



TWO/36/7

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

**TECHNICAL WORKING PARTY
FOR
ORNAMENTAL PLANTS AND FOREST TREES**

**Thirty-Sixth Session
Niagara Falls, Canada, September 22 to 26, 2003**

REPORT

adopted by the Technical Working Party for Ornamental Plants and Forest Trees

Opening of the Session

*1. The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its thirty-sixth session in Niagara Falls, Canada, from September 22 to 26, 2004. The list of participants is reproduced in Annex I to this report.

2. The TWO was welcomed by Ms. Valerie Sisson, Commissioner, Plant Breeders' Rights Office, Canada on behalf of the Plant Breeders' Rights Office of the Canadian Food Inspection Agency (CFIA). It was explained that the Plant Breeders' Rights Office was part of the CFIA which had been formed in 1997. The CFIA integrated the delivery of inspection and quarantine services that were previously provided by Agriculture and Agri-Food Canada, Health Canada, Industry Canada and the Department of Fisheries and Oceans. The Agency's mandate was to safeguard Canada's food supply which includes the plants and animals upon which safe and high quality food depends. The Commissioner explained that the president of the CFIA reports to the Minister of Agriculture and Agri-Food. The CFIA administers 13 pieces of legislation, one of them being the Plant Breeders' Rights Act. The Canadian

* An asterisk next to the paragraph number indicates that the text has been taken from the Report on the Conclusions (document TWO/36/6).

PBR Act came into effect on August 1, 1990, and is administered by the Plant Breeders' Rights Office of the CFIA. Canada became a member of UPOV in 1991, under the 1978 UPOV Convention. The PBR Act had required that a Ten Year report be prepared "as soon as practicable" after the Act had been in force for ten years. The purpose of the report was to indicate the impact of the legislation on investment in plant breeding in Canada, access to protected foreign varieties, protection of Canadian varieties abroad, and improvement of plant varieties to the public benefit. The report was completed and tabled in Parliament in June, 2002. The overall findings were that there had been an increase in investment in plant breeding and an improvement in the access to foreign varieties in both the agricultural and horticultural sectors since the enactment of the PBR Act. Plant Breeders' Rights appeared to be one factor that had had a positive impact on the availability of improved varieties. The report also indicated that PBR has not had the predicted negative impacts such as increased seed prices and reduction in the number of varieties available. The Ten Year Report recommended that Canada move towards ratification of the 1991 UPOV convention as soon as possible. Recent initiatives on the part of the CFIA, with solid support from the plant breeding industry, were gaining momentum and it was hopeful that the amendments would be introduced during the fall session of Parliament. Once these changes to our Act were in effect, Canada would move towards ratifying the 1991 UPOV Convention. The Commissioner noted that as a member of UPOV, Canada has benefited from the many years of experience of other member countries. Participation in a meeting such as the TWO meeting was very valuable for the exchange of information and for an understanding of the various plant breeders' rights systems throughout the world. For TWO in particular, there were many species and varieties that were familiar to most of the participants. It was stated that it was through cooperation with UPOV colleagues that it was possible to implement fair and consistent policies with regards to the protection of the intellectual property of ornamental breeders around the world. The Commissioner expressed her pleasure that there were participants from nearly 20 countries and six continents. It had been decided to choose to hold the meeting in Niagara Falls because that region was the area of greatest horticultural crop production in Eastern Canada.

*3. The session was opened by Mr. Chris Barnaby (New Zealand), Chairman of the TWO, who welcomed the participants, and in particular new participants, to the TWO.

Adoption of the Agenda

*4. The TWO adopted the revised agenda as reproduced in document TWO/36/1 Rev., after agreeing to review the draft Test Guidelines for Amaranth at the invitation of the Technical Working Party for Agricultural Crops (TWA)

Short Reports on Developments in Plant Variety Protection

5. The TWO received a presentation on Plant Breeders' Rights in Canada from Ms. Sandy Marshall. A copy of the presentation is attached as Annex II to this document.

6. In the report from the expert from Brazil, the TWO was informed that work on the examination of ornamental plants in Brazil was at an early stage. To date, of the approximately 600 applications received, only 9 applications concerned ornamental plants - for rose varieties.

7. The expert from Germany reported that approximately 500 applications were handled by that country annually. Of those, around 90% were the subject of an application at the Community Plant Variety Office (CPVO) or with another authority.

8. The TWO heard from the expert from Israel that ornamentals represented the main part of the DUS work in that country. He reported that there had been a general decline in the number of applications over a two to three year period, as a result of reduced world demand for ornamental plants, but noted at the same time that there was increasing demand for the protection offered by the Plant Breeders' Rights system. The greatest demand was being found in *Gypsophila*, where 25 applications had been made in 2002, compared to only 20 as a total for all previous years. He remarked that there had been a number of court cases concerning Plant Breeders' Rights and noted that this involved a substantial amount of associated work.

9. The expert from Japan reported that the authorities in that country had received a total of 1,068 applications for Plant Breeders' Rights in 2002, of which 85% were for ornamental varieties. He noted that there was a need to create test guidelines for 20 to 30 species for which applications had not previously been received and indicated that guidance was needed in that respect.

10. The expert from Kenya reported that protection had been granted to 139 varieties, these being the first grants since Kenya had established the plant variety protection office in 1998. The grants were based on tests conducted by the staff of the plant variety protection office in Kenya or tests by the authorities in France, Germany, Israel, Netherlands and the CPVO. He reported that most of the grants related to ornamental varieties were dominated by rose, for which the applicants were foreign breeders. Local breeders had been granted rights for *Pyrethrum*, barley and sugarcane. The plant variety protection office was undertaking a program to raise awareness of Plant Breeders' Rights for breeders, exporters and other stakeholders.

11. The expert from Mexico explained a series of actions being taken to catch up with the arrears in the processing of applications for Plant Breeder's Rights (PBR). He explained that the main cause for that situation was that at the moment of the implementation of the Federal Law on Plant Varieties, two years after its enactment, 208 pending applications were transferred to the National Service for Seed Inspection and Certification (*Servicio Nacional de Inspección y Certificación de Semillas* (SNICS)), 108 from the Mexican Institute on Intellectual Property (IMPI) and 100 from the Secretary of Agriculture. He added that there were 538 applications for PBR filed, of which 240 had been granted. The majority of ornamentals applications related to rose (90%), *Alstroemeria* (5%) and *Bougainvillea*, *Dendranthema*, *Gypsophila*, *Lilium* and *Tagetes* (together 5%). He reported that the actions taken to decrease the arrears in application examination included the simplification of the procedure for applications of ornamental varieties which had been granted PBR in a UPOV Member, provided that the DUS examination had been made following the UPOV recommendations recognized in Mexico and they did not belong to species for which Mexico was either a center of origin or there was a local breeding program. It was expected that applications for the protection of rose varieties would certainly benefit from that simplified procedure.

12. The expert from the Netherlands reported that there had been 450 applications for Plant Breeders' Rights for tulip varieties in the Netherlands in 2002. With regard to Iris and

Gladiolus, he noted that the presence of virus in these plants might become a cause for concern with regard to the examination of distinctness, uniformity and stability (DUS).

13. The TWO heard from the Chairman that the Commissioner in New Zealand, Bill Whitmore, had retired at the end of 2002 and that the plant variety protection office was undergoing re-organization. The Chairman reported on discussions which had taken place in New Zealand with regard to priority claims in respect to applications for Plant Breeders' Rights made to the CPVO. He noted that there had been: an increase in the number of applications for herbaceous perennials; a reduction in the number of "new" species; but an increase in the number of applications for existing species. A review of the plant variety protection Act was in progress and it was hoped that this would be submitted to Parliament in 2004.

14. The report from an expert from the Republic of Korea recorded that there had been applications for a total of 810 varieties in the Republic of Korea and 70 titles of protection had been granted to August 31, 2003. The number of applications had been 3, 9, 21, 46 and 473 in 1998, 1999, 2000, 2001 and 2002, respectively, with 258 received in 2003 to September. Of the applications received, 581 were for varieties bred by foreign breeders from Germany, Italy, Japan, the Netherlands, New Zealand and the United States of America. Most of the applications made by foreign breeders related to Rose (312), Chrysanthemum (111), Impatiens, Kalanchoe, Poinsettia, Petunia and Dendrobium.

15. The TWO heard that, in South Africa, new varieties of *Tagetes* were being bred by local breeders using local plants. The expert from South Africa also reported that the authorities in that country were examining the definition of "essentially derived variety" and "common knowledge."

16. The expert from the United Kingdom reported that, with regard to applications for ornamental varieties tested in that country, approximately half were conducted on behalf of the CPVO and half for national authorities, the latter consisting of Belgium, France, the Netherlands and the United Kingdom. She reported an increase in the number of species for which applications were received and an increase in the number of inter-specific hybrids.

