



TWV/43/3

ORIGINAL: English

DATE: April 7, 2009

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

TECHNICAL WORKING PARTY FOR VEGETABLES

Forty-Third Session
Beijing, April 20 to 24, 2009

TGP DOCUMENTS

prepared by the Office of the Union

1. The purpose of this document is: to report on developments since the forty-second session of the Technical Working Party for Vegetables (TWV) concerning the consideration of TGP documents; to provide background information to assist the TWV in its consideration of the drafts of individual TGP documents; and to present the program for the development of TGP documents agreed by the Technical Committee at its forty-fifth session, held in Geneva from March 30 to April 1, 2009.

2. The following abbreviations are used in this document:

CAJ: Administrative and Legal Committee
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

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I. BACKGROUND

3. The purpose of document TG/1/3 “General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of New Varieties of Plants” (General Introduction), and the associated series of documents specifying Test Guidelines’ Procedures (TGP documents), is to set out the principles which are used in the examination of DUS. The only binding obligations for members of the Union are those contained in the UPOV Convention itself. However, on the basis of practical experience, the General Introduction and the TGP documents seek to provide general guidance for the examination of all species in accordance with the UPOV Convention. In addition, UPOV has developed “Guidelines for the Conduct of Tests for Distinctness, Uniformity and Stability” (Test Guidelines), for many individual species or other variety groupings. The purpose of those Test Guidelines is to elaborate certain of the principles contained in the General Introduction and the associated TGP documents, into detailed practical guidance for the harmonized examination of DUS and, in particular, to identify appropriate characteristics for the examination of DUS and production of harmonized variety descriptions.

4. As noted by the Chair at the fifty-fourth session of the Administrative and Legal Committee (CAJ), held in Geneva on October 16 and 17, 2006, the development of TGP documents in relation to the DUS examination may be seen as another element in the preparation of information materials concerning the UPOV Convention¹ and, in addition to being published in their own right, the TGP documents can be used in support of various UPOV activities. In particular, the General Introduction and the TGP documents will form the basis of an advanced module on “Examination of Applications for Plant Breeders’ Rights” for inclusion in the Distance Learning program, which the Consultative Committee has entrusted the Office of the Union to develop.

5. The situation with regard to the development of TGP documents can be summarized as follows:

Document reference	Title	Stage of development
TGP/0	List of TGP Documents and Latest Issue Dates	Approved (2005) / <i>under revision</i>
<i>TGP/1</i>	<i>General Introduction with Explanations</i>	-
TGP/2	List of Test Guidelines Adopted by UPOV	Approved (2005)
<i>TGP/3²</i>	<i>Varieties of Common Knowledge</i>	-
TGP/4	Constitution and Maintenance of Variety Collections	Adopted by Council (2008)

¹ The CAJ, at its fifty-second session, held in Geneva on October 24, 2005, agreed an approach for the preparation of information materials concerning the UPOV Convention, as explained in paragraphs 8 to 10 of document CAJ/52/4. It also agreed the establishment of an advisory group to the CAJ (“CAJ-AG”) to assist in the preparation of documents concerning such materials, as proposed in paragraphs 11 to 14 of document CAJ/52/4 (see paragraph 67 of document CAJ/52/5, Report).

² At its fifty-fifth session, held in Geneva on March 29, 2007, “[t]he CAJ endorsed the conclusion of the CAJ-AG that the General Introduction already provided guidance with respect to the term ‘common knowledge’ and that it would not be appropriate, for the time being, to pursue the development of document TGP/3 ‘Varieties of Common Knowledge’.” (see document CAJ/55/7, paragraph 46).

