered appropriate, there may be an indication of the extent of use of each characteristic. (to be deleted)"

The proposal for deletion of subparagraph (c) by the TC-EDC was made in conjunction with a proposal to develop further guidance on the selection of asterisked characteristics in a future revision of TGP/7. In particular, the TC-EDC noted that asterisked characteristics were very important for international harmonization of variety descriptions and considered that the number of characteristics with asterisks in the Table of Characteristics should be as high as possible.

Grouping characteristics

49. The TWF, at its fortieth session, proposed to consider including an indication of grouping characteristics in the Table of Characteristics, whilst avoiding any confusion with the use of the letter "G" as used in document TGP/5: Section 6 "UPOV Report on Technical Examination and UPOV Variety Description", Annex, Item 14.

Example varieties

50. Document TGP/7/2 Draft 2, considered by the TC at its forty-fifth session, indicated that experts from France would develop a document, based on GN 28 "Example varieties", for discussion at the TWP sessions in 2009.

51. The TWV, held from April 20 to 24, 2009, was less than three weeks after the forty-fifth session of the TC, which meant that it was not feasible to prepare a document for consideration by the TWV in 2009. The TWV noted that it would not be able to review any proposed amendments to GN 28 before the TC considered the approval of document TGP/7/2 in 2010. The TWV noted the importance of example varieties in Test Guidelines for vegetable crops and generally supported the text in GN 28. Therefore, to avoid a delay in the adoption of document TGP/7/2, it proposed that document TGP/7/2 should be adopted in 2010 without amendments to GN 28 and that any proposed amendments should be considered in a future revision of document TGP/7, if appropriate. The TWA, at its thirty-ninth session, agreed with that proposal.

52. The TWO and TWF, at their sessions in 2009, agreed that experts with suggestions concerning the document to be developed on example varieties should send those to Mr. Joël Guiard (France), or to the Office of the Union, which would forward the suggestions to Mr. Guiard. The expert from New Zealand explained that he would raise the matter of example varieties that were a matter of common knowledge, but did not have a denomination.

Providing photographs with the Technical Questionnaire

53. At its thirty-ninth session, held in Lisbon, Portugal, from June 2 to 6, 2008, the TWF made the following proposal concerning ASW 16 (TG Template: Chapter 10: TQ 7.3) – "Where a photograph of the variety is to be provided": the TWF proposed to add text indicating that guidance would be provided by the authority to enhance the usefulness of the photograph (e.g. to include a metric scale in the picture, to define what parts of the plant

should be included; light conditions, background color, etc). The TWF agreed that the European Union, in collaboration with Australia, would prepare a draft text. At its forty-first session, held in Wageningen, Netherlands, from June 9 to 13, 2008 the TWO agreed that the European Union, in collaboration with Australia and Canada, should prepare such a draft text.

54. At its forty-second session, held in Angers, France, from September 14 to 18, 2009, the TWO considered document TWO/42/16 "Guidance for Applicants on Providing Suitable Photographs of the Candidate Variety as an Accompaniment to the Technical Questionnaire", prepared by an expert from the European Union. The TWO agreed that the document provided a good basis to develop Additional Standard Wording (ASW) for inclusion in a future revision of document TGP/7, but agreed that the text was too prescriptive and would need to be edited to be more suitable for applicants completing the Technical Questionnaire. In addition, it was agreed that it would be useful to explain that the photograph(s), if provided in an appropriate format, "may help the examination authority to conduct its examination of distinctness in a more efficient way" (quote from the TG/Template, Technical Questionnaire: Section 6). The TWF, at its fortieth session, agreed with the proposals of the TWO and also agreed that the text should be of a suitable length for applicants, although it should be explained that it would be possible for authorities to make the full explanation available by means of a link, rather than including all the text in the Technical Questionnaire. The TWO agreed that the European Union, in collaboration with experts from Australia, Canada, Germany, New Zealand and the United Kingdom, should prepare draft text of an ASW for consideration by the Technical Working Parties at their sessions in 2010.

55. The TC is invited to

(a) consider a revision of document TGP/7/2 in conjunction with the CAJ proposal concerning standard UPOV references for the UPOV Model Application Form, under agenda item 12 (see paragraphs 39 to 42); and

(b) consider the proposals for items to be considered for a future revision of TGP/7 (document TGP/7/3), as set out in paragraphs 43 to 54.