17. In the report from the experts from the CPVO, the TWO was informed that the CPVO had received 1463 applications for ornamental plants in 2002, out of a total of 2,205 applications, which was about the same figure as in 2001 for ornamental plants. As in 2001, the greatest number of applications in the ornamental sector was for Roses and Chrysanthemum (each 12% of the applications) followed by *Impatiens*, Lilies and Petunia. A large increase in the number of *Impatiens* applications, in particular for *New Guinea Impatiens*, was registered. With regard to indications for 2003, the number of applications showed an increase of around 15% in comparison to the same period in 2002, with the ornamental species representing an increase of around 20%. Apart from a large increase in the number of *Gerbera* applications the tendency in 2003 remained the same as in 2002 with less concentration of applications for the main species, and a diversification of species in which variety protection was sought. For the period October 2002 to September 2003, applications were received for about 60 "new" species, of which about 55 were ornamentals. 23 technical protocols for technical examination of ornamentals, based on the UPOV Test Guidelines, were adopted in October 2002 and March 2003. The TWO heard that the fees structure of the CPVO had been modified as from April 1, 2003. The application fee was unchanged (€900), but the examination fee now depended on the species/fee group. The annual fee was reduced to a flat-rate fee. All these figures were

available on the CPVO Website. The Administrative Council of the CPVO had given its green light for the first phase of a study on the possibility to establish a centralized database for the purpose of checking the similarity of proposed variety denominations. This period would consist of a more detailed technical definition of the project and involve the consultation of denomination experts (users) and discussions with IT experts. The database would be available on a Website with restricted access, and would enable EU Member States to test their denominations. A draft report on the feasibility of the database would be presented to the Administrative Council of the CPVO in November 2003 and, if approved, it was intended to develop the project in 2004 for a starting date foreseen at the beginning of 2005. With regard to the use of geographical names as variety denominations, the CPVO was of the opinion that, under its legislation, there was no legal basis to refuse a variety denomination on the sole ground that it consists of a geographical name. To illustrate this, the CPVO noted that it had granted protection for more than 800 varieties with a denomination consisting (partly) of a geographical name. However, in cases where the registration of a variety denomination with a geographical name would infringe a prior right, such as a denomination registered and protected under Council Regulation (EC) No. 2081/92 as a geographical indication or designation of origin, the CPVO could refuse a variety denomination with a geographical name. Furthermore the CPVO was of the opinion that if a variety denomination included a geographical name that would be likely to deceive the public as to the geographical origin of the variety, the Office could refuse a variety denomination with a geographical name. It was reported that the CPVO has decided to postpone the technical examination of Phytoplasma free material for *Euphorbia* for applications with an application date from January 1, 2003. A project had started, co-financed by the breeders and the research center in Denmark, to study the influence of the different phytoplasma strains on the expression of the genotype. For this purpose, 25 varieties selected from the Poinsettia collection in Aarslev, are pre-screened for the presence of different phytoplasma. On the basis of the outcome of this pre-screening, a grafting experiment will be performed. This project started in August 2003 and was expected to be finalized at the end of 2004. On the basis of the outcome of this experiment, the CPVO would decide on the acceptance of phytoplasma-infected material for the DUS test of Poinsettia. The experts from the CPVO reported that, in 2004, the European Union (EU) would be extended with 10 new member States: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Existing Community Plant Variety Rights would be automatically extended to the new member States. Finally, the TWO heard that some reports of appeal cases could be found on the CPVO Website under "Board of appeal and committees".

*18. The TWO received an oral report from the Office of the Union on the latest developments within UPOV. It noted the report on the work of the *Ad hoc* Working Group on Variety Denominations (WG-VD) and agreed to propose that the Chairman of the TWO should participate in the WG-VD.

Molecular Techniques

*19. The TWO received an oral report from the Office of the Union on the latest developments concerning the use of molecular techniques in DUS Testing within UPOV, based on document TC/38/14 Add.-CAJ/45/5 Add.

*20. The TWO received an oral report from the Chairman of the Rose Crop Subgroup. It was reported that the meeting of the Rose Crop Subgroup, planned to take place prior to the

meeting of the TWO, had been postponed because of insufficient papers. The TWO noted that a suitable date for a future meeting would be arranged when more papers were available.

Project to Consider the Publication of Variety Descriptions

*21. The TWO considered document TWO/36/2 and received an oral report from Ms. Andrea Menne, Coordinator of the model study on Petunia.

*22. The TWO noted that the first phase of the model study on Petunia had been based on the characteristics included in the Technical Questionnaire of the Test Guidelines. Furthermore, it noted that there was a high degree of harmonization in the variety descriptions for the selected characteristics despite the fact that the varieties were described before the Test Guidelines were introduced. With regard to the next phase of the study, the TWO agreed that descriptions should be sought for the same varieties and characteristics, including a request for color photographs, from further countries. The additional countries would include Israel, Japan and Mexico, and an invitation would be made for other countries to contribute. The request for descriptions would also seek information on the growing environment in which the varieties were described. Consideration would be given to the presentation of states of expression of the color characteristics in the form of color groups, in addition to RHS Colour references.

*23. With regard to the possibility of conducting a model study on Rose, it was confirmed that there were an insufficient number of countries conducting DUS trials on rose to make this a useful study. Instead, it was proposed that a study should be made on *Alstroemeria*, with Mr. Joost Barendrecht (Netherlands) as Coordinator, and the interested countries identified at the meeting as being Canada, Japan and the Netherlands. Other countries would also be invited to participate.

Review of UPOV Information Databases

*24. The TWO received an oral report from the Office of the Union on the latest developments in the UPOV databases based on document TWO/36/3.

*25. To check the codes presented in Annexes I and II of document TWO/36/3, it was agreed that all experts should check species in which they had particular expertise and, in addition, the experts listed below would check the pages of both Annexes as shown below, with all comments to be sent to the Office of the Union by the end of November 2003:

| | |
|----------------------------|-----------------|
| Mr. Joost Barendrecht (NL) | pages 1 to 7 |
| Mr. Baruch Bar-Tel (IL) | pages 8 to 14 |
| Ms. Andrea Menne (DE) | pages 15 to 21 |
| Ms. Elizabeth Scott (GB) | pages 22 to 28 |
| Mrs. Sandy Marshall (CA) | pages 29 to 34. |

Survey on "Testing of Seed-Propagated Ornamental Varieties"

*26. The TWO noted the results of the survey as presented in document TWO/36/4. It agreed that the survey should not be repeated in 2004, but that participants should report on

relevant developments in their report on developments in plant variety protection under that agenda item.

Uniformity Requirements for Variegated Varieties

*27. The TWO received a presentation from Mr. Ton Kwakkenbos (CPVO), based on document TWO/36/5.

*28. It was agreed that the Office of the Union, in conjunction with the Chairman, would prepare and issue a questionnaire seeking information on the proportion of plants which would need to be affected by a mutation or variation in order to be considered to be an off-type, e.g. whether a single atypical leaf or petal would render the plant an off-type. The TWO agreed that, if acceptable to the Technical Working Party for Fruit Crops (TWF), this questionnaire should also be sent to members of the TWF to obtain information on how the matter is handled for fruit crops. The results of the survey would be presented to the TWO at its thirty-seventh session in 2004 and would be used as a basis for further discussion on how to consider variegated varieties in the examination of uniformity.

TGP Documents

TGP/7 Draft 3: Development of Test Guidelines

*29. The TWO agreed to propose the following amendments to document TGP/7 “Development of Test Guidelines” Draft 3:

2.1.2 to be revised to reflect the fact that the draft Test Guidelines are no longer sent to the international professional organizations as a separate step.

2.2.7.1 to include an additional sentence, clarifying that it is not the role of the TC-EDC to conduct a substantive technical review of the Test Guidelines.

2.5.2.1 / 2.5.3.2 / 2.5.4 as proposed by the TWV, it should be made more clear that this is an example of a route and not the typical route for the adoption of Test Guidelines. A second simpler example for each section should be developed.

4.2.1 noted that the reference to Annex 3 would be changed to Annex 4.

4.3.2 noted that the word “categories” would be replaced by “types of expression”.

4.4.3.2.2 agreed with the proposal of the TWA that this should read “In cases where there is a discontinuous separation between absence and presence, the characteristic should have the states absent (note 1) and present (note 9).”

4.5.2 to be deleted

4.5.4.2.1.2 third sentence to be amended to read “Where necessary, the even states can be worded by combining the wording of the preceding and following states, in that order, by using the word “to”, e.g. “very weak” to “weak (2)” as proposed by the TWV.

4.5.5.1 to be explained that the condensed range should only be used for the given type of examples, where one end of the scale is fixed.

4.6.2 to be deleted

4.6.3.3 to be amended as proposed by the TWV, such that state 2 would be worded as “green”, rather than “medium green” and wording in the first sentence to be modified accordingly.