Document reference	Title	Stage of development
TGP/5	Experience and Cooperation in DUS Testing	Approved (2005) / Partial Revision Adopted by Council (2008)
TGP/6	Arrangements for DUS Testing	Approved (2005)
TGP/7	Development of Test Guidelines	Approved (2004) / <i>under revision</i>
<i>TGP/8</i>	<i>Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability</i>	<i>under development</i>
TGP/9	Examining Distinctness	Adopted by Council (2008)
TGP/10	Examining Uniformity	Adopted by Council (2008)
<i>TGP/11</i>	<i>Examining Stability</i>	<i>under development</i>
<i>TGP/12</i>	<i>Special Characteristics</i>	<i>Proposed for adoption by Council in 2009</i>
<i>TGP/13</i>	<i>Guidance for New Types and Species</i>	<i>Proposed for adoption by Council in 2009</i>
<i>TGP/14</i>	<i>Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents</i>	<i>under development</i>
<i>TGP/15</i>	<i>New Types of Characteristics</i>	-

The General Introduction, approved TGP documents and adopted Test Guidelines are published on the UPOV website at http://www.upov.int/en/publications/list_publications.htm.

II. DOCUMENTS TO BE CONSIDERED BY THE TECHNICAL WORKING PARTIES

(a) *New TGP documents*

TGP/8 “Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability”

6. At its meeting on January 8, 2009, the Enlarged Editorial Committee (TC-EDC) noted that there were a number of sections within document TGP/8/1 Draft 1 for which development had not yet started, or for which substantial further development would be required. At the same time, the TC-EDC noted that there were a number of important sections within TGP/8 that were well-established and could already provide useful guidance. Therefore, the TC-EDC proposed that the TC should be invited to consider the adoption of a first version of document TGP/8 (document TGP/8/1) without the sections of that document that would require further substantial development. The TC-EDC also noted that the identification of well-established text within document TGP/8 would justify translation of those sections. With regard to the sections of document TGP/8 that would not be included in

the first version of document TGP/8 (document TGP/8/1), the TC-EDC proposed that those sections should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8 (document TGP/8/2) at the earliest opportunity.

7. With regard to new proposals concerning the content of document TGP/8, the TWA, at its thirty-seventh session, proposed to remove Section III: "Examination of characteristics using image analysis" from TGP/12 and to include that section in document TGP/8, on the basis that it did not concern characteristics, but methods of examining characteristics. The TWC, at its twenty-sixth session, agreed with that proposal. The TC-EDC, at its meeting on January 8, 2009, noted that the section on the examination of characteristics using image analysis would require further substantial development and would not be finalized in time for the initial adoption of document TGP/8 (document TGP/8/1).

8. The TC-EDC agreed that the following sections of document TGP/8/1 Draft 11, considered by the TC-EDC at its meeting on January 8, 2009 (see http://www.upov.int/restrict/en/tc_edc/index_tc_edc_jan09.htm), would require further substantial development:

Part I: DUS Trial Design and Data Analysis:

2. *Data to be recorded*
3. *Control of variation due to different observers*
6. *Data processing for the assessment of distinctness and for producing variety descriptions*

Part II: Techniques Used in DUS Examination

- 3.5 *Statistical methods for very small sample sizes*
5. *Examining DUS in bulk samples*
6. *Examination of characteristics using image analysis*
7. *Methods for data processing for the assessment of distinctness and for producing variety descriptions*

9. In accordance with the recommendation of the TC-EDC, the above sections were omitted from document TGP/8/1 Draft 12, which was considered by the Technical Committee at its forty-fifth session, held in Geneva from March 30 to April 1, 2009, but were reproduced in document TC/45/14.

10. The TC agreed that document TGP/8/1 should be scheduled for adoption in 2010 on the basis of the content included in document TGP/8/1 Draft 12. The TC further agreed that, at the same time, separately from consideration of the draft of document TGP/8/1, the sections omitted from document TGP/8/1 Draft 12, as reproduced in document TC/45/14, Annex I, should continue to be developed without delay and should be incorporated into document TGP/8 by means of a revision of document TGP/8/1 (i.e. document TGP/8/2) at the earliest opportunity.

