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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

TECHNICAL WORKING PARTY FOR ORNAMENTAL PLANTS AND FOREST TREES

Fortieth Session
Kunming, China, July 2 to 6, 2007

ADDENDUM TO DOCUMENT TWO/40/3

TGP DOCUMENTS

Document prepared by the Office of the Union

1. This document presents comments made by the Technical Working Party for Agricultural Crops (TWA) at its thirty-sixth session, held in Budapest from May 28 to June 1, 2007, and by the Technical Working Party for Vegetables (TWV) at its forty-first session, held in Nairobi from June 11 to 15, 2007, on the draft TGP documents to be considered by the Technical Working Party for Ornamental Plants and Forest Trees (TWO) at its fortieth session to be held in Kunming, China, from July 2 to 6, 2007.

TGP Documents

(a) TGP documents to which the Technical Committee has given highest priority:

TGP/10 Examining Uniformity (document TGP/10/1 Draft 7)

1.2	final sentence to read "Hence, it is a matter for the authority to decide, in addition to those characteristics included in the UPOV Test Guidelines or national guidelines, which other characteristics it may include in its consideration of distinctness, which must (also) be considered for uniformity and stability."	TWA
1.2	the TWV noted the proposed change of wording by the TWA to the highlighted sentence in square brackets ("[Hence, …])" but expressed a preference for the sentence to be deleted completely.	TWV
2.1	to delete "[is always present to some extent and]"	TWA, TWV
2.2	final sentence to read "As a general rule, the states of expression of qualitative characteristics are not influenced by the environment."	TWA, TWV
2.3.1(c)	first sentence to read "in cross-pollinated varieties (including synthetic varieties), the expression of characteristics within varieties results from both genetic and environmental components."	TWA, TWV
2.4.1	last sentence to read "In addition, for varieties maintained by near-isogenic maintainer lines (e.g. male sterile lines) and for synthetic varieties, a segregation of certain characteristics is acceptable if it is compatible with the method of propagation of the variety."	TWV
2.4.2	first sentence to read "Thus, for the varieties covered by paragraph 2.4.1, a segregation for certain characteristics, in particular for qualitative characteristics, is accepted if it is compatible with the expression of the parental lines and the method of propagating the variety.	TWA, TWV
4.2	Section 4.2 to be moved after Section 4.6	TWA, TWV
4.2.1.1	to add new notes to cover atypical expression resulting from damage and lack of fertilization	TWV
4.3.2.5	to revise the example of a plant with a single green shoot in order to provide a more realistic example and to add that the "atypical" parts of plants concerned, if propagated, should produce plants which were true-to-type.	TWV
4.3.2.5	to delete "[A second example can be seen in apple fruit coloration and patterning. The fruit color, color intensity, amount of overcolor and pattern of overcolor can have atypical expression present, but it is the frequency of the variation which requires consideration.]"	TWA
4.3.2.5	to defer to the views of the TWF on the suitability of the sentence "[A second example can be seen in apple fruit coloration and patterning. The fruit color, color intensity, amount of overcolor and pattern of overcolor can have atypical expression present, but it is the frequency of the variation which requires consideration.]"	TWV