4.6.3.4 reference for mathematical determination of plane shapes to be given as “A.E. Radford: Vascular Plant Systematics, adopted from Taxon, 1962”.

Annex 1: TG Template

Cover page field for UPOV code to be provided.

Cover page field for information on the drafting country to be provided.

Cover page the purpose of the Test Guidelines should be included on the cover page. Words “certain of” on the first line to be deleted and reference TG/1/3 to be added after “General Introduction,” as suggested by the TWC.

3.1 the highlighted text shown as the first sentence to be deleted (see comments on Annex 1, 4.1.2)

3.2 second sentence of 3.2 to read: “If any characteristics of the variety, which are relevant for the examination of DUS, cannot be observed at that place, the variety may, where considered appropriate by the authority, be tested at an additional place”, as proposed by the TWA.

4.1.2 to be retained, but to be amended. The TWO considered the wording proposed by the TWA (“One means of ensuring that a difference in a characteristic, observed in a growing trial, is sufficiently consistent is to examine the characteristic by at least two independent observations. However, the differences observed between varieties could be so clear that a second growing cycle may not be necessary. In addition, in some circumstances the influence of the environment is not such that a second growing cycle is required to provide assurance that the differences observed between varieties are sufficiently consistent.”) implied that a single growing cycle would be an exception, whereas it was the normal situation in ornamental varieties. It proposed that any amended wording should reflect the fact that a single growing cycle was the normal situation in ornamental varieties.

TQ 7.2 format and wording to follow style in TQ 7.1.

TQ 7.3 Guidance Note to be developed for introducing a section on “use” of the variety.

TQ 9 first sentence to read “Information on plant material to be examined / submitted for examination.”

TQ 9.2(b) section in brackets to read “(e.g. growth retardant, pesticide)”

TQ 9.3 to be moved from TG Template to Annex 2 as Additional Standard Wording and word “disease” to be replaced by “pathogen”.

Annex 2: Additional Standard Wording (ASW) for the TG Template

ASW 10 supported proposal of TWV to add at the beginning “Where appropriate, or in cases of doubt ...”.

ASW 15 4.1.1(c) word “totally” to be deleted.

ASW 15 4.1.3 to read “Discovery and development”.

ASW 15 second option to be provided without 4.1.2 “Mutation” section, as proposed by the TWA.

ASW 16 the retention of the option to include a request for a photograph of the variety to be provided with the Technical Questionnaire was strongly supported. The TWO noted the view of the International Seed Federation (ISF), that “a picture could very often give a wrong feeling of certainty whilst it is often useless and misleading” and its opinion that “The interest of a picture would depend on the stage of development of the plant, the location of the trial etc. It could also be useless without a picture of the checks and other varieties”. The TWO noted that authorities were aware of the limitations of photographs and that a request for a photograph was only included in those Test Guidelines where it was necessary to help the authority to conduct its examination of distinctness in a more efficient way.

Annex 3: Guidance Notes for the TG Template

GN 1 “Latin” name to be replaced by “botanical” name, as proposed by the TWV.

GN 5 Words “(not in italics)” to be deleted.

GN 7 agreed with the proposal of the TWA, for a review by the TC, of the quantity of plant material to be supplied, in existing Test Guidelines on the basis of crop type to provide some general guidance for drafters of Test Guidelines.

GN 11 agreed with the proposal of the TWA, that the TWC should include, in TGP/10, some practical guidance for choosing an appropriate uniformity standard, based on uniformity standards used in the existing Test Guidelines.

GN 12 agreed with the TWA that paragraph 3 should read: “Where a grouping characteristic is included in the Table of Characteristics, it should, in general, receive an asterisk in the Table of Characteristics and be included in the Technical Questionnaire. A particular exception to this general rule is for disease resistance characteristics, where particular care should be given before allocating an asterisk.”

GN 13 (a)(i) first sentence on page 55 to read “Example varieties are important to adjust the description of the characteristics for the year and location effects, as far as possible”, as proposed by the TWA.

GN 13 (a)(ii) fifth line on page 56, the word “environmental” to be replaced by “location”. Ninth line on page 56, the word “comparable” to be replaced by “the same”, as proposed by the TWA.

GN 13 (b)(i) the words “or addition” after “alternative”, as proposed by the TWA.

GN 13 (b)(ii) agreed with the TWA that for the flow diagram on page 58: dotted line section to be presented as a separate diagram; bottom left-hand box to read only “Example varieties required”; and a separate diamond box to be introduced on the right-hand side, after “Yes e.g. QN (PQ)”, asking if the environment is controlled.

GN 13 (e) first bullet point to be amended to read:

“Quantitative characteristics:

(a) 1-9 scale: to provide example varieties for at least three states of expression (e.g. (3), (5), (7)) although, in exceptional cases, example varieties for only two states of expression may be accepted;

(b) 1-3 scale (“condensed range”): to provide, example varieties for at least two states of expression (e.g. (1) and (2))

GN 13 (h)(i) The TWO agreed that the first paragraph should be rewritten to emphasize the value of regional sets of example varieties for harmonization within regions. It should also indicate that, where appropriate, correlation between sets of regional example varieties could be established, but, that in some cases such correlation was unnecessary (see paragraph 3).

GN 13 (h)(i) The TWO supported an Option 3 approach (UPOV Website) on the basis that it was modified as proposed by the TWA, namely that:

(a) the relevant TWP would agree the contributors of regional lists of varieties, to ensure cohesion;

(b) where known that regional sets of example varieties were being developed, and would be included on the UPOV Website, this should be stated in the Test Guidelines; and

(c) the lists would be presented in the format suggested in Option 2 of GN 13 (h)(i).

GN 25 (c) to be reworded to clarify that it would not be necessary to make reference to preceding characteristics in cases where it was obvious that the subsequent characteristics only applied to certain types of variety, e.g. in the case degrees of presence of anthocyanin, following absence / presence.

GN 25 (d) to be moved to GN 14.

GN 26 brief explanation to be provided, indicating that the wording of the states should be according to how the wording of the variety description should appear e.g. avoid states which include a range such as “10-15%” and, where these are necessary for explaining the state, provide these elements in Chapter 8 explanations.

GN 26 (c)(ii) reference to be made to the section on color in TGP/14.2 “Botanical Terms”.

GN 26 (c)(iii) first sentence to be deleted.

GN 26 (d) to be deleted, because not appropriate in all cases.

GN 30 second sentence in highlighted paragraph to read “Furthermore, the characteristics contained in the Test Guidelines can be formulated in a different way, if breeders would then be able to describe them more precisely and the information would be useful for performing the test.”

GN 31 The TWO strongly supported the provision of examples in the Test Guidelines.

Explanation of the “Schematic Overview of TGP/3 (Varieties of Common Knowledge), TGP/4 (Management of Variety Collections) and TGP/9 (Examining Distinctness)”

*30. The TWO considered the schematic overview of TGP/3, TGP/4 and TGP/9 as presented in document TC/39/6 Add. and concluded as follows:

4.2 Management of Variety Collections: A section should be introduced to explain the ways in which cooperation can be used in the management of variety collections.

9.4 / 9.5 The TWO agreed with the restructuring proposals made by the TWA, with regard to sections 9.4 and 9.5. It also recommended that the categorization of varieties, according to types of propagation, should follow the categorization established in the General Introduction.

9.6 It was agreed that the title of section 6 should be amended to avoid any inference that there were different approaches to examining distinctness.

TGP/4.2: Variety Collections for Tree and Perennial Species

*31. The TWO considered document TGP/4.2 Draft 1. It noted that the content of this document would be amalgamated into the overall draft of TGP/4, as explained in document TC/39/6 Add., and accordingly did not comment on the presentation within the document. It concluded that the consolidated draft of TGP/4 would need to elaborate clearly what was meant by the terms “permanent” and “variety collection”, in order to avoid confusion. It also

concluded that the text would need to be reviewed to ensure that the coverage of herbaceous perennials would be adequately addressed.

TGP/13 “Guidelines for New Types and Species”

*32. The TWO noted that the leading expert had advised, through the UPOV Office, that a new restructured version of document TGP/13 Draft 1 was under development and agreed that it would be more appropriate to delay comment until this new version was available. It also noted that this TGP document was of particular relevance to the TWO and proposed that the TWO take over the responsibility for the development of the document. On this basis it agreed that, with the approval of the existing leading expert, the leading expert from the TWO would be Mr. Ton Kwakkenbos (CPVO) and that the subgroup of interested experts from the TWO would be Canada, Israel, Mexico, the Netherlands, New Zealand and the United Kingdom. A new draft would be prepared for the TWO for its thirty-seventh session.

