

Technical Committee

TC/54/16

**Fifty-Fourth Session
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PROCEDURE FOR THE ADOPTION OF DRAFT TEST GUIDELINES

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. The purpose of this document is to present a proposal for the revision of document TGP/7 “Development of Test Guidelines” to reflect the introduction of a procedure for adoption of Test Guidelines by correspondence in accordance with the decision by the Council, at its thirty-fourth extraordinary session.
2. The TC is invited to consider the proposal for the revision of document TGP/7 “Development of Test Guidelines” to reflect the introduction of a procedure for adoption of Test Guidelines by correspondence, as set out in paragraph 14 of this document.
3. The structure of this document is as follows:

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4. The following abbreviations are used in this document:

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

BACKGROUND

5. The Council, at its thirty-fourth extraordinary session, held in Geneva on April 6, 2017, decided to organize a single set of sessions from 2018, in the period of October/November. From 2018, the meetings of the TC would take place on October/November instead of March/April (see document C(Extr.)/34/6 “Report on the decisions”, paragraphs 12 to 14).
6. The Council, at its thirty-fourth extraordinary session, decided to adopt the proposals of the TC, at its fifty-third session, that Test Guidelines that could not be prepared in time for adoption by the Technical Committee at its session could be adopted by correspondence on the basis of the recommendations by the Enlarged Editorial Committee (TC-EDC). The TC agreed that the TC-EDC should meet twice a year, once in the period March/April and once in conjunction with the TC session later in the year.

CONSIDERATION BY THE ENLARGED EDITORIAL COMMITTEE

7. The TC-EDC, at its meeting held on March 26 and 27, 2018, noted the procedure for adoption of Test Guidelines by correspondence in accordance with the decision by the Council, at its thirty-fourth extraordinary session. In that regard the TC-EDC noted that further amendments to document TGP/7 Section 2.2.8 "Adoption of Draft Test Guidelines by the Technical Committee" would be required for the procedure for the adoption of Test Guidelines by correspondence (see document TC-EDC/Mar18/11 "Report", paragraphs 6 to 13).

8. The TC-EDC agreed to recommend that the procedure for adoption of Test Guidelines by correspondence be implemented as follows:

- The draft Test Guidelines would be circulated to TC for adoption by correspondence along with the recommendations by the TC-EDC;
- The draft Test Guidelines would be considered as adopted if no comments were received within six weeks;
- In case any comments were received, the draft Test Guidelines would be referred to the relevant TWP to address those comments.

9. The TC-EDC agreed to propose that for Test Guidelines to be considered at the March/April meeting, they would need to be submitted by the Technical Working Parties at least 14 weeks prior to the TC-EDC meeting.

10. The TC-EDC agreed that three potential outcomes could be expected from Test Guidelines considered at the March/April meeting:

- (a) no changes required to the Test Guidelines or strictly editorial changes on which recommendations were agreed by the TC-EDC;
- (b) editorial clarifications required;
- (c) technical issues to be resolved.

11. The TC-EDC agreed that in cases where no changes were required to the Test Guidelines or strictly editorial changes on which recommendations were agreed by the TC-EDC, the Test Guidelines could be circulated for adoption by correspondence.

12. The TC-EDC agreed to propose the following procedure for Test Guidelines when editorial clarifications were required:

- request for clarifications to be transmitted to the Leading Expert
- clarifications to be provided within four weeks
- if clarifications agreed by the TC-EDC, the Test Guidelines would be recommended for adoption at the TC-EDC meeting in conjunction with the TC session in October/November
- the Test Guidelines would be adopted at the TC session

13. The TC-EDC agreed to propose the following procedure for Test Guidelines with technical issues to be resolved:

- issues to be transmitted to the Leading Expert
- technical issues to be addressed at the respective Technical Working Party by means of a TWP document prepared by the Leading Expert at least four weeks before TWP session (new draft Test Guidelines should not be prepared)
- resolution of issues to be provided to TC-EDC at least seven weeks before the TC session
- if agreed by the TC-EDC, the Test Guidelines would be recommended for adoption at the TC-EDC meeting in conjunction with the TC session in October/November
- Test Guidelines adopted at the TC session