TGP/5 "Experience and Cooperation in DUS Testing"

Section 2 "UPOV Model Form for the Application for Plant Breeders' Rights"

56. As explained above, as a part of its discussions on "Electronic application systems", the CAJ, at its sixtieth session, approved the inclusion of an explanation of the standard references in the revision of document TGP/7 and in a revision of document TGP/5: Section 2/2 (see paragraph 39 (ii)). On that basis, a revision of document TGP/5: Section 2 (document TGP/5: Section 2/3) will be proposed for adoption by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010 (see paragraph 40).

57. In order to explain the standard references in the UPOV Model Application Form, it is proposed that the following text be added to document TGP/5: Section 2, in "Instructions for converting the UPOV Model Form for the Application for Plant Breeders' Rights into an Authority's own form":

> "A. General Instructions
>
> "[…]
>
> "0.4 A standard UPOV reference has been provided for each field in the UPOV Model Form. For example,
>
> "for item 1.(a) Applicant(s) Name(s),
>
> "the standard UPOV reference is "UPOV A1: 1(a)(i)"
>
> "To facilitate harmonization and to assist applicants, an Authority may include that standard UPOV reference in the corresponding field of the Authority's own form. It is a matter for each Authority to decide if the field in the Authority's own form corresponds sufficiently precisely to the field in the UPOV Model Application Form for the standard UPOV reference to be included."

58. It is also proposed that a footnote be added to the first standard reference (UPOV A1: 1(a)(i)) stating that "standard UPOV reference – see Section A. General Instructions, item 0.4"

59. The CAJ will consider the proposed revisions to document TGP/5: Section 2/2 at its sixty-first session.

60. This and other matters concerning electronic application systems will be presented under agenda item 12 "Electronic application systems".

Section 10 "Notification of Additional Characteristics"

61. Document TGP/5, Section 10/1 "Notification of Additional Characteristics", states as follows:

> "1. The General Introduction states in section 4.2.3 that "The characteristics included in the individual Test Guidelines are not necessarily exhaustive and may be expanded with additional characteristics if that proves to be useful and the characteristics meet the conditions set out [in section 4.2.1]". It further clarifies in section 4.8, "Functional Categorization of Characteristics" that the function of additional characteristics is:
>
> > "1. To identify new characteristics, not included in the Test Guidelines, that have been used by members of the Union in the examination of DUS and which should be considered for inclusion in future Test Guidelines"; and
> > "2. To facilitate harmonization in the development and use of new characteristics and provide opportunity for expert review."
>
> 2. TGP/7 "Development of Test Guidelines": GN 27 "Handling a long list of characteristics in the Table of Characteristics" states that "…in some circumstances the TWP may consider that it is unhelpful to include [in the Test Guidelines] all those characteristics which fulfill the criteria for inclusion and, if there is a full consensus

amongst all interested experts, may agree to omit certain characteristics. Such omitted characteristics would then be included in document TGP/5, Experience and Cooperation in DUS Testing, in the section on "Notification of Additional Characteristics".

[…]

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

62. Document TGP/7/2 Draft 5 reads as follows:

"(e) Modification of Test Guidelines characteristics

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

63. The proposal in document TGP/7/2 Draft 5 for the reporting of modifications to characteristics in the Test Guidelines by means of document TGP/5 would require a corresponding revision of document TGP/5, Section 10/1.

64. The TC is invited to

(a) note the revision of document TGP/5, Section 2/2, proposed by the CAJ, as set out in paragraphs 56 to 59; and

(b) consider the need for a revision of document TGP/5, Section 10/1, in conjunction with the revision of document TGP/7, as set out in paragraphs 61 to 63.

TGP/12 "Guidance on Certain Physiological Characteristics"

65. At its forty-fifth session, the TC considered a proposal made by Mr. Kees van Ettekoven (Netherlands) at the forty-second session of the TWV, concerning the nomenclature of disease resistance (see document TC/45/4, paragraphs 13 to 15). The TC agreed to invite the TWV to propose whether to include a section on the nomenclature of disease resistance in document TGP/14 "Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents" or in a future revision of document TGP/12 "Special Characteristics".