TGP/14.2.3 “Botanical Terms: Color”

*33. The TWO considered document TGP/14.2.3 Draft 1, as presented by the expert from Germany. It concluded that a new draft should be produced, containing an explanation of the background to the document and its purpose, and that the new draft should cover previous versions of the RHS Colour Chart. The TWO noted that the document was not appropriate for use on decisions concerning variety denominations involving colors and noted that any matters concerning the acceptability of colors in variety denominations should be referred to the *Ad hoc* Working Group on Variety Denominations (WG-VD), recalling, in particular, that it had proposed that the Chairman of the TWO should participate in the WG-VD (see paragraph 6 of this document).

Discussions on draft Test Guidelines in Subgroups

(a) “Final” draft Test Guidelines

Verbena

*34. The subgroup, chaired by Mr. Joost Barendrecht (Netherlands), agreed the following changes to document TG/VERBEN(proj.2):

7. *Table of Characteristics*

All characteristics to receive an (*)

Spelling of example variety “Wynena” to be corrected throughout

Chars. 11, 12 spelling of “coloration” to be corrected

Char. 12 example varieties to be provided

Char. 15 to have the order of states: broad ovate (1); broad obovate (2); cylindrical (3)

Chars. 20, 21 hyphen to be deleted from “corolla tube”

- Char. 22 to read “Corolla lobe: curvature of longitudinal axis”. State 2 to read “straight”
- Char. 23 to read “Corolla lobe: undulation of margin”
- Char. 26 to read “Shaded varieties only: Corolla: distribution of color”
- Char. 30 “QN” to be presented in bold font
- Char. 31 state 1 to read “whitish green”
- Char. 32 state 3 to read “no change”. More example varieties to be provided.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- Ads 8, 9 font size to be corrected
- Ad. 15 states of expression to be corrected.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics.

Alstroemeria (Revision)

*35. The subgroup, chaired by Mr. Joost Barendrecht (Netherlands), agreed the following changes to document TG/ALSTRO(proj.1):

- 2.3, 3.4.1 Number of plants for vegetatively propagated varieties to be amended from 4 to 8.
- 3.3.2 Month of planting to be changed from “October” to “November”.
- 3.5 To have two sections:
- “3.5.1 Vegetatively propagated varieties: Unless otherwise indicated, all observations on single plants should be made on 8 plants or parts taken from each of 8 plants and any other observations made on all plants in the test.”
- “3.5.2 Seed-propagated varieties: Unless otherwise indicated, all observations on single plants should be made on 50 plants or parts taken from each of 50 plants and any other observations made on all plants in the test.”
- 4.2.2 Second sentence to read “In the case of a sample size of eight plants, one off-type is allowed”.

7. *Table of Characteristics*

- Chars. 1, 5-21, 23, 25, 26 (*) to be added
- Chars. 7 to 24 to have the note (a) added.
- Char. 1 state 1 to read “short”

- Char. 5 to read “Umbel: number of branches”. (+) to be added with illustration showing inflorescence structure and parts.
- Char. 6 to read “Umbel: length of branches”.
- Char. 8 to read “Flower: ground color”. To be indicated as “PQ”.
- Char. 12 “main” to be replaced by “ground”.
- Char. 13 to read “Outer tepal: presence of over color”. (+) to be added.
- Char. 14 to read “Outer tepal: over color”.
- Char. 15 to be indicated as “QL”.
- Char. 16 example varieties necessary to illustrate the characteristic.
- Char. 18 “inner” to be replaced by “upper”. (+) to be added.
- Char. 19 “main” to be replaced by “ground”.
- Char. 20, 21 “(basal zone excluded)” to be deleted.
- Char. 22 to be deleted.
- Char. 23 “Stamens” to read “Stamen”. To be indicated as “PQ”.
- Char. 24 to be indicated as “QL”.
- Char. 25 to read “Anther: color at the start of dehiscence”. State 3 to read “orange”.
- Char. 26 to read “Ovary: anthocyanin coloration”.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- Ad. 6 illustration to be provided.
- Ad. 7 explanation to be provided indicating that this characteristic is to be observed at the opening of the first flower on the umbel branch.
- Ad. 13 to specify that the color excludes stripes and greenish color at tip.
- Ad. 18 illustration of middle zone to be provided.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics.

Catharanthus roseus

*36. The subgroup, chaired by Mr. Tadao Mizuno (Japan), agreed the following changes to document TG/CATHAR(proj.2):

Title page German common name to read “Zimmerimmergrün”. Spelling of Spanish common name to be amended to read “Vinca pervinca”.

2.2 to read “... seeds or rooted cuttings”.

2.3 to read “-seed propagated varieties: 600 seeds, preferably in six portions”

3.3.2 to be deleted.

3.4.2, 3.4.3 “, which would be divided into two replicates” to be deleted.

3.5.1 to read “For seed-propagated varieties, unless otherwise indicated, all observations on single plants should be made on 20 plants or parts taken from each of 20 plants and any other observations made on all plants in the test.”

3.5.2 to read “For vegetatively propagated varieties, unless otherwise indicated, all observations on single plants should be made on 10 plants or parts taken from each of 10 plants and any other observations made on all plants in the test.”

4.2.2 to read “For the assessment of uniformity of seed-propagated varieties, which are self-pollinated, a population standard of 1% and an acceptance probability of at least 95% should be applied. In the case of a sample size of 40 plants, two off-types are allowed.”

4.2.3 to read “For the assessment of uniformity of seed-propagated varieties, which are cross-pollinated, or which are hybrids, the recommendations in the General Introduction for cross-pollinated, or hybrid varieties, should be followed, as appropriate.”

4.2.4 to read “For the assessment of uniformity of vegetatively propagated varieties, a population standard of 1% and an acceptance probability of at least 95% should be applied. In the case of a sample size of 20 plants, one off-type is allowed.”

7. *Table of Characteristics*

- Char. 1 to read “Plant: growth habit”, with the states: upright (1); semi-upright (2); horizontal (3). Example varieties to be Kermesiana (1); Dawn Carpet (3). (+) and explanation to be deleted. To be indicated as “QN”
- Char. 3 to have the notes 3, 5, 7.
- Char. 4 spelling of anthocyanin to be corrected. (*) to be added.
- Char. 7 (*) to be deleted.
- Char. 10 to be indicated as “QL”.
- Char. 11 to read “Non-variegated varieties only: Leaf: intensity of green color”. Example variety “Papion Silver Blue” to be added for state 3.
- Char. 14 to be indicated as “PQ”. To have the states: free (1); touching (2); slightly overlapping (3); strongly overlapping (4), with the following example varieties: Kururi White (1); Flappe Coconut (2); Flappe Lilac (3); Peppermint Cooler (4).
- Char. 15 note 2 to be deleted.
- Char. 16 spelling of example variety “Peppermint Cooler” to be corrected.
- Char. 17 to read “Flower: size of eye zone relative to flower size”. To have the example varieties: Peppermint Cooler (3); Pretty in Pink (5); Dawn Carpet (7).
- Char. 18 to read “Flower: number of colors of eye zone”.
- Char. 19 * to be deleted. Spelling of “diffuse” to be corrected.
- Char. 20 to read “Flower: color of inner eye zone”. Note 2 to be deleted.
- Char. 21 to read “Varieties with more than one eye zone color only: ...”. Note 2 to be deleted.
- Char. 22 additional color states to be added to the current states.
- Char. 23 to be deleted.
- New Char. to read: “Petal: width” with the states: narrow (3); medium (5); broad (7). To be indicated as “QN”.

Char. 24 (*) to be added.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

Ad. 1 to be deleted.

9. *Literature*

Following reference to be added: “Marieke van Bergen, Wim Snoeijer: Catharanthus G. Don. The Madagascar periwinkle and related species. Wagenigen Agricultural University Papers. 1996.”.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

5.4 (15) to be split into:

5.4 i “Flower: main color of upper side”

5.4 ii “Flower: main color of upper side”, with the states white (1); pink (2); red (3); purple (4) and additional color states to be added to the current states.

6. example to read “Plant: height / short / medium”.

Clematis

*37. The subgroup, chaired by Ms. Sandy Marshall (Canada), agreed the following changes to document TG/CLEMAT(proj.2):

2.3, 3.4, 3.5 to be amended to 8 plants

4.2.2 to read “For the assessment of uniformity, a population standard of 1% and an acceptance probability of at least 95% should be applied. In the case of a sample size of eight plants, one off-type is allowed.”

7. *Table of Characteristics*

Char. 3 further example varieties to be provided for states 1 and/or 2.

Char. 4 to read “Climbing varieties only: Plant: vigor” and to have the notes 3,5,7 rather than 1,2,3.

Char. 7 to be indicated as “QL”.

Char. 8 to read “Varieties with compound leaves only: Leaf: predominant number of leaflets” with the states: three (1); five (2); seven (3).

Char. 9 * to be deleted.

Char. 10 * to be deleted.

Char. 12 * to be deleted.

Char. 15 state “present” to have note 9.