NEXT STEPS

14. It is proposed that the TC consider revising document TGP/7 "Development of Test Guidelines" Section 2.2 "Procedure for the introduction of Test Guidelines" to reflect the introduction of the procedure for adoption of Test Guidelines by correspondence to read as follows:

2.2.7 STEP 7 Consideration of Draft Test Guidelines by the TC-EDC

2.2.7.1 The TC-EDC has been established by the Technical Committee to examine drafts of all Test Guidelines, produced by the TWPs, before these are put forward for adoption by the Technical Committee. The role of the TC-EDC is to ensure consistency of the Test Guidelines with the requirements of document TGP/7 and to check the alignment of texts across all the official UPOV languages. It does not conduct a substantive technical review of the Test Guidelines. The members of the TC-EDC are selected by the TC, both to provide broad experience of the UPOV system and also to represent the UPOV languages – English, French, German and Spanish. The Chairperson of the TC-EDC is provided by the UPOV Secretariat.

2.2.7.2 The TC-EDC reviews the draft Test Guidelines, taking into account any specific instructions from the Technical Committee, and makes a recommendation on whether the Test Guidelines are suitable for adoption (Step 8). It may make a proposal to the Technical Committee for adoption subject to amendments of an editorial nature, which it specifies.

~~2.2.7.3 If it considers that there are technical issues to be resolved, the TC-EDC may seek to resolve the issues with the Leading Expert, prior to consideration of the Test Guidelines by the Technical Committee. Where this is not possible, the TC-EDC may recommend that the Technical Committee:~~

- ~~(a) refer the Test Guidelines back to the TWP (Step 4) or,~~
- ~~(b) adopt the Test Guidelines subject to further information being provided by the Leading Expert with the agreement of all interested experts and the Chairperson of the TWP concerned.~~

NEW Unless otherwise agreed by the TC, the TC-EDC meets twice each year, once in the period March/April and once in conjunction with the TC session (October/November). The TC-EDC will consider Test Guidelines submitted by the Technical Working Parties at least 14 weeks prior to the TC-EDC meeting. Test Guidelines submitted less than 14 weeks prior to the TC-EDC meeting will be considered at its subsequent meeting.

NEW The potential outcomes for Test Guidelines considered by the TC-EDC are as follows:

- (a) no changes required to the Test Guidelines, or strictly editorial changes for which recommendations are agreed by the TC-EDC; or
- (b) editorial clarifications required; or
- (c) technical issues to be resolved.

NEW In cases where no changes are required to the Test Guidelines, or strictly editorial changes for which recommendations are agreed by the TC-EDC, the Test Guidelines will be put forward for adoption by the Technical Committee.

NEW The following procedure applies for Test Guidelines when editorial clarifications are required:

- request for clarifications is transmitted to the Leading Expert;
- clarifications to be provided within four weeks;
- if the clarifications are agreed by the TC-EDC, the Test Guidelines will be recommended for adoption at the TC-EDC meeting;
- the Test Guidelines are considered for adoption by the TC.

NEW The following procedure applies for Test Guidelines with technical issues to be resolved:

- technical issues to be transmitted to the Leading Expert
- the technical issues are to be addressed at the respective Technical Working Party by means of a TWP document prepared by the Leading Expert at least four weeks before TWP session (new draft Test Guidelines should not be prepared)
- resolution of the issues to be provided to the TC-EDC at least seven weeks before the TC-EDC meeting;
- if agreed by the TC-EDC, the Test Guidelines would be recommended for adoption at the TC-EDC meeting;
- Test Guidelines are considered for adoption by the TC.

2.2.8 STEP 8 Adoption of Draft Test Guidelines by the Technical Committee

2.2.8.1 The Technical Committee will, on the basis of the recommendations of the TC-EDC, decide whether to adopt the Test Guidelines, or refer them back to the TWP concerned.

