

**Technical Working Party for Vegetables**

Fifty-Fifth Session  
Antalya, Turkey, May 3 to 7, 2021

**TWP/5/14.**

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**Technical Working Party for Ornamental Plants and Forest Trees**

Fifty-Third Session  
Roelofarendsveen, Netherlands, June 7 to 11, 2021

**Technical Working Party for Agricultural Crops**

Fiftieth Session  
Arusha, United Republic of Tanzania, June 21 to 25, 2021

**Technical Working Party for Fruit Crops**

Fifty-Second Session  
Zhengzhou, China, July 12 to 16, 2021

**Technical Working Party on Automation and Computer Programs**

Thirty-Ninth Session  
Alexandria, United States of America, September 20 to 22, 2021

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**REVISION OF DOCUMENT TGP/5 SECTION 6: UPOV REPORT ON TECHNICAL EXAMINATION AND UPOV VARIETY DESCRIPTION**

*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 proposals for the revision of document TGP/5 “Experience and cooperation in DUS testing”, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description”.

2. The TWPs are invited to:

(a) consider the proposal to amend document TGP/5 Section 6, chapters “UPOV Report on Technical Examination” and “UPOV Variety Description”, as set out in paragraph 5 and in the Annex to this document; and

(b) to review the proposal to revise document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” to include additional information in DUS test reports and to consider whether alternative approaches to provide the desired information might be appropriate.

3. The structure of this document is as follows:

EXECUTIVE SUMMARY.....	1
TESTING FACILITY AND LOCATION.....	2
ADDITIONAL INFORMATION TO BE INCLUDED IN DUS TEST REPORTS.....	2

Annex Draft proposal for the revision of document TGP/5 Section 6

4. The following abbreviations are used in this document:

TC:	Technical 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
TWPs:	Technical Working Parties
TWV:	Technical Working Party for Vegetables

#### TESTING FACILITY AND LOCATION

5. The TC, at its fifty-sixth session<sup>1</sup>, agreed to request the TWPs, at their sessions in 2021, to consider the proposal by the TWO and TWF to amend document TGP/5 Section 6 to read as follows (see document TC/56/23 “Report”, paragraph 39):

Chapter: UPOV Report on Technical Examination

- Item 13 to read “Testing ~~station~~ site(s) and place(s)”
- New item: Date and document number of UPOV Test Guidelines
- New item: Date and/or document number of Reporting Authority’s test guidelines

Chapter: UPOV Variety Description

- Item 11 to read “Testing ~~station~~ site(s) and place(s)”

#### Proposal

6. To clarify that “testing station” would encompass any testing facility assigned by the authority, including breeders’ facilities or other, it is proposed to replace “Testing station(s) and place(s)” by “Testing facility(ies) and location(s)” in chapter “UPOV Report on Technical Examination”, item 13, and chapter “UPOV Variety Description”, item 11.

7. A draft proposal for the revision of document TGP/5 Section 6 is presented in the Annex to this document. The proposed amendments to chapters “UPOV Report on Technical Examination” and “UPOV Variety Description” are presented in revisions mode.

*8. The TWPs are invited to consider the proposal to amend document TGP/5 Section 6, chapters “UPOV Report on Technical Examination” and “UPOV Variety Description”, as set out in paragraph 5 and in the Annex to this document.*

#### ADDITIONAL INFORMATION TO BE INCLUDED IN DUS TEST REPORTS

9. The TC, at its fifty-sixth session<sup>2</sup>, considered document TC/56/11 “Cooperation in Examination” and agreed to revise document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” to include additional information in DUS test reports, to (see document TC/56/22, “Outcome of consideration of documents by correspondence”, paragraph 43):

- provide information on varieties included in the variety collection
- report the varieties considered in the examination (not only similar varieties)
- provide data from field observations with the DUS test report for each variety
- provide information on environment in which the DUS examination was conducted

<sup>1</sup> Held via electronic means on October 26 and 27, 2020

<sup>2</sup> Held via electronic means on October 26 and 27, 2020

10. The Office of the Union consulted the TWP chairpersons for preparing the draft revision of document TGP/5, Section 6, to include additional information in DUS test reports. Concerns were expressed about the usefulness and practicality of the proposals. The chairpersons considered that further reflection would be required to the approach proposed and whether the information should be provided through other instruments, such as cooperation agreements or dedicated information platforms.