- Char. 21 to be deleted.
- Char. 22 to be deleted.
- Char. 23 state 2 to read “clustered”.
- Char. 24 to read “Inflorescence: length of peduncle”.
- Char. 25 to have the states: upwards (1); outwards (2); downwards (3).
- Char. 32 to be indicated as “QN”.
- Chars. 33 to 51 explanation (e) to be provided in the form of an illustration indicating the sepal.
- Chars. 33, 34 * to be deleted.
- Char. 38 to read “Sepal: reflexing of apex”.
- Char. 40 wording in brackets in state 1 to be deleted..
- Char. 41 state 1 to read “one”.
- Char. 43 example varieties to be provided.
- Char. 48 to be deleted.
- Char. 52 to read “Presence of petaloids”.
- Char. 53 to read “Petaloids: number”.
- Char. 54 to read “Petaloids: main color of upper side”.
- Char. 55 to have the states for 10 to 12 as follows: light violet (10); medium violet (11); brown (12).
- Char. 56 to have the states for 8 and 9 as follows: violet (8); brown (9).

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- Ad. 29 to be provided.
- Ad. 36 diagrams to be amended to show upper surface.
- Ad. 37 title to be corrected in accordance with the Table of Characteristics.
- Ad. 38 to be provided.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

- 1 box to be inserted for indication of species / group.
- 5.2 comma to be deleted after “Frances Rivis”.
- 6 example to read “Flower: diameter / small / medium.

Hypericum

*38. The subgroup, chaired by Mr. Joost Barendrecht (Netherlands), agreed the following changes to document TG/HYPERI(proj.2):

- Title page Latin name in title box and alternative names to read “*Hypericum hircinum* L., *H. androsaemum* L. and *H. x inodorum* Mill. Common names to be deleted.

7. *Table of Characteristics*

| | |
|---------------------------------------|--|
| Chars. 11, 17, 20, 21, 27, 36, 38, 39 | example varieties to be provided. |
| Char. 1 | example varieties Excellent Flair (1), Apricot Beauty (2), Flamingo Fantasy (3) to be added. |
| Char. 2 | example varieties Bosajol (3), Excellent Flair (5) and Kolmfa (7) to be added. |
| Char. 3 | example varieties Bosajol (3), Early Fruit (5), Kolmfa (7) to be added. |
| Char. 5 | example varieties Bosaney (3), Kolmgia (5), Excellent Flair (7) to be added. |
| Char. 6 | example varieties Magical Green (3), Kolmgia (5), Bosajum (7) to be added. |
| Char. 7 | example varieties Kolmfa (3), Bosaenv (5), Kolmbeau (7) to be added. |
| Char. 12 | to be indicated as “QN” and have the states 3, 5, 7. |
| Char. 13 | to read “Leaf: angle with branch” with the states: very acute (1); moderately acute (2); weakly acute to right-angled (3). |
| Char. 15 | to have the states: acute (1); obtuse (2); rounded (3). |
| Char. 16 | to have the notes 1 and 9. |
| Char. 18 | example varieties Bosasu (3), Excellent Flair (5), Kolmgia (7) to be added. (+) and illustration to be provided. |
| Char. 19 | example varieties Bosasu (3), Excellent Flair (5), Kolmgia (7) to be added. (+) and illustration to be provided. |
| Char. 20 | to be indicated as “QN”. |
| Char. 21 | (+) to be deleted. To read “Flower: size”. |
| Chars. 22, 23 | (+) to be added with explanation that the largest sepal is to be observed. Words “of largest” to be deleted. |
| Chars. 22 to 26 | “Sepals” to read “Sepal”. |
| Char. 26 | to read “Sepal: recurvature” and to have the states: absent or weak (1); moderate (2); strong (3). |
| Char. 28 | “Anthers” to read “Anther”. |
| Char. 30 | example varieties Rosemary (3), Bosajum (5), Excellent Flair (7) to be added. |
| Char. 31 | example varieties Magical Green (1), Bright Blossom (2), Kolmbeau (3), Kolmsweet (4), Rosemary (5), Bosafan (6), Kolmgia (7) to be added. Spelling of “maximum” to be corrected. |
| Char. 33 | to be indicated as “QL” and state 1 to read “rounded”. |
| Char. 36 | state 2 to read “cream”. |
| Chars. 36, 37 | (+) to be added with explanation that it may not be possible to complete Char. 37 if the color does not correspond to an RHS reference color. |

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

Ads 20, 33 still to be provided.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

6. Example to be Berry: color group / green / brownish green.

Impatiens walleriana

*39. The subgroup, chaired by Ms. Andrea Menne (Germany), agreed the following changes to document TG/IMPWALL(proj.1):

Title page Spanish common name “Alegría” to be added.

3.3.4 title to be corrected

4.2.2 hyphen to be deleted from “vegetatively propagated”.

7. *Table of Characteristics*

Chars. 1, 2, 4, 5, 16 to have “VG” added.

Char. 1 to have the states: short (3); medium (5); tall (7).

Char. 3 state 9 to be deleted.

Char. 6 example varieties to be deleted.

Char. 7 example varieties “Camela” (state 1) and “Snow and Ice” (state 9) to be added.

Char. 9 French translation of “yellowish white” to be added.

Char. 11 to have the states: only green (1); green and red (2); only red (3).

Char. 13 state 9 to be deleted.

Char. 14 state 9 to be deleted.

Char. 20 French translation as follows: à la base de chaque pétale (2); le long de la nervure médiane de chaque pétale (3); en bordure de chaque pétale (4); irrégulièrement diffus sur chaque pétale (5).

Char. 22 to read “Flower: size of eye zone”.

Char. 23 to read “Flower: color of eye zone”. French translation as follows: rose (3); rouge (4); pourpre (5); violette (6); blanche et rose (7); blanche et rouge (8).

Char. 24 to be indicated as “MS / VG”.

Char. 25 to be indicated as “MS / VG”.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

- 1.2 spelling of “Busy Lizzie” to be corrected.
5. to be updated with the example varieties used in the Table of Characteristics.

(b) Other draft Test Guidelines

Amaranth

*40. The subgroup, chaired by Mr. Ton Kwakkenbos (CPVO), discussed document TG/AMARAN(proj.2) and agreed to send its comments to the leading expert.

Argyranthemum

*41. The subgroup, chaired by Ms. Andrea Menne (Germany), agreed the following changes to document TG/ARGYRA(proj.1):

Title page “(L)” to read “(L.)” in Alternative Names box. English common name to be checked.

Subject of these Test Guidelines to read “... *Argyranthemum frutescens* (L.) Sch. Bip ...”.

2.3 “- for vegetatively propagated varieties:” to be deleted.

3.4.1 “In the case of vegetatively propagated varieties,” to be deleted.

3.5, 4.2.2 “of vegetatively propagated varieties” to be deleted.

4.3.2 “seed or” to be deleted.

7. *Table of Characteristics*

Char. 1 example varieties Polyanna (1), Carmella (2), Surprise Party (3) to be added.

New char. (after 3) to read “Stem: anthocyanin coloration”, with the states: absent (1); present (9) and to be indicated as “QL”.

Char. 5 state 9 to be deleted.

Chars. 7 to 10 “Longest” to be deleted.

Chars. 9, 10 (+) to be added.

Char. 11 to have the states: single (1); semi-double (2); anemone-like (3); double (4); pompon (5). (+) to be added.

Char. 12 to be deleted.

Char. 14 to read “Non single flower head varieties only: ...”.

- Char. 15 to read “Ray floret: form”.
- Chars. 20, 21 to read “Varieties with single and semi-double flower head only:
...”
- New char. (after 20) “Varieties with anemone-like flower head only: Disc:
diameter”. To have the states: small (3); medium (5); large
(7). To be indicated as “MS / VG”.
- Char. 21 “orange” to be amended to “gelb braun” in German.
- Char. 23 to be indicated as “VG”.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- Ads 7 to 10 illustration / explanation to indicate that all observations should
be made on the longest lobe.
- Ad. 11 illustration and explanation to be provided as for draft Dahlia Test
Guidelines

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

- 5.2, 5.3 to be deleted.

Dahlia

42. The subgroup, chaired by Ms. Elizabeth Scott (United Kingdom), agreed the following changes to document TG/DAHLIA(proj.2).

1. to read: “The Test Guidelines apply to all varieties of *Dahlia* Cav.”
- 2.2 to read: “The material is to be supplied in the form of rooted cuttings or seed”
- 2.3 to read:

“..., should be:

Vegetatively propagated varieties: 18 rooted cuttings or 18 tubers
Seed-propagated varieties: 10g seed
- 3.4.2 to read: “Each test should be designed to result in a total of at least 12 plants.”
- 3.5 to read: “Unless otherwise indicated, all observations should be made on 10 plants or parts taken from each of 10 plants.”
- 4.2 New section to be added as follows:

“4.2.3 The assessment of uniformity for seed-propagated varieties should be according to the recommendations for cross-pollinated varieties in the General Introduction.”