4.3.3.3	to delete "[This can be carried out on the existing material for a second cycle or on new material and is not specifically intended as a test for stability.]"	TWA, TWV
4.5.1	title to read "Self-pollinated, vegetatively propagated and single-cross hybrid varieties"	TWV
4.5.1.4, 4.5.1.5	to retain existing version	TWA, TWV
4.5.1.7	to delete "[The sample size and maximum acceptable number of off-types must be selected with care in order to produce a good test.]"	TWA, TWV
4.6	to add the following text from TGP/13/1 Draft 9, Section 2.5.3 for consideration by the TC: "Setting the uniformity standard too low could have the consequence of protecting a variety with a large variation in the expression of its characteristics, thereby making it more difficult to establish distinctness for subsequent candidate varieties of that new species or type. Setting uniformity standard too high may lead to the rejection of the variety although, under consideration of the genetic background, the variety could not be more uniform due to the inherent genetic variation."	TWA
4.6	the TWV noted the TWA proposal to add the following text from TGP/13/1 Draft 9, Section 2.5.3 for consideration by the TC: "Setting the uniformity standard too low could have the consequence of protecting a variety with a large variation in the expression of its characteristics, thereby making it more difficult to establish distinctness for subsequent candidate varieties of that new species or type. Setting uniformity standard too high may lead to the rejection of the variety although, under consideration of the genetic background, the variety could not be more uniform due to the inherent genetic variation." The TWV noted that the setting of a "low uniformity standard" in terms of acceptable numbers of off-types would not make it any more difficult to establish distinctness for subsequent candidate varieties of a new species or type. Therefore, in its proposed form, the statement was not applicable for self-pollinated, vegetatively propagated or single-cross hybrid varieties. However, it noted that it could be more difficult to establish distinctness for subsequent candidate varieties of a new species or type if an insufficient number of characteristics was considered for DUS. With regard to cross-pollinated varieties, the TWV noted that the statement should be checked in relation to its applicability for COYD if it was used as the basis for examining distinctness, if that method used only the average value for a variety of each characteristic.	TWV
5.2.1	to retain the word "comparable"	TWV
5.2.2	to delete "with comparable expression of characteristics" from the final sentence	TWA, TWV
5.2.4	the TWA and TWV noted that a paper on LSD had been prepared by experts from Australia and would be considered by the Technical Working Party on Automation and Computer Programs at its twenty-fifth session, to be held in Sibiu, Romania, from September 3 to 6, 2007	TWA, TWV

5.3	to delete "[, but closely related,]"	TWV

(b) Other TGP Documents:

TGP/8 Trial Designs and Techniques used in the Examination of Distinctness, Uniformity and Stability (document TGP/8/1 Draft 7)

2. The TWA and TWV agreed that it would be more appropriate to have a detailed discussion on TGP/8 at their thirty-seventh and forty-second sessions, respectively, in 2008, when the document would be more advanced. The TWA heard that the expert from Australia had prepared a paper on LSD, including the use of multiple range tests, for consideration by the Technical Working Party on Automation and Computer Programs (TWC) at its twenty-fifth session, to be held in Sibiu, Romania, from September 3 to 6, 2007. That expert also observed that document TGP/10/1 Draft 7, Section 2.4.2, made reference to the χ^2 test and noted that it made reference to document TGP/8 for an explanation of that approach. Therefore, he proposed to prepare a document for consideration by the TWC at its twenty-fifth session which could form the basis of a section in the subsequent draft of TGP/8. The TWA supported that proposal and the Office clarified that the document would need to be sent to the Office by August 4, 2007.

TGP/11 Examination of Stability (document TGP/11/1 Draft 2)

3. The TWA considered document TGP/11/1 Draft 2 and heard from the expert from the CPVO that the removal of the section on verification meant that the document contained relatively little substance beyond what was already contained within the General Introduction (document TG/1/3). The TWA supported that analysis and, whilst noting that the document had provided a very useful opportunity to review the subject, agreed that there was not an urgent need for TGP/11 to be developed for the time-being.

4. The TWV agreed that Section 2.5.4 should be deleted from TGP/11 because it was subsequent to the DUS examination. The TWV further agreed that, in addition to continuing the development of TGP/11, it would be of practical assistance to seek to develop a document on how to address problems concerning stability which were brought to the attention of an authority after the grant of a plant breeder's right. It noted that such a document could also be extended to address problems concerning distinctness, uniformity and novelty which were brought to the attention of an authority after the grant of a plant breeder's right and also to consider the status and use of the "official" variety description. The TWV noted that the development of such a document would be outside the framework of the DUS examination and, therefore, outside the scope of the General Introduction and TGP documents. It also noted the need for such a document to be endorsed by the Technical Committee and the Administrative and Legal Committee and agreed to await the views of those committees before starting work on such a document.