11. The TWPs are invited to review the proposal to revise document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” to include additional information in DUS test reports, and to consider whether alternative approaches to provide the desired information might be appropriate.

*12. The TWPs are invited to review the proposal to revise document TGP/5, Section 6 “UPOV Report on Technical Examination and UPOV Variety Description” to include additional information in DUS test reports, and to consider whether alternative approaches to provide the desired information might be appropriate.*

[Annex follows]

UPOV REPORT ON TECHNICAL EXAMINATION

Note for Draft version

~~Strikethrough~~ (highlighted in grey) indicates deletion from the text of document TGP/5, Section 6

Underlining (highlighted in grey) indicates insertion to the text of document TGP/5, Section 6.

1. Reference number of Reporting Authority .....
  2. Requesting Authority .....
  3. Reference number of Requesting Authority .....
  4. Breeder's reference .....
  5. Date of application in requesting member of the Union .....
  6. Applicant (name and address) .....
  7. Agent (name and address) (if applicable) .....
- 
8. (a) Botanical name of taxon .....
  - (b) UPOV code .....
  9. Common name of taxon .....
  10. Variety denomination .....
  11. Person who bred, or discovered .....
  - and developed, the variety (name and address) .....
  - (if different from applicant) .....
  12. Reporting Authority .....
  13. Testing ~~station~~ facility(ies) and ~~place~~ location(s) .....
  14. Period of testing .....
  15. Date and place of issue of document .....
  16. Date and document number of UPOV Test Guidelines .....
  17. Date and/or document number of Reporting Authority's test guidelines .....

168. Results of the Technical Examination

(a) Report on Distinctness

The variety

- is distinct [ ]
- is not distinct [ ]

according to the UPOV Convention

Variety(ies) from which it is not distinct (if applicable)

.....

(b) Report on Uniformity

The variety

- is uniform [ ]
- is not uniform [ ]

according to the UPOV Convention

Characteristic(s) for which the variety is not uniform and explanation of the lack of uniformity (if applicable) are provided in an annex to this report.

(c) Report on Stability

The variety

- is stable [ ]
- is not stable [ ]

according to the UPOV Convention

Characteristic(s) for which the variety is not stable and explanation of the lack of stability (if applicable) are provided in an annex to this report.

(d) A description of the variety is provided in an annex to this report [ ]

(if the variety is distinct, uniform and stable).

(If the variety is not distinct, a description can be provided on request.)

179. Remarks .....

.....

18 20. Signature .....

UPOV VARIETY DESCRIPTION

1. Reference number of Reporting Authority .....
2. Reference number of Requesting Authority .....
3. Breeder's reference .....
4. Applicant (name and address) .....

5. (a) Botanical name of taxon .....
- (b) UPOV code .....
6. Common name of taxon .....
7. Variety denomination .....
8. Date and document number of  
    UPOV Test Guidelines .....
9. Date and/or document number of  
    Reporting Authority's test guidelines .....
10. Reporting Authority .....
11. Testing station facility(ies) and place location(s) .....
12. Period of testing .....
13. Date and place of issue of document .....
14. Group: (if characteristics of number 15 are used for grouping, they are marked with a G in that number)

UPOV No.	Reporting Authority No.	Characteristics	States of Expression	Note	Remarks
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Reference number of Reporting Authority .....

15. Characteristics Included in the UPOV Test Guidelines or Reporting Authority's Test Guidelines

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UPOV No.	Reporting Authority No.	Characteristics	States of Expression	Note	Remarks
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16. Similar Varieties and Differences from These Varieties

Denomination(s) of variety(ies) similar to the candidate variety	Characteristic(s) in which the candidate variety differs from the similar variety(ies) <sup>1)</sup>	State of expression of the characteristic(s) for the similar variety(ies) <sup>2)</sup>	State of expression of the characteristic(s) for the candidate variety <sup>2)</sup>
------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------

- 1) In the case of identical states of expression of both varieties, please indicate the size of the difference.
- 2) The state of expression of the candidate variety and similar variety(ies) relate to the DUS examination conducted at the testing station, place and period of testing indicated in 11 and 12.