7. *Table of Characteristics*

Column header “Method of examination” to be deleted

Char. 1 to read: “Plant: growth habit”

Char. 4 to read: “Stem: intensity of anthocyanin”

Char. 5 to be checked by the leading expert

Char. 9 leading expert to check if the number of leaflets can be presented as:
<three; three; three to five; etc.

New Char.

(after 11) to read: “Leaf: wing” with the states: absent (1); present (9)

Char. 14 to read: “Leaf blade: texture of upper surface”

Char. 15 to read: “Leaf blade: veins on upper surface”

Char. 18 to read: “Peduncle: intensity of anthocyanin coloration”

Char. 20 to read: “Flower head: attitude” with the states: upright (1); semi erect (3); horizontal (5)

Char. 22 state 7: “miscellaneous” to be deleted and appropriate groups added where known.

Char. 23 state 14 to read: “striped and/or splashed”. Wording of other states to be amended as appropriate.

Char. 32 to read: “Ray floret: form”. (+) to be added

Char. 34 to read: “Incurving, reflexing and sinusoidal types only: ...”

Char. 35 to consider splitting into three characteristics:

(a) “Ray floret: cross section at mid-point” with the states: flat (1); “u” shaped (2); “v” shaped (3),

(b) “Only varieties with “u” shape in cross section at mid-point: Ray floret: degree of concavity:” with the states: weakly concave (1); moderately concave (2); strongly concave (3)

(c) “Only varieties with “v” shape in cross section at mid-point: Ray floret: degree of folding:” with the states: weakly folded (1); moderately folded (2); strongly folded (3).

Char. 37 To be checked whether should refer to “tip” or “apex”. (+) to be added. Other states to be added after state 7.

Char. 38 to have the states: even (1); uneven (2)

Char. 39 to read: “Only varieties with uneven distribution of color”. State 4 to read: “striped and/or splashed”.

Char. 40 states to be amended and to refer to “at tip” and “at base”.

Char. 41 to read: “Only varieties with stripes and/or splashes: ...” and to have the states: striped (1); striped and splashed (2); splashed (3).

Char. 44 to read: “Blended and variegated varieties only: ...”

Char. 49, 50 hyphens to be deleted

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

8.1 (b) to read: “Leaf characteristics ...”

Ad. 21 illustration to be provided

Ad. 22 explanation to be provided with the illustration

Ad. 32 diagram from Test Guidelines for *Argyranthemum* (TG/ARGYRA(proj.1)) to be provided

- Ad. 37 to be provided
Ad. 39 reference for RHS Colour Chart version to be added

9. *Literature*

Mexico to provide additional literature references

10. *Technical Questionnaire*

10.4.2 sections to read as follows:

“4.2.1 Vegetative propagation

“(a) cuttings []

“(b) tubers []

“(c) *in vitro* propagation []

“(d) other (state method) []

“4.2.2 Seed []

“4.2.3 Other []”
(please provide details)

10.6 Example: “Flower head: diameter” / small / medium

10.7 New section 7.3 to be added as follows:

“7.3 Other information

(a) Use:

(i) pot plant []

(ii) garden plant []

(iii) cut flower []

(iv) other []

(please provide details)

(b) Other”

Rose (Revision)

*43. The TWO, meeting in plenary, discussed document TG/11/8(proj.1) as presented by Mr. Joost Barendrecht (Netherlands) and agreed the following changes:

2.2 to read as follows:

Cut-flower types: for cut-flower types, the material is to be supplied in the form of young plants of commercial standard with their own roots, unless the variety does not grow on its own roots, in which case grafted plants and/or budwood of the variety would be required.

Garden rose and pot rose types: for garden rose and pot rose types, the material is to be supplied in the form of young plants growing on their own roots, or grafted on a rootstock.

2.4 to read “In cases where grafted plants are supplied”

3.3.1 to read “The tests should be carried out under conditions ensuring satisfactory growth for the expression of the relevant characteristics of the variety and for the conduct of the examination. In particular, unless otherwise stated, all observations should be made at the time of full flowering. For cut-flower types, the plants should not be observed in the first flush of flowering.”

3.3.2 to be deleted.

3.4.2 to read “Cut-flower types: in the case of cut-flower types each test should be designed to result in a total of at least nine plants for varieties resulting from crossing, or 18 plants in case the varieties resulting from mutation.”

3.5 to read “Unless otherwise indicated, all observations on single plants should be made on six plants or parts taken from each of six plants and any other observations made on all the plants in the test.”

4.4.2 etc. to be renumbered to 4.2.2

5.3 to read “The following have been agreed as useful grouping characteristics:

(a) Flower: color group (main division) (characteristic 21)

6.4 different sets of example varieties to be introduced for cut-flower types and garden and pot-rose types.

6.5 (C), (G), (P) to be deleted.

7. *Table of Characteristics*

Char. 1 to be deleted and plant growth types to be developed into groups in section 5.3, using characteristics from the Table of C characteristics and/or explanations.

Char. 2 to be reviewed by the subgroup.

Char. 6 to be deleted.

Char. 7 to read “Stem: number of prickles (excluding very small and hair-like prickles)” with the states: absent or very few (1); few (3); medium (5); many (7). To be indicated as “QN”.

Char. 8 to read “Prickles: predominant color (as for 8.)”

- Char. 9 to read “Leaf: size” with the states: small (3); medium (5); large (7).
 Char. 10 to be deleted.
 Char. 16 state 1 to read “acute”.
 Char. 18 to read “Flowering shoot: number of inflorescences”.
 New char. (after 18) to read “Inflorescence: number of flowers” with the states: few (3); medium (5); many (7) and to be indicated as “QN”.
 Char. 21 (+) to be added and wording in brackets to be removed to explanations. Wording of states 11 (“mauve”), 12 (“russet”) and 13 (“contrasty multicolored”) to be improved.
 Char. 22 underlining of “Flower: number of petals” to be removed.
 New char. (after 22) to consider the possibility of adding a new characteristic for flower density for double-flower types only.
 Char. 26 “very” to be deleted from state 1.
 Char. 28 (+) to be added and explanation to be provided. To be checked if the characteristic provides useful discrimination beyond flower type.
 Chars. 36, 38 to 45 “inner side” to be replaced by “upper side”.
 Char. 39 to replace states with RHS Colour Chart reference. Wording in brackets to be deleted.
 Char. 40 new state “purple red” to be added after state 7.
 Char. 41 state 2 to read “at the tip”.
 New char. (after 41) to read “Multi-colored varieties only: Petal: position of tertiary color on the upper side” with the same states as for characteristic 41.
 Char. 44 new state “orange yellow” to be added after state 4.
 Char. 45 “outer side” to be replaced by “lower side”.
 Char. 48 to replace “of” with “in”.
 Char. 49 (+) to be added and underlined wording to be moved to the explanation.
 Char. 50 to be deleted.
 Char. 51 to be deleted.
 New char. (after 51) to consider the possibility of adding a characteristic for flower color change.

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- 8.1(d) more precise notes to be provided for the timing of these observations.
 Ad. 16 legend to be completed.

10. *Technical Questionnaire*

to be updated in accordance with the changes to the Table of Characteristics and:

- 4.2 further methods of propagating the variety to be added (e.g. grafting)

7.2.2 to be moved to section 7.3 as follows:

Use:

(a) grown in the open:

- garden
- patio
- hanging basket
- rootstock
- cut-berry production

(b) grown under glass or other protection:

- cut-flower production
- pot rose.

Tagetes

*44. The TWO meeting, in plenary, discussed document TG/TAGETE(proj.1) as presented by Mr. Richard Brand (France) and agreed the following changes:

Title page “Cempoalxochitl” to be added as alternative name in Spanish

2.3 to read: “3 grams of seed” for seed-propagated varieties

3.5 to read:

“3.5.1 For seed-propagated varieties, unless otherwise indicated, all observations on single plants should be made on 20 plants or parts taken from each of 20 plants.”

“3.5.2 For vegetatively propagated varieties, unless otherwise indicated, all observations on single plants should be made on 10 plants or parts taken from each of 10 plants.”

4.2 4.2.2 and 4.2.3 to be amended as follows:

“4.2.2 For the assessment of uniformity of seed-propagated varieties, the recommendations in the General Introduction for cross-pollinated and hybrid varieties should be followed, as appropriate.”

“4.2.3 For the assessment of uniformity of vegetatively-propagated varieties, a population standard of 1% and an acceptance probability of at least 95% should be applied. In the case of a sample size of 20 plants, 1 off-type is allowed.”

5.3 to add the following characteristics as grouping characteristics

- Plant: branching (characteristic 5)
- Leaf: type (characteristic 7)

Flower head: diameter (characteristic 16)
Flower head: color (characteristic 20)

7. *Table of Characteristics*

Char. 2 to be deleted

New Char.

