

Enlarged Editorial Committee

TC-EDC/Mar18/12

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DURATION OF DUS TESTS

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. The purpose of this document is to report on developments concerning the guidance in document TGP/7 on the duration of DUS testing.
2. The TC-EDC is invited to:
 - (a) consider the comments made by the TWPs, at their sessions in 2017; and
 - (b) formulate proposals for further consideration by the TWPs, at their sessions in 2018.
3. 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

4. The structure of this document is as follows:

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BACKGROUND

Program for development of TGP documents

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 (see document C(Extr.)/34/6 "Report on the decisions", paragraphs 12 to 14). From 2018, the meetings of the TC would take place on October/November instead of March/April. The TC-EDC would meet twice a year; once in the period of March/April and once in conjunction with the TC sessions later in the year.

6. Based on the recommendation of the Consultative Committee, the Council decided to adopt the proposals of the TC, at its fifty-third session, to use contingency measures in the transitional period until the fifty-fourth session of the TC, to be held in October 2018; for TGP documents, the TC-EDC would consolidate comments made by the TWPs at their sessions in 2017 and, in the absence of consensus between the TWPs, to formulate proposals for further consideration by the TWPs at their sessions in 2018.

Duration of DUS testing

7. The TC, at its fifty-second session, held in Geneva, from March 14 to 16, 2016, agreed to consider whether to seek to amend the guidance in document TGP/7 on the duration of DUS testing for fruit crops after further discussions by the TWF, at its session in 2016. In that regard, it requested the TWF to review whether the existing guidance in TGP documents precluded the conclusion of a DUS examination after one growing cycle (see document TC/52/29 Rev. "Revised Report", paragraph 122).

8. The TWF, at its forty-seventh session, held in Angers, France, from November 14 to 18, 2016, considered document TWF/47/19 "Duration of DUS tests in the fruit sector" and agreed to propose to modify the wording of document TGP/7 as follows, in order to reflect common practice in the fruit sector (~~Strikethrough~~ (highlighted) indicates proposed deletion of text; Underlining (highlighted) indicates proposed insertion of text) (see document TWF/47/25 "Report", paragraphs 47 and 48):

- **Addition of a standard sentence at the point 3 of the UPOV TG Template so that it reads:**

"3. Method of Examination

"3.1 Number of Growing Cycles

"The minimum duration of tests should normally be:

"{ **ASW 2** (Chapter 3.1(.1)) – number of growing cycles }

"{ GN 8 (Chapter 3.1.2) – explanation of the growing cycle }

"{ **ASW 3** (Chapter 3.1.2) – explanation of the growing cycle }

As soon as it can be established with certainty that the outcome of the DUS test will be negative, it can be stopped independently from the number of growing cycles carried out so far.

- **Additional option(s) to be included in the ASW 2**

ASW 2 (TG Template: Chapter 3.1) – Number of growing cycles

(a) Single growing cycle

"The minimum duration of tests should normally typically be a single growing cycle. At the end of the growing cycle the competent authority will determine whether or not a following growing cycle is required."

(b) Two independent growing cycles

"The minimum duration of tests should normally typically be two independent growing cycles. Nevertheless, at the end of each growing cycle the competent authority will determine whether or not a following growing cycle is required.

DEVELOPMENTS IN 2017

Technical Committee

9. The TC, at its fifty-third session, held in Geneva, from April 3 to 5, 2017, considered the proposal by the TWF to revise document TGP/7 “Development of Test Guidelines” to introduce new standard wording on the Test Guidelines template and amend Additional Standard Wording 2 to clarify the duration of DUS examination, as set out in paragraph 8 of this document.

10. The TC agreed that it was important to clarify that it was possible to terminate a DUS examination as soon as rejection was inevitable, rather than continuing the examination until the end of the normal period. It agreed that the standard wording in the Test Guidelines was not entirely clear in that respect and should be improved. However, it agreed that the proposed wording could be interpreted as encouraging additional growing cycles beyond the normal period and requested the TWPs to develop an improved version of the text at their sessions in 2017.

Technical Working Parties

11. The TWA, TWV, TWO, TWF and TWC, at their sessions in 2017, considered document TWP/1/11 “Duration of DUS tests” and the proposed revision of document TGP/7 as follows (see documents TWA/46/10 “Report”, paragraphs 20 and 23; TWV/51/16, paragraphs 26 to 30; TWO/50/14 “Report”, paragraphs 22 to 28; TWF/48/13 “Report”, paragraphs 26 to 36; and TWC/35/21 “Report”, paragraphs 36 to 39):

ASW 2(a):

“3. Method of Examination

“3.1 Number of Growing Cycles

“The ~~minimum~~ duration of tests should [normally]/[typically] be a single growing cycle.

“However, the testing of a variety may be terminated earlier if a negative conclusion on distinctness, uniformity or stability has already been reached.”

“Alternatively, the testing of a variety may be continued if a conclusion on distinctness, uniformity or stability has not been reached after the [normal]/[typical] duration of tests.

ASW 2(b):

“3. Method of Examination

“3.1 Number of Growing Cycles

“The ~~minimum~~ duration of tests should [normally]/[typically] be two independent growing cycles.

“However, the testing of a variety may be terminated earlier if a negative conclusion on distinctness, uniformity or stability has already been reached.”

“Alternatively, the testing of a variety may be continued if a conclusion on distinctness, uniformity or stability has not been reached after the [normal]/[typical] duration of tests.

