



TWF/47/19

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# INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

## TECHNICAL WORKING PARTY FOR FRUIT CROPS

### Forty-Seventh Session

Angers, France, November 14 to 18, 2016

#### DURATION OF DUS TESTS IN THE FRUIT SECTOR

*Document prepared by the European Union*

#### INTRODUCTION

1. The Technical Working Party for Fruit crops (TWF), at its forty-fifth session in 2014, agreed that the standard wording currently used in some fruit Test Guidelines with regard to minimum duration period and the number of growing cycles, might be improved in some cases. It therefore requested the leading experts to propose suitable wording for their draft Test Guidelines in 2015 and requested the expert from the European Union to collate the options developed by the leading experts and to seek to develop possible new standard wording options (see document TWF/45/32 "Report", paragraph 76).

2. The Community Plant Variety Office of the European Union (CPVO) financed an R&D project (presented also at the forty-fifth session of the TWF) on "Reducing the number of obligatory periods". The outcome of this project was that it would be possible, in some cases, to conclude a DUS examination before the standard 2 years period of observation foreseen as a routine in UPOV Test guidelines. As a consequence, the CPVO proposed to change the wording on the UPOV level so that the possibility of concluding the testing earlier than foreseen by the minimum duration could be more explicit (see document TWF/45/27).

#### SURVEY AMONG THE LEADING EXPERTS AND CPVO ENTRUSTED EXAMINATION OFFICES:

3. The survey carried out among the leading experts for Test Guidelines in 2015 and CPVO entrusted examination offices showed that:

- the wording like "minimum" and "normally" could be more specific and it could refer for example to yield to fit also non-fruiting varieties,
- the word "minimum" could be deleted,
- the key issues are the start of the test and the end of the test (when there is sufficient information in order to take a decision),
- in addition to deletion of the "minimum" under the proposal option for (a) to add the wording "*However, if differences observed between varieties are so clear and the expression of the variety considered representative more than one growing cycle is not necessary*", in order to cover also situations when a negative decision can be taken at an earlier stage (for example if a clear lack of uniformity is noted by the examiner at an early vegetative stage, etc.).

#### DEVELOPMENTS AT THE TECHNICAL WORKING PARTY FOR FRUIT CROPS IN 2015

4. The TWF, at its forty-sixth session, considered the following proposal to amend document TGP/7 (see document TWF/46/29 Rev. "Revised Report", paragraph 88):

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

“The duration of tests should be (a single/two) independent growing cycle(s) for the purpose of observation of characteristics following an adequate number of growing cycles for establishment of plants; at the end of each growing cycle(s) for the purpose of observation of characteristics the competent authority will determine whether or not the following growing cycle(s) is required. 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.”

5. The TWF considered the information provided in document TWF/46/25 Rev. and noted that the total duration of DUS testing for fruit crops for some authorities would include the period required for establishment of the plants. The TWF agreed that over the establishment period it should be possible to conclude the DUS testing when the examining authority was certain of a negative outcome. The TWF also agreed that the DUS examination and the variety description could be completed after the first growing cycle (see document TWF/46/29 Rev. “Revised Report”, paragraphs 86 to 87).

6. The TWF agreed to invite the European Union to continue drafting a proposal for reduction of duration of DUS tests in the fruit sector taking into consideration the comments received and agreed to continue discussions at its next session (see document TWF/46/29 Rev. “Revised Report”, paragraph 89).

#### DEVELOPMENTS AT THE TECHNICAL COMMITTEE IN 2016

7. The TC at its fifty-second session, 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).

#### NEW PROPOSAL

8. Following the conclusions of the TC and the discussions at the CPVO Fruit Experts’ Meeting in June 2016 in Angers (France), the CPVO proposes to discuss at present the possibility of modifying the wording of document TGP/7 with the following sentences highlighted in grey:

- ***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 be a single growing cycle.”

##### *(b) Two independent growing cycles*

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

##### *(c) Single growing cycle for species with establishment period*

“The duration of tests should be a single growing cycle for the purpose of observation of characteristics following an adequate number of growing cycles for establishment of plants; at the end

of each growing cycle for the purpose of observation of characteristics the competent authority will determine whether or not the following growing cycle is required.”

*(d) Two independent growing cycles for species with establishment period*

“The duration of tests should be two independent growing cycles for the purpose of observation of characteristics following an adequate number of growing cycles for establishment of plants; at the end of each growing cycle for the purpose of observation of characteristics the competent authority will determine whether or not the following growing cycle is required.”

9. Furthermore, the TC requested the TWF to review whether the existing guidance in TGP documents precluded the conclusion of a DUS examination after one growing cycle. As to the CPVO experience in that respect, discussions with experts from examination offices shows that different interpretations exist at the EU level.

10. The TWF is invited to express its opinion on the issues mentioned in this document:
- the proposal for modification of the TGP/7,
  - whether the existing guidance in TGP documents precluded the conclusion of a DUS examination after one growing cycle in the respective authority.

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