TGP/12 Special Characteristics (document TGP/12/1 Draft 2)

<u>Section I</u>		
General	the TWA agreed that the TWV was the appropriate TWP to review the	TWA

	matter of whether the term "pathotype" was a suitable term to replace the terms race, strain etc.	
	the TWV agreed that the term "pathotype" could be used in TGP/12 to replace the terms "race", "strain" etc., although the terms "race", "strain" etc. should be used in the Test Guidelines where appropriate	TWV
2.	to provide guidance on the development of explanations for disease resistance characteristics, as required in Chapter 8 of the Test Guidelines, which could also be used a basis for similar guidance to be developed for Subsection 2 "Insect resistance" and Subsection 3 "Chemical response" through the work of the TGP/12 Section I subgroup	TWV
2.2.1	to reverse the order of the sentences	TWA, TWV
2.2.2	to edit the first sentence to be coherent with the terms used in the heading	TWA, TWV
2.2.3	to correct the title in line with Table 1(c)	TWV
2.2.3	first sentence to read "Disease resistance characteristics, if properly tested, can give a clear differentiation in the variety collections."	TWA, TWV
2.2.4.2	first sentence to be deleted and second sentence to read "The same [race / strain] / [pathotype] may be named differently in different parts of the world, e.g. *Fusarium oxysporum* f.sp. *lycopersici* (Fol) in tomato, where race 1 in the United States of America is identical to race 0 in Europe."	TWA, TWV
2.2.6(i)	first sentence: to delete "still"	TWA, TWV
2.3	to be moved to the Introduction of Section I	TWA, TWV
2.3.2.1	to explain as set out in Section I, Table 1(d) that, in general, for DUS purposes, "tolerance" is not a suitable characteristic in relation to biotic factors."	TWA, TWV
2.4	Mr. Tanvir Hossain (Australia), in conjunction with experts from Argentina, France and United Kingdom (the TGP/12 Section I subgroup), to prepare a draft subsection containing an example of a disease resistance characteristic for cross-pollinated varieties. Mr. Hossain to circulate a first draft to the members of the TGP/12 Section I subgroup by the end of June 2007, with their comments to be sent to Mr. Hossain by the end of July 2007. Mr. Hossain to then prepare a new draft for circulation to all TWPs by the end of August, with comments to be requested by the end of September, thus enabling a subsection to be included in TGP/12/1 Draft 3, to be considered by the Enlarged Editorial Committee in January 2008.	TWA
TGP/12 Section I subgroup	the TWV agreed that Mr. Kees van Ettekoven (Netherlands) should be included in the TGP/12 Section I subgroup, as proposed by the TWA	TWV
2.4	with respect to the TWA proposal to prepare a draft subsection containing an example of a disease resistance characteristic for cross-pollinated varieties, the TWV agreed that Mr. van Ettekoven should propose a suitable example	TWV