NEW The Technical Committee may adopt Test Guidelines at its session or by correspondence. Test Guidelines may be adopted by correspondence according to the following procedure:

- The draft Test Guidelines are circulated to the TC for adoption by correspondence with the recommendations by the TC-EDC;
- The draft Test Guidelines are considered as adopted if no comments are received within six weeks;
- If any comments are received, the draft Test Guidelines are referred to the relevant TWP to address those comments.

2.2.8.2 Where the Technical Committee adopts the Test Guidelines, the Office will make all amendments agreed by the Technical Committee, which will be recorded in a report of the relevant Technical Committee meeting. The Office will then publish the adopted Test Guidelines.

~~2.2.8.3 — Where the Technical Committee adopts the Test Guidelines subject to further information being provided by the Leading Expert with the agreement of all interested experts and the Chairman of the TWP concerned (see 2.2.7.3(b)), the necessary information, agreed with all interested experts, should be provided to the Office within three months of the Technical Committee meeting, or before the subsequent session of the TWP concerned, whichever is the sooner. In those cases where the necessary information is not provided within this time, the Test Guidelines concerned will not be adopted and will be re-presented at the TWP concerned (Step 4).~~

15. The TC is invited to consider the proposal for the revision of document TGP/7 “Development of Test Guidelines” to reflect the introduction of a procedure for adoption of Test Guidelines by correspondence, as set out in paragraph 14 of this document.

[Annex follows]

EXTRACT FROM DOCUMENT TGP/7 "DEVELOPMENT OF TEST GUIDELINES" SECTION 2.2
"PROCEDURE FOR THE INTRODUCTION OF TEST GUIDELINES"

2.2.7 **STEP 7** Consideration of Draft Test Guidelines by the TC-EDC

2.2.7.1 The TC-EDC has been established by the Technical Committee to examine drafts of all Test Guidelines, produced by the TWPs, before these are put forward for adoption by the Technical Committee. The role of the TC-EDC is to ensure consistency of the Test Guidelines with the requirements of document TGP/7 and to check the alignment of texts across all the official UPOV languages. It does not conduct a substantive technical review of the Test Guidelines. The members of the TC-EDC are selected by the TC, both to provide broad experience of the UPOV system and also to represent the UPOV languages – English, French, German and Spanish. The Chairperson of the TC-EDC is provided by the UPOV Secretariat.

2.2.7.2 The TC-EDC reviews the draft Test Guidelines, taking into account any specific instructions from the Technical Committee, and makes a recommendation on whether the Test Guidelines are suitable for adoption (Step 8). It may make a proposal to the Technical Committee for adoption subject to amendments of an editorial nature, which it specifies.

2.2.7.3 If it considers that there are technical issues to be resolved, the TC-EDC may seek to resolve the issues with the Leading Expert, prior to consideration of the Test Guidelines by the Technical Committee. Where this is not possible, the TC-EDC may recommend that the Technical Committee:

- (a) refer the Test Guidelines back to the TWP (Step 4) or,
- (b) adopt the Test Guidelines subject to further information being provided by the Leading Expert with the agreement of all interested experts and the Chairperson of the TWP concerned.

2.2.8 **STEP 8** Adoption of Draft Test Guidelines by the Technical Committee

2.2.8.1 The Technical Committee will, on the basis of the recommendations of the TC-EDC, decide whether to adopt the Test Guidelines, or refer them back to the TWP concerned.

2.2.8.2 Where the Technical Committee adopts the Test Guidelines, the Office will make all amendments agreed by the Technical Committee, which will be recorded in a report of the relevant Technical Committee meeting. The Office will then publish the adopted Test Guidelines.

2.2.8.3 Where the Technical Committee adopts the Test Guidelines subject to further information being provided by the Leading Expert with the agreement of all interested experts and the Chairman of the TWP concerned (see 2.2.7.3(b)), the necessary information, agreed with all interested experts, should be provided to the Office within three months of the Technical Committee meeting, or before the subsequent session of the TWP concerned, whichever is the sooner. In those cases where the necessary information is not provided within this time, the Test Guidelines concerned will not be adopted and will be re-presented at the TWP concerned (Step 4).

[End of Annex and of document]