

Technical Working Party for Fruit Crops

TWF/53/6

Fifty-Third Session**Original:** English**Virtual meeting, July 11 to 15, 2022****Date:** June 1, 2022

INFORMATION REQUIRED TO ENHANCE THE USE OF EXISTING DUS TEST REPORTS*Document prepared by an expert from New Zealand**Disclaimer: this document does not represent UPOV policies or guidance***BACKGROUND**

1. The Technical Committee (TC) and Technical Working Parties (TWPs) carried out wide ranging discussions in 2019 and 2020 regarding Cooperation in Examination. A key element in cooperation is the exchange or takeover of DUS reports and several authorities made the observation that Section 16 of document TGP/5 Section 6 UPOV Report on Technical Examination and UPOV Variety Description was frequently empty in the test report received, with no information provided at all regarding the varieties considered similar by the testing authority. An empty section tells you there were no closely similar varieties, or it just was not completed? This led to the proposal for improvement to include additional information in DUS test reports and the possible revision of TGP/5, Section 6.

2. In 2021, document TWP/5/14 stated that the TC, at its fifty-sixth session considered document TC/56/11 "Cooperation in Examination" and agreed to revise document "UPOV Report on Technical Examination and UPOV Variety Description", to:

- provide information on varieties included in the variety collection
- report the varieties considered in the examination (not only similar varieties)
- provide data from field observations with the DUS test report for each variety
- provide information on environment in which the DUS examination was conducted

3. The Office of the Union consulted the TWP chairpersons for preparing the draft revision of document TGP/5, Section 6, to include additional information in DUS test reports. Concerns were expressed about the usefulness and practicality of the proposals. The chairpersons considered that further reflection would be required to the approach proposed and whether the information should be provided through other instruments, such as cooperation agreements or dedicated information platforms. The TWPs were invited to review the proposal to revise document TGP/5, Section 6 "UPOV Report on Technical Examination and UPOV Variety Description" to include additional information in DUS test reports, and to consider whether alternative approaches to provide the desired information might be appropriate.

4. Document TWF/52/10 reported that the TWF in 2021 considered the proposal to revise document TGP/5, Section 6 "UPOV Report on Technical Examination and UPOV Variety Description" to include additional information in DUS test reports, and whether alternative approaches to provide the desired information might be appropriate. The TWF concluded a similar view to that of the TWV, TWO and TWA that the proposed additional information was not useful for individual DUS reports and presented difficulties for reporting authorities.

5. The TWF agreed that authorities providing DUS test reports should provide information on the most similar variety, as far as possible, in accordance with guidance in the UPOV variety description (document TGP/5 Section 6). The TWF agreed to invite the expert from New Zealand to make a presentation at its fifty-third session, on what should be required as information to enhance the use of existing DUS test reports.

WHY THIS MATTER IS IMPORTANT?

6. The takeover of DUS test reports by an Authority is a significant element in cooperation in examination. The UPOV Convention provides for this possibility and allows in formal or formal arrangements between authorities. The receiving authority delegates the DUS testing task to the testing authority and in return receives a report and detailed description of the variety which otherwise the receiving authority would have had difficulty to draft. When an authority makes the decision to take over a report for an individual variety, and there can be many elements considered prior to that decision, the DUS decision of the providing authority is often accepted without further testing. It is a benefit to the quality of the decision for the receiving authority to know which varieties were considered similar by the testing authority and the characteristic(s) which provided distinctness. When an individual test report has an empty space in Section 16, it does not provide any clue at all. A simple statement that there are no similar varieties, if that is the situation, would provide more information than a blank section.

ALTERNATIVE APPROACHES TO PROVIDING THIS INFORMATION

7. The proposal to include additional information as stated in TWP/5/14 was on reflection ambitious and possibly went beyond what was intended when the matter was originally raised. The use of alternative approaches, as identified in the discussions to date, would certainly have a role in providing the level of information proposed in document TWP/5/14. An individual test report is not the place to list all the varieties in a testing authorities variety collection or list of common knowledge. Close cooperation between authorities and exchange of variety information should certainly be encouraged, particularly for regular arrangements for specific species or variety types. This sort of activity already occurs between authorities as part of formal arrangements or for in formal arrangements between the request and the supply of the test report. The original proposal was not intended to replace these practices but to focus on the distinctness of the individual variety in the report and the varieties identified as similar following grouping.

8. The takeover of reports can be useful to testing authorities for varieties belonging to species with few applications, little if any testing experience or an absence of significant national production or breeding activity. For varieties belonging to these species, it may not be necessary to have any formal agreements or prior communication with the testing authority due to the low frequency of use. The test report itself becomes the primary information source for the requesting authority and the DUS decision may be made entirely on the test report alone. For that reason, the report and the description need to be as complete as possible, including the most similar varieties from which the candidate was distinguished from.

WHAT SHOULD BE IN THE TEST REPORT?

9. Document TGP/5 Section 6 is already comprehensive and there is no significant change required. The desirable change would be for the testing authority to ensure that the model form is fully completed. Grouping is a standard practice carried out by all testing authorities at the beginning of all DUS examinations. At the end of the grouping process, used for that species by the authority, there are normally a smaller number of varieties that cannot be easily differentiated and will need to be included in the growing trial or be further assessed in the living collection. It is these varieties which should be included as additional information. Section 16, as a minimum, should include the list of varieties considered most similar, varieties that have not been adequately excluded during grouping or preliminary assessment and requiring closer evaluation in a growing trial or by supplementary examination. The information included in Section 16, only needs to be a single characteristic per variety providing distinctness. It is not necessary to provide multiple characteristics from all the closely similar varieties. If there are no closely similar varieties then it can be helpful to simply state, no closely similar varieties have been identified.

10. It is recognised that grouping practice does vary between species and after grouping there still may be more than a few varieties which have not been excluded. For these species and varieties, it is still the most closely similar that would be included. Lengthy lists in Section 16 are not necessarily helpful and would be an unnecessary amount of work for the testing authority.

OTHER INFORMATION THAT MAY BE HELPFUL

11. The objective of the original proposal was the routine inclusion of the most closely similar variety information for Section 16 of document TGP/5 Section 6. Other information, in addition to that for the most similar varieties, could also be included such as trial design or statistical tables. Any additional information of

this nature would be agreed in advance between the requesting and testing authority. The model already has Section 17 which can be used to locate this content. Any revision of document TGP/5 would only need the addition of more examples of additional information to those already included. The following are already included:

“17. Additional Information

“(a) Additional Data

“(b) Photograph (if appropriate)

“(c) RHS Colour Chart version used (if appropriate)

“(d) Remarks”

CONCLUSION

12. An important change required is to the approach of authorities when completing the DUS test report, document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description”. In particular, the attention to detail in Sections 16 and 17. The requesting authority also has responsibility to clearly communicate the type of additional information that may be required to be included in section 17. This may result in an alternative means to provide the requested information, mutually agreed in advance of the supply of the test report.

13. A substantive review of document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” is not required, all the elements necessary are already set out. Some minor improvements could be made to Paragraph 17, as follows (additions indicated in highlighting and underline):

(a) Additional Data (e.g. COYU or COYD results, measured data supporting certain characteristics, scales for measured characters for example varieties)

(b) Photograph (if appropriate)

(c) RHS Colour Chart version used (if appropriate)

(d) Examples varieties used in testing

(e) Remarks

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