

Technical Working Party for Ornamental Plants and Forest Trees TWO/55/6

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INFORMATION REQUIRED TO ENHANCE THE USE OF EXISTING DUS TEST REPORTS

Document prepared by an expert from New Zealand

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BACKGROUND

1. For several years, the Technical Committee (TC) and Technical Working Parties (TWPs) have carried out wide ranging discussions regarding cooperation in examination. A key element in cooperation has been identified as the exchange or takeover of DUS test reports. Some testing authorities have expressed the view that a test report should provide more information than the variety description alone, however other authorities have expressed the opposite view and consider document TGP/5 Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” as adequate.

2. In 2021, document TWP/5/14 “Revision of document TGP/5 Section 6: UPOV Report on Technical Examination and UPOV Variety Description” stated that the TC, at its fifty-sixth session, considered document TC/56/11 “Cooperation in Examination” and agreed to revise document “UPOV Report on Technical Examination and UPOV Variety Description”, however due to subsequent discussions in the TC, the decision was made that further discussion was required in the TWPs. The TWP had expressed particular interest in this topic and document TWF/53/6 “Information required to enhance the use of existing DUS test reports” was discussed at TWF/53 in 2022. The TWO/54 in 2022 also expressed further interest and agreed to an agenda item for 2023 and invited New Zealand to provide information required to enhance the use of existing DUS test reports.

WHY THIS MATTER IS IMPORTANT?

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

WHAT SHOULD BE IN THE TEST REPORT?

4. Document TGP/5 Section 6/4 “UPOV Report on Technical Examination and UPOV Variety Description” is already comprehensive and there is no substantive change required. The desirable change would be for the testing authority to ensure that the model form is fully completed.

5. Grouping is a standard practice carried out by all testing authorities at the beginning of any DUS examination. At the end of the grouping process, used for that species by the authority, there is normally a smaller number of varieties that cannot be easily differentiated and will need to be included in the growing trial or be further assessed in the living collection. It is these varieties which should be included in the report.

Section 16, as a minimum, should include the list of varieties considered most similar, varieties that have not been adequately excluded during grouping or preliminary assessment and requiring closer evaluation in a growing trial or by supplementary examination. Existing guidance in the Explanatory Notes for TGP/5 Section 6/4 states:

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

6. The information included in Section 16, only needs to be a single characteristic per variety providing distinctness. The format used in document TGP/5 Section 6/4 is already similar to Question 6 in the Technical Questionnaire and certainly is familiar to authorities. It is not necessary to provide multiple characteristics from all the closely similar varieties. If there are no closely similar varieties then it can be helpful to simply state, no closely similar varieties have been identified.

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

OTHER INFORMATION THAT MAY BE HELPFUL

8. The report could be enhanced by not only regular inclusion of the most similar varieties, but additional information such as reference or example varieties used, character scales, trial design or statistical tables. Any additional information of this nature would be agreed in advance between the requesting and testing authority. The model already has Section 17 which can be used to locate this content. Any revision of document TGP/5 would only need the addition of more examples of additional information to those already included. The following are already included:

“17. Additional Information

(a) Additional Data

(b) Photograph (if appropriate)

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

(d) Remarks”

9. There is no existing guidance on Section 17 in the Explanatory Notes for TGP/5 Section 6/4

10. Examples of additional types could be added:

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

(b) Photograph (if appropriate)

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

(d) Examples varieties used in testing

(e) Remarks”

ALTERNATIVE APPROACHES TO PROVIDING THIS INFORMATION

11. In the course of discussions on providing additional information, alternative approaches have been raised as a more effective means than inclusion in the test report. Certainly, other approaches may have a role in providing the additional levels of information. An individual test report is not necessarily the best place to list all the varieties in a testing authorities' variety collection or list of common knowledge. Close cooperation between authorities and exchange of variety information should certainly be encouraged, particularly for regular arrangements for specific species or variety types. This sort of activity already occurs between

authorities as part of formal arrangements or for in formal arrangements between the request and the supply of the test report. The enhancement of report information is not intended to replace these practices but to focus on the distinctness of the individual variety in the report and the varieties identified as similar following grouping.

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

CONCLUSION

13. A substantive review of document TGP/5, Section 6/4 "UPOV Report on Technical Examination and UPOV Variety Description" is not required, all the elements necessary are already set out. Some minor improvements could be made to Sections 16 and 17.

14. A larger change required is to the approach of authorities when completing the DUS test report, document TGP/5, Section 6/4 "UPOV Report on Technical Examination and UPOV Variety Description". In particular, the attention to detail in Sections 16 and 17. The requesting authority also has responsibility to clearly communicate the type of additional information that may be required to be included in section 17. This may result in an alternative means to provide the requested information, mutually agreed in advance of the supply of the test report.

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