66. At its forty-fourth session, the TWV considered documents TWV/43/13 “Nomenclature of Pathogens” and TWV/43/16 “Principles on the Use of Disease Resistance Characteristics in UPOV Test Guidelines” and concluded that the proposal should be presented to the TC and other Technical Working Parties for consideration for a possible future revision of TGP/12. It also agreed that the states of expression for quantitative characteristics with three notes might be reviewed, if appropriate.

67. The TC is invited to consider the proposal for the TWV to start to develop a revision of document TGP/12/1 in order to provide guidance on the nomenclature and use of disease resistance characteristics, as set out in paragraphs 65 and 66.

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

68. Document TGP/0/2, adopted by the Council at its forty-third ordinary session, held on October 22, 2009, will need to be updated (to become document TGP/0/3) to reflect any adoptions or revisions of TGP documents by the Council at its forty-fourth ordinary session, to be held in Geneva on October 21, 2010.

69. The TC is invited to propose the adoption of document TGP/0/3 in conjunction with the adoption and revision of TGP documents, as appropriate, according to the proposals set out in this document.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

70. 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-fifth session, the subsequent discussions at the CAJ and TWP sessions in 2009 and the recommendations of the TC-EDC at its meeting on January 7, 2010.

71. 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]

ANNEX

					2009						2010						2011					
Ref.	**Title of document**	**Current approved* documents**	**Drafter (TWP)**	**Drafter (Name)**	**TC-EDC**	**TC/45**	**CAJ/59**	**TWPs**	**CAJ/60**	**C/43**	**TC-EDC**	**TC/46**	**CAJ/61**	**TWPs**	**CAJ/62**	**C/44**	**TC-EDC**	**TC/47**	**CAJ/63**	**TWPs**	**CAJ/64**	**C/45**
TGP/0	**List of TGP Documents and Latest Issue Dates**	**TGP/0/2ADOPTED**								**TGP/0/2 Adopt**						**TGP/0/3 Adopt**						
TGP/1	**General Introduction with Explanations**	-	Office		---	---	---	---		---	---	---	---	---	---	---	---	---	---	---	---	---
TGP/2	**List of Test Guidelines Adopted by UPOV**	**TGP/2/1 ADOPTED**																				
TGP/3	**Varieties of Common Knowledge**	C(Extr.)/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**																				
	Section 2: UPOV Model Form for the Application for Plant Breeders' Rights	Section 2/2 Adopted										TC/46/5 & TC/46/13	CAJ/61/2 & CAJ/61/5			**Section 2/3 Adopt**						
	Section 10: Notification of Additional Characteristics	Section 10/1 Adopted										TC/46/5	CAJ/61/2	**Section 10/2 Draft 1**			**Section 10/2 Draft 2**	**Section 10/2 Draft 3**	**Section 10/2 Draft 3**			**Section 10/2 Draft 4 Adopt**
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**	(revisions)	---	**TGP/7/2 Draft 6 / Adopt**	(revisions)	(revisions)	---	(revisions)	(revisions)	---
TGP/8	**Trial 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**	(new sections & revisions)	---	**TGP/8/1 Draft 16 / Adopt**	(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** *(Coordinator: Office)*		TWV	Mr. Semon (QZ)	**draft 5**	**draft 5**	---	**draft 5**	**draft 5**	---	**TGP/11/1 Draft 6**	**TGP/11/1 Draft 7 (TC-EDC only)**	---	**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	**[Special Characteristics] / [Guidance on Certain Physiological Characteristics]**	**TGP/12/1 ADOPTED**			**draft 6**	**draft 7 / approve**	**draft 7 / approve**	---		**draft 8 / Adopt**										TWV (disease nomenclature and use)		
TGP/13	**Guidance for New Types and Species**	**TGP/13/1 ADOPTED**			**draft 13**	**draft 14 / approve**	**draft 14 / approve**	---		**draft 15 / Adopt**												
TGP/14	**Glossary of ~~[Technical, Botanical 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 & revisions)	---	**TGP/14/1 Draft 12 / Adopt**	(Color Subsection & revisions)	(Color Subsection & revisions)	---	(Color Subsection & revisions)	(Color Subsection & revisions)	---
TGP/15	**New Types of Characteristics** *(Coordinator: Office)*																					

[End of Annex and of document]