11. The TC agreed that it would not be appropriate to change the structure of document TGP/8/1. However, to assist users to identify relevant sections in the document more easily, it agreed that an orientation guide, possibly in the form of a grid or flow diagram, should be developed. It agreed that that guide should be considered alongside discussions on the draft of document TGP/8/1 with a view to its inclusion as an introduction in the document

before its adoption, if considered appropriate. The TC invited proposals on such a guide, to be received by the Office of the Union by no later than April 17, 2009. Any proposals received by the Office of the Union will be reported to the TWV at its forty-third session, to be held in Beijing, China, from April 20 to 24, 2009.

12. Document TGP/8/1 Draft 13 is based on document TGP/8/1 Draft 12, as amended by the Technical Committee at its forty-fifth session. That document will be considered by the Technical Working Parties at their sessions in 2009 and by the CAJ at its sixtieth session, to be held in Geneva on October 19 and 20, 2009.

13. The sections omitted from document TGP/8/1 Draft 12, incorporating comments made by the TC at its forty-fifth session, are reproduced in the Annex to document TWV/43/11.

TGP/11 “Examination of Stability”

14. At its forty-fourth session, held in Geneva from April 7 to 9, 2008, the TC noted the TWV proposal for the possible development of a document to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder’s right and the status and use of the “official” variety description. The TC also noted the comments of the TC-EDC that there would be practical advantages in dealing with all aspects of stability in a single document and the proposal of the TC-EDC that the TC, in conjunction with the CAJ, might consider an amendment to the title of TGP/11, with the document being clearly separated into two parts:

Part I: Examining Stability (Article 12 “Examination of the Application”, of the 1991 Act of the UPOV Convention)

Part II: Stability after the grant of a breeder’s right (Article 22(1) “Cancellation of the Breeder’s Right”, of the 1991 Act of the UPOV Convention)

15. The TC agreed that the view of the CAJ should be sought with regard to whether it would be appropriate to pursue those proposals (see document TC/44/13 “Report”, paragraph 118).

16. At its fifty-eighth session, held in Geneva on October 27 and 28, 2008, the CAJ considered document TGP/11/1 Draft 5 “Examining Stability”, in conjunction with document CAJ/58/2. The CAJ agreed that document TGP/11 should consider only the examination of stability in the context of the DUS examination and that a separate document should be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty which are brought to the attention of an authority after the grant of a breeder’s right (see document CAJ/58/6 “Report on the Conclusions”, paragraph 11).

17. At its forty-fifth session, the TC agreed to propose to the CAJ that, within its approach for the preparation of information materials concerning the UPOV Convention, a document be developed to provide guidance on matters concerning distinctness, uniformity, stability and novelty that are brought to the attention of an authority after the grant of a breeder’s right.

18. The TC considered document TGP/11/1 Draft 5 at its forty-fifth session and agreed that the following aspects should be addressed in the next draft:

- (a) as agreed by the CAJ, to consider only the examination of stability in the context of the DUS examination;
- (b) to explain the nature of stability and why it is connected to uniformity in such a way that the General Introduction states that “for many types of variety, when a variety has been shown to be uniform, it can also be considered to be stable” (General Introduction, Chapter 7.3.1.1);
- (c) to avoid text stating that “stability is not examined” (see Sections 2.1.2, 2.1.3, 2.1.5(a));
- (d) to avoid explanations of uniformity (e.g. Section 2.1.4 (a) and (b)) – if necessary to explain aspects of uniformity, to make a reference to TGP/10/1 “Examining Uniformity” or to quote text of TGP/10/1;
- (e) to focus the document on providing practical guidance on situations concerning specifically stability (not uniformity), e.g. Section 2.1.4 (c);
- (f) in addition to guidance on the examination of stability through the examination of uniformity, to provide guidance on the direct examination of stability, with the assistance of experts from Australia; and
- (g) in relation to Section 2.2.3, to note that the TC-EDC has proposed that the standard wording for stability in Test Guidelines be amended as follows (see document TGP/7/2 Draft 2: ASW 9 (TG Template: Chapter 4.3.2) – Stability assessment: general):

“Where appropriate, or in cases of doubt, stability may be further examined ~~tested, either by growing a further generation, or~~ by testing a new [seed or plant] stock to ensure that it exhibits the same characteristics as those shown by the previous initial material supplied.”

