

Technical Working Party for Ornamental Plants and Forest Trees

TWP/3/9

Fifty-First Session

Christchurch, New Zealand, February 18 to 22, 2019

Original: English**Date:** January 23, 2019**Technical Working Party for Vegetables**

Fifty-Third Session

Seoul, Republic of Korea, May 20 to 24, 2019

Technical Working Party for Fruit Crops

Fiftieth Session

Budapest, Hungary, June 24 to 28, 2019

Technical Working Party for Agricultural Crops

Forty-Eighth Session

Montevideo, Uruguay, September 16 to 20, 2019

Technical Working Party on Automation and Computer Programs

Thirty-Seventh Session

Hangzhou, China, October 14 to 16 (morning), 2019

CHARACTERISTICS WHICH ONLY APPLY TO CERTAIN VARIETIES*Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***EXECUTIVE SUMMARY**

1. The purpose of this document is to consider amending the current guidance in document TGP/7 "Development of Test Guidelines" for allowing the exclusion of a characteristic from observation on the basis of a state of expression of a preceding quantitative or pseudo-qualitative characteristic.
2. The TWPs are invited to provide:
 - (a) suitable examples of a quantitative and of a pseudo-qualitative characteristic to demonstrate how the proposed approach might be used in a way that would not present risks for decisions on distinctness; and
 - (b) examples of unsuitable cases to demonstrate the risks for decisions on distinctness of excluding varieties from observation on the basis of a preceding quantitative or pseudo-qualitative characteristic.
3. The following abbreviations are used in this document:

TC:	Technical Committee
TC-EDC:	Enlarged Editorial Committee
TWA:	Technical Working Party for Agricultural Crops
TWC:	Technical Working Party on Automation and Computer Programs
TWF:	Technical Working Party for Fruit Crops
TWO:	Technical Working Party for Ornamental Plants and Forest Trees
TWV:	Technical Working Party for Vegetables
TWPs:	Technical Working Parties

4. The structure of this document is as follows:

EXECUTIVE SUMMARY.....	1
BACKGROUND	2
COMMENTS BY THE TECHNICAL WORKING PARTIES	2
CONSIDERATION BY THE ENLARGED EDITORIAL COMMITTEE	3
CONSIDERATION BY THE TECHNICAL COMMITTEE	3

ANNEX EXTRACT FROM DOCUMENT TG/13/11 (LETTUCE)

BACKGROUND

5. The following guidance is provided in document TGP/7 on characteristics which only apply to certain varieties:

“GN 18 (TG Template: Chapter 7: column 3) – Presentation of Characteristics: Heading of a characteristic

[...]

“3. *Characteristics which only apply to certain varieties*

“In some cases, the state of expression of a preceding qualitative characteristic determines that a subsequent characteristic is not applicable e.g. it would not be possible to describe the shape of leaf lobes for a variety which did not have leaf lobes. In cases where this is not obvious, or where the characteristics are separated in the Table of Characteristics, the heading of the subsequent characteristic is preceded by an underlined reference to the types of varieties to which it applies, on the basis of the preceding characteristic, e.g.:

“Only varieties with flower type: single: Flower: shape”

6. The TC, at its fifty-third session, held in Geneva from April 3 to 5, 2017, considered whether to amend document TGP/7, Guidance Note 18(3) “Characteristics which only apply to certain varieties”, to clarify that, in addition to the state of expression of a preceding qualitative characteristic, in some cases the state of expression of a preceding pseudo-qualitative or quantitative characteristic would also determine that a subsequent characteristic was not applicable (see document TC/53/31 “Report”, paragraphs 134 and 135).

7. The TC agreed to invite the TWPs, at their sessions in 2017, to consider the possibility and, if appropriate, identify the circumstances under which characteristics could be excluded from observation on the basis of a preceding pseudo-qualitative or quantitative characteristic and agreed to discuss the matter further at the TC, at its session in 2018.

COMMENTS BY THE TECHNICAL WORKING PARTIES AT THEIR SESSIONS IN 2017

8. The TWA, TWV, TWO, TWF and TWC, at their sessions in 2017, considered document TWP/1/12 “Characteristics which only apply to certain varieties” (see documents TWA/46/10 “Report”, paragraphs 55 and 56; TWV/51/16, paragraphs 31 to 33; TWO/50/14 “Report”, paragraphs 19 to 21; TWF/48/13 “Report”, paragraphs 34 to 36; and TWC/35/21 “Report”, paragraphs 40 to 42).

9. The TWA, TWV, TWO, TWF and TWC agreed with the possibility to exclude varieties from observation on the basis of a preceding pseudo-qualitative or quantitative characteristic under particular circumstances, such as the impossibility to describe an organ that was not present in a variety or when variation existed only within a particular group of a crop.

10. The TWV recalled the importance to refer to a table of grouping within a species, such as in the Test Guidelines for lettuce (see document TG/13/11, chapter 5.3, reproduced as an Annex to this document).

11. The TWO, TWF and TWC agreed with the TWV that the approach of excluding varieties from observation on the basis of preceding PQ or QN characteristics should be used carefully and based on experience and discussions during the drafting of Test Guidelines, in order to be fully aware on the consequences.

12. The TWO noted that the scope of some Test Guidelines for ornamental plants covered an entire plant genus and some characteristics would only be applicable to particular groups of crops.

CONSIDERATION BY THE ENLARGED EDITORIAL COMMITTEE

13. Based on the contingency measures adopted for the transitional period until the fifty-fourth session of the TC, to be held in October 2018, the TC-EDC was invited to consolidate the comments made by the TWPs, at their sessions in 2017, and to formulate proposals for further consideration by the TWPs, at their sessions in 2018.