	from a vegetable crop (e.g. Resistance to *Peronospora farinosa* f. *spinaciae* or to Cucumber mosaic virus (CMV) in Spinach).	
2.4.1	to read "Disease resistances which are discontinuously expressed as absent or present are qualitative characteristics."	TWA, TWV
2.4.2.1	second sentence to read "In general, it is not possible to define nine states of resistance which would be necessary in order to apply the standard "1-9" scale."	TWA, TWV
2.5	to be moved to the Introduction of Section I and to delete "[and that different genes lead to different genotypic expressions]".	TWA, TWV
3.1	to be edited to apply to insect resistance only or to be moved to the Introduction of Section I	TWA, TWV
3.2.1	from " UPOV has also […]" to be moved to the Introduction of Section I and to delete "[and that different genes lead to different genotypic expressions]".	TWA, TWV
3.2.2	to change "the bioassay" to "a bioassay"	TWA, TWV
3.2.2.1 to 3.2.2.3	to be condensed to the type of summary provided in Section 2.4 and to present the characteristic with states of expression. France to provide a new text by the end of August, to allow circulation of that text with the new subsection of Section 2.4 (disease resistance characteristics for cross-pollinated varieties).	TWA
3.2.2.1 to 3.2.2.3	the TWV noted the TWA proposal for the text to be condensed to the type of summary provided in Section 2.4 and to present the characteristic with states of expression. It noted that France would provide a new text by the end of August, to allow circulation of that text with the new subsection of Section 2.4 (disease resistance characteristics for cross-pollinated varieties).	TWV
3.3 (new)	Mr. Hossain (Australia), in conjunction with the TGP/12 Section I subgroup (see 2.4 above), to prepare a new draft subsection containing an example for aphid resistance in cross-pollinated varieties, according to the same timetable as for the new subsection for Section 2.4.	TWA
3.3 (new)	the TWV noted the TWA proposal for Mr. Hossain (Australia), in conjunction with the TGP/12 Section I subgroup (see 2.4 above), to prepare a new draft subsection containing an example for aphid resistance in cross-pollinated varieties, according to the same timetable as for the new subsection for Section 2.4. In that respect, the TWV proposed that Mr. van Ettekoven should propose an example from a vegetable crop (e.g. Resistance to colonization by *Aphis gossypii* in Melon)	TWV
4.2.2	title to read "Case Study on the Use of Herbicide Tolerance as a Characteristic in the DUS Examination"	TWA
4.2.2	to be condensed to the type of summary provided in Section 2.4 and to present only the characteristic "Plant: herbicide tolerance" with the states of expression absent (1), present (9)	TWA
4.2.2	Mr. Hossain (Australia) to provide a new example within herbicide tolerance for a characteristic for pollen viability. To be provided by the end of August to allow circulation of that text with the new subsection of Section 2.4	TWA

	(disease resistance characteristics for cross-pollinated varieties).	

TGP/13 Guidance for New Types and Species (document TGP/13/1 Draft 9)

1.3	final sentence to read "The starting point in each section of this document is the information provided in the Technical Questionnaire or application form […]".	TWA, TWV
2.1.1	to reverse the order of (a), (b) and (c)	TWA, TWV
2.1.3	to revise to make reference to the basic principles set out in documents TGP/4 and TGP/9 and to delete the example of Festulolium	TWA, TWV
2.2	to add "or application form" after "Technical Questionnaire"	TWA, TWV
2.3.4	to replace the highlighted text between square brackets with an explanation that it is not appropriate to develop (UPOV) Test Guidelines until several authorities have DUS testing experience	TWA, TWV
2.4.2	the TWA restated its proposal from its thirty-fifth session for the section to be deleted or revised to avoid any general indications or assumptions with regard to the non-existence of varieties of common knowledge	TWA
2.4.2	in accordance with the TWA proposal, to be deleted or revised to avoid any general indications or assumptions with regard to the non-existence of varieties of common knowledge. In particular, the TWV proposed that the document should make reference to TGP/4 and TGP/9 and only provide additional guidance on any matters not covered by those documents.	TWV
2.5.3	to replace the highlighted section with a reference to TGP/10 and to incorporate the highlighted section in TGP/10	TWA
2.5.3	to replace the highlighted section with a reference to TGP/10 and to incorporate the highlighted section in TGP/10, as amended (see TWV comments to TGP/10/1 Draft 7, Section 4.6)	TWV
2.6	to delete "and Verification"	TWV
2.7	to suggest to the TWO to include advice to seek information on variation within the species and not just variation between varieties of common knowledge and to include advice to seek such information from other sources than just botanical references	TWA, TWV
2.7.4	final sentence to read "It would, therefore, be advisable to avoid the extreme states of expression for such a characteristic (very small (1) and very large (9)) to describe the first varieties within a species."	TWA, TWV
3.	to consider adding a reference to whether a variety satisfies the criteria for a variety as set out in the 1991 Act of the UPOV Convention	TWA
3.	to consider whether there is a difference between "New Species" (Section 2) and "Interspecific / Intergeneric Hybrids" (Section 3)	TWA
3.	to consider whether to integrate "Interspecific / Intergeneric Hybrids" (Section 3) into "New Species" (Section 2), or to focus on particular matters requiring	TWV