19. The TC noted that the forty-third session of the TWV, to be held in Beijing from April 20 to 24, 2009, was less than three weeks after the forty-fifth session of the TC. On that basis, it noted that it would not be feasible to prepare a new draft of document TGP/11/1 for consideration by the TWPs in 2009. Therefore, it agreed that, at their sessions in 2009, the TWPs should be invited to consider the comments made on document TGP/11/1 Draft 5 by the CAJ and the TC. On the basis of those comments and any further comments by the TWPs, a new draft of document TGP/11/1 (document TGP/11/1 Draft 6) would be prepared for consideration by the TC-EDC at its meeting in January 2010.

TGP/14 “Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents”

20. At its meeting on January 8, 2009, the TC-EDC noted the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 “Color” (“TGP/14 Workshop”), held on May 30 and 31, 2008, and the related discussions by the TWPs at their sessions in 2008 (see document TWV/43/12, Annex II). It concluded that TGP/14 Section 2, Subsection 3 “Color” (Color Subsection) would require substantial further development before it could be considered for adoption. At the same time, the TC-EDC noted that the other sections within TGP/14 were well-established and could already provide useful guidance. Therefore, the

TC-EDC proposed that the TC should be invited to consider adoption of a first version of document TGP/14 (document TGP/14/1) without the Color Subsection. The TC-EDC also noted that such a procedure would make it realistic to translate document TGP/14/1 Draft 8. With regard to the Color Subsection, which would not be included in the first version of document TGP/14 (document TGP/14/1), the TC-EDC proposed that it should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14 (document TGP/14/2) at the earliest opportunity.

21. The TC agreed that document TGP/14/1 should be scheduled for adoption in 2010 on the basis of the content included in document TGP/14/1 Draft 8. At the same time, the TC agreed that, separately from consideration of the draft of document TGP/14/1, the Color Subsection should continue to be developed without delay and should be incorporated into document TGP/14 by means of a revision of document TGP/14/1 (i.e. document TGP/14/2) at the earliest opportunity.

22. Document TGP/14/1 Draft 9 is based on document TGP/14/1 Draft 8, as amended by the Technical Committee at its forty-fifth session. In addition, the TC agreed to combine synonymous terms within a single entry (e.g. Breeder's Right, Plant Breeder's Right and PBR), but to list the terms individually in the index. That change has not yet been made for two reasons: firstly, the complication in indexing (for example, the index for "PBR" would require a page number and a reference to the relevant term ("Plant Breeder's Right") in that page in order to be able to find the term "PBR")) would mean that it would be impractical to undertake that exercise before all terms in the document are finalized; and secondly, in order to allow further consideration of any consequences in terms of ease of use of the document.

23. Document TGP/14/1 Draft 9 will be considered by the Technical Working Parties at their sessions in 2009 and by the CAJ at its sixtieth session, to be held in Geneva on October 19 and 20, 2009. Document TGP/14 Draft 9 is available in all UPOV languages; however, the French, German and Spanish versions follow the English alphabetic order. Therefore, to facilitate the reading of the document in those languages, a supplement (document TGP/14/1 Draft 9 Supplement) has been prepared in each language with the indexed terms presented in alphabetic order of the languages concerned.

24. The Color Subsection, omitted from document TGP/14/1 Draft 9, and the conclusions of the workshop on document TGP/14 Section 2, Subsection 3 "Color" ("TGP/14 Workshop"), held on May 30 and 31, 2008, and the related discussions by the TWPs at their sessions in 2008, is reproduced in Annexes I and II to document TWV/43/12, respectively.

(b) Revision of TGP Documents

TGP/0 "List of TGP Documents and Latest Issue Dates"

25. Document TGP/0/1 "List of TGP Documents and Latest Issue Dates" was approved on April 6, 2005 and does not reflect the adoption and revision of certain TGP documents since that date. Therefore, the TC agreed to propose that document TGP/0 be revised (to become document TGP/0/2) in conjunction with the scheduled adoption of documents TGP/12 and TGP/13 by the Council at its forty-third ordinary session, to be held in Geneva on October 22, 2009.

