



TGP/5: Section 10/2 Draft 2

ORIGINAL: English

DATE: March 10, 2011

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

DRAFT

Associated Document
to the
General Introduction to the Examination
of Distinctness, Uniformity and Stability and the
Development of Harmonized Descriptions of New Varieties of Plants (document TG/1/3)

DOCUMENT TGP/5

“EXPERIENCE AND COOPERATION IN DUS TESTING”

Section 10: Notification of Additional Characteristics and States of Expression

Document prepared by the Office of the Union

*to be considered by the Technical Committee at its forty-seventh session,
to be held in Geneva, from April 4 to 6, 2011*

*and by the Administrative and Legal Committee at its sixty-third session,
to be held in Geneva, on April 7, 2011*

Note for Draft version

Strikethrough (highlighted) indicates deletion from the text of document TGP/5: Section 10/1.

Underlining (highlighted) indicates insertion to the text of document TGP/5: Section 10/1.

Footnotes will be retained in published document.

Endnotes are for background information when considering this draft and will not appear in the final, published document.

1. INTRODUCTION

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]”, Chapter 2.2.1 states that “Where UPOV has established specific Test Guidelines for a particular species, or other group(s) of varieties, these represent an agreed and harmonized approach for the examination of new varieties and, in conjunction with the basic principles contained in the General Introduction, should form the basis of the DUS test.”. However, 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]”. In addition, document TGP/7/2, Chapter 4.1.9, states that “It may become necessary for a characteristic in individual authorities’ test guidelines to be changed over time, e.g. to create new states of expression arising from breeding developments.”. In order to retain internationally harmonized variety descriptions, document TGP/5, Section 10 ‘Notification of Additional Characteristics’ provides a basis for such differences between the Test Guidelines and individual authorities’ test guidelines to be notified to all members of the Union. In that regard, it should be clarified that the notification of additional characteristics and states of expression in document TGP/5 Section 10 is not a requirement before a characteristic can be used by a member of the Union.^a

2. ADDITIONAL CHARACTERISTICS

2.1 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.”

2.2 Document 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”.

2.3 The criteria which an additional characteristic must satisfy are set out in the General Introduction: section 4.8, “Functional Categorization of Characteristics”, namely it:

1. must satisfy the criteria for use of any characteristic for DUS as set out in Chapter 4, section 4.2 and evidence for this must be available from the submitting member of the Union;

“2. must have been used to establish DUS in at least one member of the Union”; and

“3. such characteristics should be submitted to UPOV for inclusion in document TGP/5, “Experience and Cooperation in DUS Testing.”

3. ADDITIONAL STATES OF EXPRESSION

Document TGP/7/2, Chapter 4.1.9^b, states that “It may become necessary for a characteristic in 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.”.

4. PROCEDURE FOR NOTIFICATION OF ADDITIONAL CHARACTERISTICS AND STATES OF EXPRESSION^{c, d}

4.1 The following tables in Annexes I and II to this document have been developed for the notification of additional characteristics and additional states of expression, respectively, by a member of the Union. 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).

4.2 Proposals for additional characteristics and states of expression notified to the Office of the Union by means of document TGP/5 Section 10, will be presented to the relevant Technical Working Party(ies) (TWP(s)) at the earliest opportunity with information on the extent of use of the characteristic^e. The characteristics will then, as appropriate, be posted on the password-restricted area of the UPOV website (http://www.upov.int/restrict/en/index_drafters_kit.htm) on the basis of comments made by the relevant TWP(s).

4.3 In the case of the notification of additional characteristics or states of expression that lead the TWP(s) to initiate a revision or a partial revision of the Test Guidelines concerned, the TWP(s) may conclude that it would not be appropriate to publish such characteristics or states of expression on the password-restricted area of the UPOV website.

[Annexes follow]

ANNEX I

Test Guidelines for [.....]: TG/[...]/[...]
Additional Characteristics(s)

Submitting Authority:

Contact Expert: Name:

Date:

Organization:

Tel.:

E-mail:

		English	français	deutsch	español	Example Varieties/ Exemples/ Beispielsorten/ Variedades ejemplo	[iii] Note/ Nota
New 1.	[ii]						
	[i]	[state]	[état]	[Stufe]	[nivel]		[]
		[state]	[état]	[Stufe]	[nivel]		[]
		[state]	[état]	[Stufe]	[nivel]		[]
New 2.							

- [i]** indicate type of expression (QL, PQ, QN)
- [ii]** indicate method of observation (VG, VS, MG, MS)
- [iii]** example varieties to be provided for at least 2 states.

Explanation / Illustration:

ANNEX II

Test Guidelines for [.....]: TG/[...]/[...]
Additional State(s) of Expression

Submitting Authority:

Contact Expert: Name:

Date:

Organization:

Tel.:

E-mail:

	English	français	deutsch	español	Example Varieties/ Exemples/ Beispielsorten/ Variedades ejemplo	Note/ Nota
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[Existing characteristic: to be reproduced in full from UPOV Test Guidelines (including characteristic number, type of expression, method of observation, states, example varieties and notes)]

[Characteristic with new state(s) of expression (including all information as above)]

Explanation / Illustration:

[Notes follow]

NOTES

- ^a The TWA and TWV agreed that document TGP/5 Section 10 should be revised to clarify that the notification of characteristics in document TGP/5 Section 10 was not necessary before a characteristic could be used by a member of the Union.
- ^b At its forty-sixth session, the TC noted that 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. (see document TC/46/15 “Report on the Conclusions”, paragraph 33).
- ^c At its forty-sixth session, the TC noted that 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. It further noted that the TC, in document TC/46/2, paragraphs 22 to 24, was invited to consider whether new characteristics and new states of expression notified by means of document TGP/5, Section 10 “Notification of Additional Characteristics”, should be presented for consideration at the session of the relevant TWP(s) and the TC before they are presented on the password-restricted area of the UPOV website. The TC agreed that the TWPs should be invited to consider those proposals at their sessions in 2010, on the basis of a draft text to be prepared by the Office of the Union, with a view to a revision of document TGP/5, Section 10/1 being considered by the TC and CAJ in 2011, for proposal to the Council in October 2011 (see document TC/46/15 “Report on the Conclusions”, paragraphs 33 and 34).
- ^d The TWA agreed that proposals for additional characteristics and states of expression notified to the Office of the Union by means of document TGP/5 Section 10, should be presented to the relevant Technical Working Party(ies) (TWP(s)) at the earliest opportunity. The characteristics would then, as appropriate, be posted on the password-restricted area of the UPOV website (http://www.upov.int/restrict/en/index_drafters_kit.htm) on the basis of comments made by the relevant TWP(s). In that regard, the TWA noted that, for example, it might not be useful to publish such characteristics or states of expression if the knowledge of such developments led to a revision or a partial revision of the Test Guidelines concerned. In proposing that approach, the TWA considered that consideration of additional characteristics and states of expression by the TWPs was an important means of informing members of the Union of relevant developments and, therefore, in facilitating harmonization. The TWV, TWO and TWF agreed with the TWA proposals.
- ^e Amendment proposed by the Enlarged Editorial Committee (TC-EDC) at its meeting on January 6, 2011.

[End of Notes and of document]