	particular consideration for interspecific / intergeneric hybrids, such as uniformity requirements	
3.2	to add "or application form" after "Technical Questionnaire"	TWA, TWV
3.3	to delete "Test Guidelines"	TWA, TWV
3.3.3	to replace with an explanation that it is not appropriate to develop (UPOV) Test Guidelines until several authorities have DUS testing experience	TWA, TWV
3.4	to make reference to the General Introduction and TGP/9	TWA, TWV
3.5	to make reference to the General Introduction and TGP/10	TWA, TWV
3.6	to make reference to the General Introduction and TGP/11 (if developed)	TWA, TWV
4.2	to add "or application form" after "Technical Questionnaire"	TWV

TGP/14 Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents (document TGP/14/1 Draft 3)

Section 1	to include the explanation of "relevant characteristics" provided in document TGP/10, Section 1.2	TWA
Section 2.2	With respect to document TWV/41/10 Rev., the TWV concluded that the results of the exercise on shape demonstrated that the observation of the individual components of shape (e.g. position of broadest part, length/width ratio, lateral outline) provided information which was more precise and consistent and which was more powerful for discriminating between varieties. However, the TWV noted that such components of shape might not be easily understood, particularly by applicants for characteristics included in the Technical Questionnaire, and agreed that it would be helpful to develop meaningful states: for example, "very elongated", rather than "very high" for length/width ratio. The TWV confirmed its view expressed at its fortieth session, that a characteristic describing the overall shape, in addition to the individual components of shape, could be useful for variety description purposes and agreed that, in order to make such an overall shape characteristic as useful as possible, it would be worthwhile considering the inclusion of charts such as that in TGP/14/1 Draft 3, Section 2.2, Examples 4 and 5 in the explanation for such characteristics in Chapter 8 of the Test Guidelines. The TWV agreed that it might be helpful for other Technical Working Parties (TWPs) to see the results of the shape exercise, as presented in TWV/41/10 Rev., for their discussions on document TGP/14 and agreed that the Office might present those results to other interested TWPs. The TWV agreed that Section 2.2 should be reviewed accordingly.	TWV
Section 2.2	to provide a definition of base, top etc. to cover all Test Guidelines or to recommend that the use of such terms is either accompanied by an	TWV

	explanation or is avoided by referring, for example, to stalk-end etc.	
Section 3	to await the adoption of document TGP/8 before finalizing TGP/14, Section 3 in order to ensure that all terms are covered	TWA

(c) Revision of TGP documents:

TGP/5 Experience and Cooperation in DUS Testing

5. With regard to the proposed clarification of the terms "breeder", "applicant" and "original breeder" in document TGP/5, the TWA noted that this would imply a significant change to the way in which those terms were used by many members of the Union and urged the CAJ to take that into account when discussing the documents.

6. With regard to the proposed clarification of the terms "breeder", "applicant" and "original breeder" in document TGP/5, the TWV noted that this would imply a significant change to the way in which those terms were used by many members of the Union and proposed to avoid introducing a new term such as "original breeder" by using the phrase "the person who bred, or discovered and developed, the variety".