TGP/7 “Development of Test Guidelines”

26. Reference to document TGP/7 is made in certain adopted TGP documents (e.g. document TGP/9/1, Section 2.3.1.2.2, refers to “document TGP/7/1, Annex 3: GN 13.4”). For that reason, document TGP/7/2 Draft 3 seeks to conserve the numbering from document TGP/7/1 as far as possible. In that respect, additional items are added after the last number for Additional Standard Wording (ASW) and Guidance Notes (GN), or are accommodated by sub-numbering, e.g. GN 11.1 and 11.2.

27. The revisions proposed to document TGP/7/1, on the basis of the comments made by the TWPs and the CAJ at their sessions in 2008 by the TC-EDC at its meeting on January 8, 2009 and certain other proposals, are incorporated in document TGP/7/2 Draft 3, as approved by the TC at its forty-fifth session. The background to the proposed revisions is presented in the form of endnotes.

28. The TWO, at its forty-first session, proposed to include guidance on modifying the states of expression of characteristics in the Table of Characteristics, including asterisked characteristics. It was proposed that such changes might be notified to UPOV by means of document TGP/5 “Experience and Cooperation in DUS Testing”: Section 10 Notification of Additional Characteristics (see document TGP/7/2 Draft 2, Introduction, Section 1.2.1.9 “(e) Modification of Test Guidelines characteristics”). The TWO noted that such an approach would require a corresponding revision of document TGP/5: Section 10/1. In that regard, the TC agreed to review whether Section 1.2.1.9 in document TGP/7/2 Draft 3 was necessary, given the possibility for partial revisions of Test Guidelines.

29. On the basis of the comments made by the TWPs and the CAJ, and agreed by the TC-EDC, the TC agreed that the following matters, which the TC had previously agreed should be considered in the revision of document TGP/7/1, should not be pursued:

<i>Annex 3: Guidance Notes (GN) for the TG Template</i>	
GN 20	<i>(to consider whether the revision of Test Guidelines might not fully follow the guidance on the presentation of characteristics in document TGP/7 if that would involve substantial revision of databases of variety descriptions, which would not otherwise be necessary.)</i>
GN 29	<i>(to consider the possibility of introducing a table of trade names associated with the denominations of the example varieties)</i>

<i>Annex 4: Collection of Approved Characteristics</i>	
Collection	<i>(to consider incorporating characteristics which are used in most Test Guidelines (e.g. Leaf: length) into the electronic template. To consider developing electronic templates for variety types (e.g. seed-propagated vegetables) which would incorporate more standard characteristics for the varieties concerned)</i>

30. The TC agreed that the following aspects concerning the “Collection of Approved Characteristics” should be addressed in parallel with the revision of document TGP/7. Where appropriate, an amendment will be made to document TGP/7/1, Annex 4, paragraphs 1 and 2.

<i>Annex 4: Collection of Approved Characteristics</i>	
<i>Introduction</i>	<p><i>(to be clarified that characteristics contained in adopted UPOV Test Guidelines may be omitted from the “Collection of approved characteristics” (document TGP/7, Annex 4) where considered appropriate by the TC, on the basis of recommendations by the Enlarged Editorial Committee (TC-EDC))</i></p> <p><i>(to explain that the indication of the characteristic number, the method of observation, type of characteristic and the indications of (+) and (*) had been retained from the Table of Characteristics from which the characteristic had originated, but to clarify that the information might not be appropriate for other Test Guidelines)</i></p> <p><i>(to explain to drafters of Test Guidelines that, for characteristics where any element of the characteristic is changed after copying from the collection, the translations into French, German and Spanish should be deleted)</i></p>
<i>Collection</i>	<p><i>(examples of color characteristics developed in conjunction with TGP/14 Section 2.3: “Glossary of Technical, Botanical and Statistical Terms Used in UPOV Documents: Botanical Terms: Color” to be incorporated into TGP/7: Annex 4 “Collection of Approved Characteristics”. (It was noted that that might require the organization of the TGP/7 to be modified to some extent.))</i></p> <p><i>(to consider including a collection of approved illustrations and to consider making that collection available to breeders to assist in their applications for PBR. (see also TGP/14 Section 2.1: Plant shapes))</i></p> <p><i>(to consider the development of tools such as CD-ROMs containing photographs to enhance the understanding of the characteristics used in the Test Guidelines and thereby reduce observer error)</i></p>

31. The TC noted that the Office of the Union planned to develop an improved TG Template and to integrate the Collection of Approved Characteristics into that template in a user-friendly package for drafters of Test Guidelines.