(before 3) to read: "Plant: fragrance" with the states: absent (1); present (9).
To be indicated as QL.

Char. 4 to read: "Plant: habit" and to consider using the states: upright (1);
semi-upright (2); spreading (3).

Char. 5 to be indicated as QN. State 1 to read: "absent or very weak".

Char. 6 to be indicated as QL and have the states: absent (1); present (9).

New Char.

(after 6) to read: "Stem: intensity of anthocyanin coloration", with the states:
weak (3); medium (5); strong (7). To be indicated as QN.

Char. 7 to have the states: simple (1); pinnate (2); bipinnate (3).

Char. 9 states 1 and 9 to be deleted

Char. 11 to read: "Leaflet: width" with the states: narrow (1); medium (2);
broad (3). To be indicated as QN.

New Char.

(after 11) to read: "Leaf: stipule" with the states: absent (1); present (9). To be
indicated as QL.

Char. 12 state 3 to read: "short"

Char. 14 to read: "Flower head: floret type". State 1 to read: "single".

Char. 15 to read: "Flower head: flower type". (+) to be added and illustration
provided. To be checked if there are any varieties with all tubulate
type flowers (state 1).

Char. 16 to read: "Flower head: diameter"

Char. 17 to read: "Flower head: length of peduncle on terminal flower head".
To be moved before Char. 14.

Char. 18 to read: "Flower head: number of ray floret whorls"

Char. 19 to read: "Flower head: number of colors", with the states: one (1);
two (2); more than two (3).

Char. 20 to read: "Flower head: color". State 2 to read: "light yellow" and
state 4 to read: "light orange".

New Char.

(after 20) to read: "Ligulate ray floret: main color" with reference to the RHS
Colour Chart as the states of expression.

Char. 21 to read: "Varieties with two or more flower head colors only: Ligulate
ray floret: secondary color". State 2 to read: "light yellow" and state
4 to read: "light orange".

Char. 22 to read: "Varieties with two or more flower head colors only: Flower
head: distribution of color". State 1 to read "even". State 2 to be
clarified. To be moved after Char. 20.

Char. 23 to read: "Ligulate ray floret: distribution of color", with the states:
type 1 (1); type 2 (2); type (3).

Char. 24 to read: "Varieties with type 1 ligulate ray floret color distribution
only: Ligulate ray floret: size of central color zone", with the states:
very small (1); small (3); medium (5); large (7); very large (9).

Char. 25 to be deleted

- Char. 26 to be deleted
 Char. 27 to read: “Ligulate ray floret: incision of margin” with the states: absent (1); present (9).
 Char. 28 to read: “Ligulate ray floret: depth of incision of margin”
 Char. 29 to read: “Varieties with incision of margin absent only: Ligulate ray floret: shape of apex” with the states: rounded (1); truncate (2).
 Char. 30 to read: “Outer ligulate ray floret: length”
 Char. 31 to read: “Outer ligulate ray floret: width”
 Char. 32 to read: “Time of beginning of flowering”

8. *Explanations on the Table of Characteristics*

to be updated in accordance with the changes to the Table of Characteristics and:

- Ad. 4 to be improved
 Ad. 15 to be provided

9. *Literature*

to be provided

10. *Technical Questionnaire*

1 Extra box to be added for applicants to indicate the species

4.2 to read as follows:

“4.2.1 Vegetative propagation

“(a) cuttings []

“(b) *in vitro* propagation []

“(c) other (state method) []

“4.2.2 Seed []

“4.2.3 Other []”
 (please provide details)

5. Characteristics 3, 5, 7, 14, 16, 19, 20 and 21 to be included.

7.3 to read as follows:

“7.3 Other information

- (a) Use:
- | | | |
|-------|---------------|-----|
| (i) | cut flower | [] |
| (ii) | pot plant | [] |
| (iii) | bedding plant | [] |
| (iv) | other | [] |
- (please provide details)

(b) Other

New subsection
(after 7.3) to read as follows:

“7.4 A representative color photograph of the variety should accompany the Technical Questionnaire.”

Recommendations on Draft Test Guidelines (Plenary)

*45. The TWO agreed that the following draft Test Guidelines should be submitted to the TC for approval at its fortieth session, on the basis of the amendments presented in paragraphs 22 to 27 of this document, which would be introduced by the Office with information provided by the leading expert:

- Alstroemeria (Revision) (document TG/ALSTRO(proj.1))
- Catharanthus roseus (document TG/CATHAR(proj.2))
- Clematis (document TG/CLEMAT(proj.2))
- Hypericum (document TG/HYPERI(proj.2))
- Impatiens walleriana (document TG/IMPWALL(proj.1))
- Verbena (document TG/VERBEN(proj.2))

*46. The TWO decided to discuss further the following draft Test Guidelines at its next session:

- Amaranth (Mexico (TWA) to prepare a document)
- Argyranthemum (Germany to prepare a document)
- Brachyscome (Australia to prepare a document)
- Dahlia (United Kingdom to prepare a document)
- Poinsettia (Revision) (Denmark to prepare a document)
- Rose (Revision) (Netherlands to prepare a document)
- Tagetes (France / Mexico to prepare a document)
- Waxflower (Australia to prepare a document)

*47. The TWO decided to discuss the following new draft Test Guidelines at its next session:

- Antirrhinum (Japan to prepare a document)
- Chrysanthemum (Revision) (United Kingdom to prepare a document)
- Eucalyptus (part of genus only) (Brazil to prepare a document)
- Gypsophila (Israel to prepare a document)
- Hibiscus (Republic of Korea to prepare a document)
- Phlox (Ecuador to prepare a document)
- Tulip (Revision) (Netherlands to prepare a document)

*48. The TWO decided to discuss the following new draft Test Guidelines at its 2005 session:

- Diascia (Canada to prepare a document)
- Hevea (Rubber) (Brazil to prepare a document)

*49. The deadlines and interested experts for the draft Test Guidelines listed in paragraphs 33 to 36 are presented in Annex III.

Future Program, Date and Place of the Next Session

*50. At the invitation of the expert from Germany, the TWO agreed to hold its thirty-seventh session in Hanover, from July 12 to 16, 2004. During the thirty-seventh session, the TWO planned to discuss or re-discuss the following items:

1. Opening of the session
2. Adoption of the agenda
3. Short reports on developments in plant variety protection
 - (a) reports from members and observers (brief oral reports by the participants)
 - (b) report on developments within UPOV (oral report by the Office of the Union)
4. Molecular techniques
5. Project to consider the Publication of Variety Descriptions
6. UPOV Databases
7. TGP documents
8. Criteria for determining off-type plants
9. Discussions on draft Test Guidelines (Subgroups):

10. Recommendations on draft Test Guidelines (plenary)
11. Date and place of the next session
12. Future program
13. Report on the conclusions of the session (if time permits)
14. Closing of the session

Technical Visit

51. On the afternoon of September 4, 2003, the TWO visited one of the ornamental plant production units, operated in Beamsville, Ontario, by Westbrook Greenhouses. The TWO was welcomed by Ms. Janet MacLeod. Thereafter, the TWO visited the Jackson-Triggs Winery at Niagara-on-the-Lake, where it received a guided tour of the vineyard and winery.

52. On September 27, 2003, several of the participants of the TWO and the Technical Working Party for Fruit Crops (TWF) visited Rosa Flora Limited, Dunnville, Ontario, where the host, Mr. Otto Bulk, provided a guided tour of their cut-flower production unit. Later the same day, a visit was made to the Berry Research Station at the Simcoe Campus of the University of Guelph, Department of Agriculture. Dr. Adam Dale hosted the visit.