Mention to termination on the basis of an early negative conclusion

12. The TWV and the TWF agreed that the reference to negative conclusion should be deleted as it remains exceptional cases, and that in most of the cases the testing of a variety may be terminated with a positive conclusion on DUS.

“However, the testing of a variety may be terminated earlier if a ~~negative~~ conclusion on distinctness, uniformity or stability has already been reached.”

Normal/typical duration of tests

13. The TWPs, at their sessions in 2017, agreed that the term “normally” was preferred and should be used throughout the guidance in ASW 2.

Early termination of DUS testing

14. The TWA, TWV and TWO agreed that the current standard wording in Test Guidelines allowed the examination of a candidate variety to be terminated earlier in case the differences observed between varieties were so clear that more than one growing cycle was not necessary.

15. The TWA and TWV agreed that it should be possible to terminate earlier the examination of a candidate variety (e.g. during the establishment period of the trial).

16. The TWO and TWF agreed that it should also be possible to terminate the examination of a candidate variety before the normal duration for reasons other than having achieved a conclusion on DUS examination, such as when there were problems with the plant material submitted.

17. The TWC noted the different views expressed by the TWA, TWV, TWO and TWF in relation to the text in Additional Standard Wording (ASW) 2 and Guidance Note (GN) 8 and agreed that it should be possible for the authority to terminate examination when the outcome of the test was determined.

Replacing the term “growing cycle” by “testing cycle”

18. The TWO agreed that the term “growing cycle” was not precise for explaining the duration of DUS examination as it referred primarily to the life cycle of a crop. The TWO agreed to consider the possibility of replacing the term “growing cycle” by “testing cycle” in ASW 2(a) and (b) to clarify that the duration of DUS examination was related to the period of testing of a variety, regardless of the number of life cycles the crop would have completed during DUS examination.

19. The TWF agreed that in the case of fruit the growing cycle did not necessarily correspond to the life cycle of the crop and acknowledged that there was a difference between the establishment period and the evaluation period.

20. The TWO welcomed the offer by an expert from the European Union to propose definitions for growing cycle and testing cycle for ornamental plants to be presented at its next session.

Addressing particular situations as Guidance Note in document TGP/7

The TWA, TWV and TWF agreed to propose that particular situations should be addressed as Guidance Note in document TGP/7 instead of amending the standard wording, clarifying that it is the decision of the Authorities to decide whether or not to terminate the examination earlier.

21. The TWF agreed to suggest to the TC to keep ASW2 as it is, but to propose to amend the GN 8 as follows (proposed insertion of text indicated by highlighting and underlining):

GN 8 (TG Template: Chapter 3.1.2) – Explanation of the growing cycle

Chapter 3.1 makes reference to the number of growing cycles. In some cases it may be necessary to clarify what is meant by a growing cycle. Additional standard wording has been developed for some situations (see ASW 3).

“The testing of a variety may be concluded earlier or later at the moment when the competent authority can determine with certainty the outcome of the test.”

PROPOSAL

22. The TC-EDC is invited to consider the comments made by the TWPs, at their sessions in 2017, and formulate proposals for further consideration by the TWPs, at their sessions in 2018.

23. *The TC-EDC is invited to:*

(a) consider the comments made by the TWPs, at their sessions in 2017; and

(b) formulate proposals for further consideration by the TWPs, at their sessions in 2018.

[Annex follows]

ANNEX

EXTRACT FROM DOCUMENT TGP/7 “DEVELOPMENT OF TEST GUIDELINES”

ASW 2 (TG Template: Chapter 3.1) – Number of growing cycles

(a) Single growing cycle

“The minimum duration of tests should normally be a single growing cycle.”

(b) Two independent growing cycles

“The minimum duration of tests should normally be two independent growing cycles.”

ASW 3 (TG Template: Chapter 3.1.2) – Explanation of the growing cycle

(a) Fruit species with clearly defined dormant period

“3.1.2 The growing cycle is considered to be the duration of a single growing season, beginning with bud burst (flowering and/or vegetative), flowering and fruit harvest and concluding when the following dormant period ends with the swelling of new season buds.”

(b) Fruit species with no clearly defined dormant period

“3.1.2 The growing cycle is considered to be the period ranging from the beginning of active vegetative growth or flowering, continuing through active vegetative growth or flowering and fruit development and concluding with the harvesting of fruit.”

(c) Evergreen species with indeterminate growth

The growing cycle is considered to be the period ranging from the beginning of development of an individual flower or inflorescence, through fruit development and concluding with the harvesting of fruit from the corresponding individual flower or inflorescence.

(d) Fruit species

In the case of Test Guidelines covering fruit species, the following sentence may be added in Chapter 3.1:

“In particular, it is essential that the [trees] / [plants] produce a satisfactory crop of fruit in each of the two growing cycles.”

(e) Two independent cycles in the form of two separate plantings

Where appropriate, the following sentence may be added in Chapter 3.1:

“The two independent growing cycles should be in the form of two separate plantings.”

(f) Two independent cycles from a single planting

Where appropriate, the following sentence may be added in Chapter 3.1:

“The two independent growing cycles may be observed from a single planting, examined in two separate growing cycles.”

GN 8 (TG Template: Chapter 3.1.2) – Explanation of the growing cycle

“Chapter 3.1 makes reference to the number of growing cycles. In some cases it may be necessary to clarify what is meant by a growing cycle. Additional standard wording has been developed for some situations (see ASW 3).”