Section 1/2 Draft 2: Model Administrative Agreement for International Cooperation in the Testing of Varieties

page 2	to consider whether it was relevant to include the new paragraph in the Model Administrative Agreement and to consider whether that matter might be provided in a separate explanation	TWA, TWV

Section 2/2 Draft 2: UPOV Model Form for the Application for Plant Breeders' Rights

3.	to request only the following information, in line with the information requested in the standard Technical Questionnaire: "(a) Botanical name "(b) Common name"	TWA
3.	to request the following information: "(a) Botanical name "(b) Common name "(c) UPOV code" With respect to the UPOV code, the TWV proposed to add the web address for the GENIE database	TWV
6.	to amend to read "Other applications". The TWA noted the importance of this information being provided by breeders.	TWA, TWV
A 0.3	to delete "Dates should be written in year-month-day order (example: 76-01-14);"	TWV

B 1.1	to replace “Telephone and telex numbers” with “Contact details”	TWV
B 3.1(a)	to delete “and the UPOV code”	TWA
B 3.1(a)	to retain “and the UPOV code”	TWV

Section 4/2 Draft 2: UPOV Model Form for the Designation of the Sample of the Variety

7. The TWA and TWV did not have any comments with respect to document TGP/5/Section 4/2 Draft 2:

Section 5/2 Draft 2: UPOV Request for Examination Results and UPOV Answer to the Request for Examination Results

UPOV Request: 8.	to provide a field to indicate the status of the denomination, i.e. approved or proposed	TWA, TWV
UPOV Answer: 3.	to provide a field for the variety denomination for indication of the status of the denomination, i.e. approved or proposed	TWA, TWV

Section 6/2 Draft 2: UPOV Report on Technical Examination and UPOV Variety Description

8. The TWA agreed to propose the following with respect to document TGP/5 Section 6/2 Draft 2:

	UPOV Report on Technical Examination	
10.	to provide a field to indicate the status of the denomination, i.e. approved or proposed	TWV
16.	to simplify the section to read as follows: “(a) Report on Distinctness The variety - is distinct [ ] - is not distinct [ ] “(b) Report on Uniformity The variety - is uniform [ ] - is not uniform [ ] “(c) Report on Stability The variety - is stable [ ] - is not stable [ ] In the case of a positive conclusion, a description of the variety is provided in an annex to this report.”	TWA, TWV

	UPOV Variety Description	
2.	term in brackets to be deleted	TWA, TWV
[new] (after 17.)	some experts noted the potential value of receiving information on all the varieties included in the growing trial used for the examination of distinctness. However, it was noted that, as explained in documents TGP/4 and TGP/9, not all the varieties considered in the process of examining distinctness would be included in the DUS growing trial. In that respect, it was noted that information on similar varieties was requested in Section 16. It was also observed that requirements concerning information on the reference collections used in the examination of distinctness were included as an element within the Model Administrative Agreement (document TGP/5 Section 1/1). The TWA concluded that further consideration should be given before including a new section in TGP/5 Section 6: UPOV Variety Description. The TWV proposed that such a new section should not be introduced in TGP/5 Section 6: UPOV Variety Description.	TWA, TWV

Section 7/2 Draft 2: UPOV Interim Report on Technical Examination

10.	to provide a field to indicate the status of the denomination, i.e. approved or proposed	TWV

Section 10: Notification of Additional Characteristics

9. The TWA and TWV noted that the approval of document TGP/5/1 "Experience and Cooperation in DUS Testing" by the TC at its forty-first session was made on the basis that, with regard to Section 10/1, there would be a review of the notification of additional characteristics on the UPOV website after three years of operation. The TWA and TWV noted that, at its forty-third session, the TC had noted that no additional characteristics had been notified to the Office of the Union, but had considered that the system was very useful and had agreed to retain Section 10 in document TGP/5.

TGP/7/1 Development of Test Guidelines (Revision)

10. The TWA agreed that it would be appropriate to have a general discussion regarding the inclusion of example varieties in Test Guidelines in conjunction with the revision of document TGP/7/1 "Development of Test Guidelines".

[End of document]