53. This report has been adopted by correspondence.

[Annex follows]

LIST OF PARTICIPANTS

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V. OFFICE OF UPOV

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[Annex II follows]

PLANT BREEDERS' RIGHTS IN CANADA

1

**Plant Breeders' Rights in
Canada**

UPOV
Technical Working Party for Ornamental Plants and Forest Trees
and
Technical Working Party for Fruit Crops
September/October 2003
Niagara Falls, Ontario

2

**Plant Breeders' Rights
Advisory Committee**

- Act requires formation of PBR Advisory Committee consisting of breeders, growers and reps. from interested groups
- Adv. Cttee recommended implementation of Act on species by species basis
- Since Dec. 1998 all plant species, excluding bacteria, fungi and algae are eligible
- Adv. Cttee endorsed adoption of Australian type breeder testing system

3

Plant Breeders' Rights Office

- Commissioner
- 5 examiners
- 1 part-time project coordinator
- 1 part-time admin. assistant

4

**Duties of Plant Breeders'
Rights Office**

- Review and acceptance of applications
- Site examination of every DUS trial
- Examination of data and comparative descriptions from DUS trials
- Writing of variety descriptions and publication of the Plant Varieties Journal
- Granting of rights

5

**Duties of Plant Breeders'
Rights Office (cont'd)**

- Development of objective description forms based on UPOV test guidelines
- Development of national guidelines where no UPOV TG exists
- Drafting regulations and consultation with Adv. Cttee on regulatory change
- International cooperation & communication
- Development of internal policies

6

Fees for PBR

- Fees charged to applicants are:

| | |
|-----------------|-------|
| Application | \$250 |
| Examination | \$750 |
| Grant of Rights | \$500 |
| Annual renewal | \$300 |
- No increase in fees since Act was implemented

7

Other fees

| | |
|------------------------------------|-------|
| Protective direction fee | \$50 |
| Claim of priority | \$50 |
| Filing objection | \$200 |
| Application for compulsory license | \$250 |

☞ PBRO now nearing full cost recovery

8

Use of PBR in Canada

| | Applications | Rights Granted |
|---------------|--------------|----------------|
| Agricultural | 881 | 342 |
| Horticultural | 2956 | 1208 |
| TOTAL | 3837 | 1550 |

Note: PBRO has no backlog of applications

9

Horticultural Crops

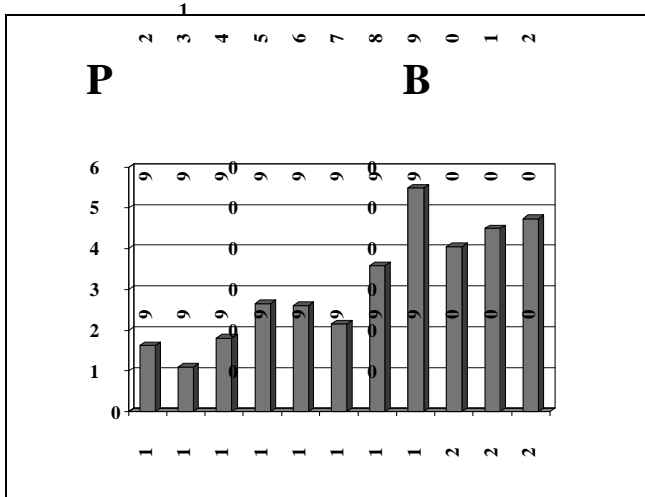
| | Applications | Rights Granted |
|---------------|--------------|----------------|
| Fruit | 197 | 66 |
| Ornamental | 2480 | 1013 |
| Vegetable | 269 | 129 |
| Miscellaneous | 10 | 0 |

10

National vs. Foreign Varieties

| | Canadian | Foreign |
|---------------|----------|---------|
| Fruit | 91 | 106 |
| Ornamental | 38 | 2480 |
| Vegetable | 30 | 239 |
| Miscellaneous | 2 | 8 |

1



1

R E X

- A t a
- e x a
- F o r
- D U S
- F o r
- e s t
- A p p
- d e t

f
m

a
l
a

13

DUS Tests

- Canada has no formal accreditation system
- BUT..... most ornamental trials (~90%) are now conducted by 2 private companies which specialize in DUS testing
- Some breeders continue to conduct their own trials (e.g. fruit and field crops)
- Every trial is visited by an examiner from the PBR Office

14

Objective Description Forms

- Recommends testing protocol such as number of plants, years, grouping characteristics etc.
- Based on UPOV test guidelines
- For characteristics of plant parts the tester records state of expression for candidate and each comparison variety (from UPOV TG's)
- Illustrations and explanations are important to ensure consistent interpretation of terminology

15

Site Examination Request

- In January every applicant/agent is asked to submit site exam requests for the coming year
- Requests and fees due by May 1st
- Applicant must justify choice of reference variety(ies) that will be included in trials
- Examiners schedule site visit with applicant
- 433 varieties are in DUS trials in 2003 (366 have been completed to date this year)

16

Site Examination

- Examiner confirms that trials have been conducted according to guidelines
- Examiner verifies uniformity of plants in trials
- Examiner describes candidate in comparison to reference varieties, concentrating on distinguishing characteristics
- Examiner takes comparative photographs
- Examiner writes report for the variety file

17

Review of trial results

- Applicant/agent must submit trial data, comparative descriptions (ODF) and photos within 6 months of examiner's visit
- Examiner reviews submission and compares results to the site exam report
- Examiner drafts official variety description for publication in Plant Varieties Journal

18

Publication

- Draft description is sent to breeder or agent who conducted trials for review/revision
- Finalized descriptions and photos are published in next issue of Journal
- Six month objection period begins following release date of Plant Varieties Journal
- At end of objection period the file is reviewed by a different examiner & the Commissioner

Grant of Rights

- If no objections, the applicant is notified that variety is eligible for grant of rights
- Applicant must pay fee (\$500) and verify variety denomination and holder of rights
- Rights are granted on the day that all submissions are received in the PBR Office
- One month before the anniversary date each year a notice sent out requesting annual fee

[Annex III follows]

LIST OF LEADING EXPERTS

DRAFT TEST GUIDELINES
TO BE SUBMITTED TO THE TECHNICAL COMMITTEE IN 2004

| Test Guidelines | Document | Leading expert(s) |
|-------------------------|--------------------|---------------------|
| Alstroemeria (Revision) | TG/ALSTRO(proj.1)) | Mr. Barendrecht, NL |
| Catharanthus roseus | TG/CATHAR(proj.2) | Mr. Mizuno, JP |
| Clematis | TG/CLEMAT(proj.2) | Ms. Marshall, CA |
| Hypericum | TG/HYPERI(proj.2) | Mr. Barendrecht, NL |
| Impatiens walleriana | TG/IMPWALL(proj.1) | Mrs. Menne, DE |
| Verbena | TG/VERBEN(proj.2) | Mr. Barendrecht, NL |

All requested information to be submitted to the Office of the Union
no later than November 7, 2003.

POSSIBLE “FINAL” DRAFT TEST GUIDELINES
TO BE DISCUSSED AT TWO/37

| Species | Basic Document | Leading experts | Interested experts (countries) (for name of experts see List of Participants to be annexed to draft report) |
|---------------|--|-----------------------------|---|
| Amaranth | TG/AMARAN(proj.2) | TWA | BR, IL, MX, NL |
| Argyranthemum | TG/ARGYRA(proj.1) | Ms. Menne, DE | AU, CA, DK, GB, NZ |
| Brachyscome | TWO/34/16, TWO/35/10 | Mrs. Costa, AU | DE, GB, JP, NZ |
| Dahlia | TWO/35/21, TG/DAHLIA(proj.2) | Ms. Scott, GB | AU, CA, CZ, JP, MX, NL, NZ, PL, EU |
| Poinsettia | TWO/33/6, TWO/35/19 | Mr. Jacobsen, DK | AU, CA, DE, JP, MX, NL, ZA, EU |
| Rose | TG/11/7, TWO/35/18, TG/11/8(proj.1) | Mr. Barendrecht, NL | AU, BR, CA, DE, FR, GB, IL, JP, KE, KR, NZ, ZA, EU |
| Tagetes | TG/TAGETE(proj.1) | Mr. Brand, FR and Mexico | DE, GB, HU, IL, KE, KR, MX, PL, ZA, EU |
| Waxflower | TWO/34/17, TWO/35/9 | Mrs. Costa, AU | IL, ZA |

New draft to be submitted to the Office of the Union
no later than May 28, 2004.

DRAFT TEST GUIDELINES
TO BE DISCUSSED AT TWO/37

| Species | Basic Document | Leading experts | Interested experts (countries) (for name of experts see List of Participants to be annexed to draft report) |
|---------------------------------|----------------|---------------------------|--|
| Antirrhinum | New | Mr. Mizuno, JP | CA, DE |
| Chrysanthemum (Revision) | TG/26/4 | Miss. Scott, GB | CA, CZ, DE, DK, FR, IL, JP, KE, KR, MX, NL, NZ, PL, EU |
| Eucalyptus (part of genus only) | New | Mrs. de Moraes Aviani, BR | FR, IL |
| Gypsophila | New | Mr. Bar-Tel, IL | AU, EC, KE, ZA, EU |
| Hibiscus | New | Mrs. Yang, KR | AU, BR, DE, GB, IL, JP, NZ, ZA |
| Phlox | New | Ecuador | CA, NL, NZ, EU |
| Tulip (Revision) | TG/115/3 | Mr. Barendrecht, NL | EU |

New draft to be submitted to the Office of the Union
no later than June 11, 2004.

DRAFT TEST GUIDELINES
TO BE DISCUSSED AT TWO/38 (2005)

| Species | Basic Document | Leading experts | Interested experts (countries) (for name of experts see List of Participants to be annexed to draft report) |
|-----------------------|----------------|---------------------------|--|
| Diascia | New | Ms. Marshall, CA | AU, GB, JP, NZ |
| <i>Hevea</i> (Rubber) | New | Mrs. De Moraes Aviani, BR | FR |

[End of Annex III and of document]