III. PROGRAM FOR THE DEVELOPMENT OF TGP DOCUMENTS

32. The Annex to this document presents the program for the development of TGP documents as agreed by the TC at its forty-fifth session.

[Annex follows]

ANNEX
TWV/43/3

Ref.	Title of document	Current approved* documents	Drafter (TWP)	Drafter (Name)	2009					2010						
					TC-EDC	TC/45	CAJ/59	TWPs	CAJ/60	C/43	TC-EDC	TC/46	CAJ/61	TWPs	CAJ/62	C/44
TGP/0	List of TGP Documents and Latest Issue Dates	TGP/0/1 ADOPTED								TGP/0/2 Adopt						
TGP/1	General Introduction with Explanations	-	Office		---	---	---	---		---	---	---	---	---	---	
TGP/2	List of Test Guidelines Adopted by UPOV	TGP/2/1 ADOPTED														
TGP/3	Varieties of Common Knowledge	C(Extr.)/19/2 Rev.	CAJ													
TGP/4	Constitution and Maintenance of Variety Collections	TGP/4/1 ADOPTED														
TGP/5	Experience and Cooperation in DUS Testing	ADOPTED														
TGP/6	Arrangements for DUS Testing	TGP/6/1 ADOPTED														
TGP/7	Development of Test Guidelines	TGP/7/1 ADOPTED			TGP/7/2 draft 1	TGP/7/2 draft 2	---	TGP/7/2 draft 3	TGP/7/2 draft 3	---	TGP/7/2 draft 4	TGP/7/2 draft 5 / approve	TGP/7/2 draft 5 / approve	---	---	TGP/7/2 draft 6 / Adopt
TGP/8	Trial Design and Techniques Used in the Examination of Distinctness, Uniformity and Stability (<i>Coordinator: Office / TWC Chairperson</i>)				draft 11	draft 12	---	TGP/8/1 draft 13 (& future sections)	TGP/8/1 draft 13	---	TGP/8/1 draft 14	TGP/8/1 draft 15 / approve	TGP/8/1 draft 15 / approve	(future sections)	---	TGP/8/1 draft 16 / Adopt
TGP/9	Examining Distinctness	TGP/9/1 ADOPTED														
TGP/10	Examining Uniformity	TGP/10/1 ADOPTED														
TGP/11	Examining Stability (<i>Coordinator: Office</i>)		TWV	Mr. Semon (QZ)	draft 5	draft 5	---	draft 5	draft 5	---	draft 6	draft 7	---	draft 8	draft 8	---
TGP/12	[Special Characteristics] / [Guidance on Certain Physiological Characteristics]				draft 6	draft 7 / approve	draft 7 / approve	---		draft 8 / Adopt						
TGP/13	Guidance for New Types and Species		TWO	Mr. Kwakkenbos (QZ)	draft 13	draft 14 / approve	draft 14 / approve	---		draft 15 / Adopt						
TGP/14	Glossary of [Technical, Botanical and Statistical] Terms Used in UPOV Documents (<i>Coordinator: Office</i>)				draft 7	draft 8	---	TGP/14/1 draft 9 (& Color Subsection)	TGP/14/1 draft 9	---	TGP/14/1 draft 10	TGP/14/1 draft 11 / approve	TGP/14/1 draft 11 / approve	(Color Subsection)	---	TGP/14/1 draft 12 / Adopt
TGP/15	New Types of Characteristics (<i>Coordinator: Office</i>)															

[End of Annex and of document]