14. The TC-EDC, at its meeting held on March 26 and 27, 2018, considered document TC-EDC/Mar18/13 "Characteristics which only apply to certain varieties" (see document TC-EDC/Mar18/11 "Report", paragraphs 17 to 20).

15. The TC-EDC noted that the TWA, TWV, TWO, TWF and TWC had agreed with the possibility to exclude varieties from observation on the basis of a preceding pseudo-qualitative or quantitative characteristic under particular circumstances.

16. The TC-EDC recommended that a proposal to amend guidance in document TGP/7 be considered by the Technical Committee, at its fifty-fourth session, e.g. to read: "In some cases, the state of expression of a preceding ~~qualitative~~ characteristic determines that a subsequent characteristic is not applicable [...]"

17. The TC-EDC recommended the inclusion of a warning on the consequences of using the approach to exclude varieties from observation on the basis of a preceding pseudo-qualitative or quantitative characteristic, such as for grouping characteristics.

CONSIDERATION BY THE TECHNICAL COMMITTEE

18. The TC, at its fifty-fourth session, held in Geneva on October 29 and 30, 2018, considered document TC/54/15 "Characteristics which only apply to certain varieties" (see document TC/54/31 "Report", paragraphs 213 to 216).

19. The TC considered the proposal to amend the guidance in document TGP/7, Guidance Note 18 (GN 18), to allow the exclusion of a characteristic from observation on the basis of a state of expression of a preceding pseudo-qualitative or quantitative characteristic, as follows (proposed text deletion indicated by ~~highlighting and strikethrough~~):

"3. Characteristics which only apply to certain varieties

"In some cases, the state of expression of a preceding ~~qualitative~~ characteristic determines that a subsequent characteristic is not applicable e.g. it would not be possible to describe the shape of leaf lobes for a variety which did not have leaf lobes. In cases where this is not obvious, or where the characteristics are separated in the Table of Characteristics, the heading of the subsequent characteristic is preceded by an underlined reference to the types of varieties to which it applies, on the basis of the preceding characteristic, e.g.:

"Only varieties with flower type: single: Flower: shape"

20. The TC considered the proposal for the amendment to document TGP/7 GN 18 to be made in conjunction with the inclusion of a warning on the consequences of using the approach to read as follows:

"The exclusion of characteristics from observation on the basis of a preceding pseudo-qualitative or quantitative characteristic should be used with caution, taking into account the consequences for the examination of distinctness. A grouping table could be used to ensure that characteristics are only excluded from observation on a robust basis."

21. The TC agreed that the grouping table was a complex example (see Annex to this document). The TC further agreed that it would be necessary for suitable examples of a quantitative and of a pseudo-qualitative characteristic to be provided to demonstrate how the approach might be used in a way that would not present risks for decisions on distinctness. It would also be necessary to provide examples of unsuitable cases to demonstrate the risks.

22. *The TWPs are invited to provide:*

(a) suitable examples of a quantitative and of a pseudo-qualitative characteristic to demonstrate how the proposed approach might be used in a way that would not present risks for decisions on distinctness; and

(b) examples of unsuitable cases to demonstrate the risks for decisions on distinctness of excluding varieties from observation on the basis of a preceding quantitative or pseudo-qualitative characteristic.

[Annex follows]

EXTRACT FROM DOCUMENT TG/13/11 (LETTUCE)

Type	Example varieties	Plant: degree of overlapping of upper part of leaves (Char. 3)	Leaf: number of divisions (Char. 6)	Leaf: thickness (Char. 17)	Leaf: undulation of margin (Char. 20)	Leaf: venation (Char. 25)	<u>Only varieties with Plant: degree of overlapping of upper part of leaves: medium or strong: Head: shape in longitudinal section (Char. 27)</u>
Butterhead type	Clarion, Maikönig, Sartre	medium to strong	absent or very few	thin to thick	absent to weak	not flabellate	circular or narrow oblate
Novita type	Norvick	absent or weak	absent or very few	thin to medium	very weak to medium	flabellate	-
Iceberg type	Great Lakes 659, Roxette, Saladin, Vanguard 75	strong	absent or very few	thick	absent to medium	flabellate	circular or narrow oblate
Batavia type	Aquarel, Curtis, Funnice, Felucca, Grand Rapids, Masaida, Visyon	absent or weak to strong	absent or very few	medium to thick	weak to very strong	flabellate	broad elliptic, circular or narrow oblate
Frisée d'Amérique type	Bijou, Blonde à couper améliorée	absent or weak	absent or very few	thin	absent to strong	flabellate or not flabellate or semi	-
Lollo type	Lollo rossa, Revolution	absent or weak	absent or very few	thin	strong to very strong	flabellate	-
Oakleaf type	Catalogna, Kipling, Muraï, Salad Bowl	absent or weak	few to many	thin	absent to weak	flabellate or not flabellate or semi	-
Multi-divided type	Curletta, Duplex, Jadigon, Rodagio	absent or weak	medium to very many	thin	weak to very strong	flabellate	-
Frillice type	Frilett	absent or weak	absent or very few	thick	weak to strong	flabellate	-
Cos type	Actarus, Blonde maraîchère, Pinokkio	absent or weak to medium	absent or very few	medium to thick	absent to weak	not flabellate	narrow elliptic
Gem type	Craquerelle du Midi, Sucrine, Xanadu	absent or weak to medium	absent or very few	medium to thick	absent to weak	not flabellate	broad elliptic, circular or narrow oblate
Stem type	Celtuice, Guasihong	absent or weak	absent or very few	thin to medium	absent to weak	not flabellate	-