

Technical Working Party for Fruit Crops**TWF/54/7****Fifty-Fourth Session
Nîmes, France, July 3 to 7, 2023****Original:** English
Date: June 7, 2023**COOPERATION IN EXAMINATION***Document prepared by an expert from New Zealand**Disclaimer: this document does not represent UPOV policies or guidance***BACKGROUND**

1. The TWF considered document TWF/53/6 in 2022 and discussed what information should always be provided in a UPOV variety description, document TGP/5 Section 6/4. The TWF agreed that Section 16 “Similar Varieties and Differences from These Varieties” should be completed to clarify the existence or not of similar varieties. It was recognised that there are different possibilities to provide information in Section 16 and concluded that further discussion was required to determine whether one or several similar varieties should be included and the listing of one or several characteristics per variety which provide distinctness.

2. Existing guidance in the Explanatory Notes for document TGP/5 Section 6/4 states:

“Ad Number 16 (Annex: UPOV Variety Description) Only those characteristics that show sufficient differences to establish distinctness should be given. Information on differences between two varieties should always contain the states of expression with their notes for both varieties; if possible, in columns if more varieties are mentioned.”

IDENTIFYING THE MOST SIMILAR VARIETY

3. This is a very significant issue, and it is often not so clear as to what defines a similar variety. What elements can be used to identify the point when a variety should be considered similar or not? An approach could be to report on the closest variety, a variety that has only one or very few characteristics providing distinctness. This removes the difficulty of determining the actual similarity between two varieties. An example of this approach, for a variety originating as a mutation, the parent variety would always be included as the closest variety. The characteristic providing distinctness may be clear, however it could be the only one.

4. Another approach could be to determine a minimum number of characteristics in which a variety differs from a candidate variety. If a variety exceeds that number, then that variety would not be considered similar to the candidate variety. Any variety in the growing trial or collection that has more than the minimum number of characteristic differences from the candidate variety, would not be considered similar and would not be included in Section 16.

5. The most similar or closest variety may be the variety with the smallest number of differences when compared with the candidate variety. Where there is more than one variety with very few differences, the most similar could be the one that has the least number of differences.

6. The UPOV Test Guidelines do not place characteristics in any order of importance or significance and all characteristics used in identifying similar or closet varieties must be treated equally. If a similar variety has several characters providing distinctness, selecting only one of those for inclusion in Section 16 could be misleading and additional information about that variety could be lost to the receiver of the test report. All characteristics providing distinctness for that variety should be recorded in the report.

WHAT SHOULD BE IN SECTION 16 OF THE TEST REPORT?

- (a) All similar/closest/reference varieties as determined by the Examiner. If there is no such variety(s), a sentence such as "No similar/closest variety was identified in the growing trial" should be stated.
- (b) Only varieties which have been tested under the same growing conditions as the candidate variety.
- (c) Varieties that express the least number of characteristic differences from the candidate variety.
- (d) All characteristics are treated equally, with all characteristics providing distinctness to be included for each similar variety.

OTHER INFORMATION THAT MAY BE HELPFUL

7. Additional information regarding the growing trial and the varieties present can be provided in Section 17. There is no existing guidance in the Explanatory Notes for document TGP/5 Section 6/4, leaving this open as what could be included. Additional information of this nature could be agreed in advance between the requesting and testing authority.

8. There may be alternative approaches to providing this information arranged between the testing and receiving authorities. An individual test report is not necessarily the best place to list all the varieties in a testing authorities variety collection or spreadsheets containing statistical data. 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.

CONCLUSION

9. Defining a similar variety for inclusion in Section 16 is not straightforward and is dependent on the species and testing practice. To assist the Examiner to make that decision, consideration could be given to the number of characteristic differences between the similar variety and the candidate variety. The Examiner could determine a minimum number of characteristic differences between a similar variety and a candidate, with any variety that expresses a greater number, not considered similar, and is excluded. It is recommended that for each similar variety, all character differences be included to avoid any indication that some characteristics may have more importance than others for use in determining distinctness. All varieties included in Section 16 must have been evaluated under the same growing conditions.

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