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17. Additional Information

- (a) Additional Data
  - (b) Photograph (if appropriate)
  - (c) RHS Colour Chart version used (if appropriate)
  - (d) Remarks
-

18. Explanatory Notes to the Annex: UPOV Variety Description

(a) General (Annex: UPOV Variety Description)

(i) *Purpose of the original variety description*

The purpose of the variety description developed at the time of the grant of the breeder's right (original variety description) can be summarized as follows:

- (a) to describe the characteristics of the variety; and
- (b) to identify and list similar varieties and differences from these varieties; combined with the information on the basis for (a) and (b), namely:
  - Date and document number of UPOV Test Guidelines;
  - Date and/or document number of Reporting Authority's test guidelines;
  - Reporting Authority;
  - Testing station(s) and place(s);
  - Period of testing;
  - Date and place of issue of document;
  - Group: (Table: Characteristics; States of Expression; Note; Remarks);
  - Additional Information:
    - (a) Additional Data
    - (b) Photograph (if appropriate)
    - (c) RHS Colour Chart version used (if appropriate)
    - (d) Remarks.

(ii) *Status of the original variety description in relation to the enforcement of the breeder's rights*

Document UPOV/EXN/ENF/1 "Explanatory notes on the enforcement of breeders' rights under the UPOV Convention" explains as follows:

"SECTION II: Some possible measures for the enforcement of breeders' rights

"While the UPOV Convention requires members of the Union to provide for appropriate legal remedies for the effective enforcement of breeders' rights, it is a matter for breeders to enforce their rights."

In relation to the verification of plant material of a protected variety for the purposes of enforcement of the breeder's right, it should be recalled that the description of the variety characteristics in the original variety description and the basis for distinctness from the most similar variety are linked to the circumstances of the DUS examination, namely:

- Date and document number of UPOV Test Guidelines;
- Date and/or document number of Reporting Authority's test guidelines;
- Reporting Authority;
- Testing station(s) and place(s);
- Period of testing;
- Date and place of issue of document;
- Group: (Table: Characteristics; States of Expression; Note; Remarks);
- Additional Information:
  - (a) Additional Data
  - (b) Photograph (if appropriate)
  - (c) RHS Colour Chart version used (if appropriate)
  - (d) Remarks



(iii) *Amendment to the original variety description*

Document TGP/4 "Constitution and Maintenance of Variety Collections" explains in section 3.1.1:

"With regard to descriptions based on the relevant UPOV Test Guidelines, it is important to note that UPOV Test Guidelines may be revised (see document TGP/7), possibly leading to the introduction of some new characteristics and the deletion of some others from the table of characteristics. Furthermore, the states of expression of a characteristic may be amended. Therefore, descriptions which have been prepared using different versions of the UPOV Test Guidelines for the same species or group of species may not be fully compatible. In these cases, the descriptions should be aligned as far as possible."

In some members of the Union the original variety description may be amended to adapt the description to render it comparable with descriptions of other varieties, produced under different circumstances. In such cases, all stakeholders should be informed.

Examination offices may update their variety data to reflect the evolution of Test Guidelines. Such updates are made for working purposes and do not affect the original variety description.

(iv) *Reference Number of the Reporting Authority*

The reference number of the Reporting Authority should be repeated on each page of the report.

(b) Ad Number 14 (Annex: UPOV Variety Description)

Only information on the group to which the variety belonged should be given or information on groupings other than by characteristics listed in Number 15. Grouping by characteristics mentioned in Number 15 should be indicated simply by marking the respective characteristic in Number 15 with the letter "G" before the number of the characteristic.

(c) Ad Number 15 (Annex: UPOV Variety Description)

(i) All characteristics of the UPOV Test Guidelines should be reproduced, including those which are not applicable and those which have not been recorded. Those not applicable should be marked "not applicable," those not recorded, "not recorded."

(ii) The asterisks from the UPOV Test Guidelines should be repeated on the form.

(iii) Additional characteristics from the Reporting Authority's test guidelines should not be placed after the UPOV Test Guidelines characteristics, but in their sequence according to the UPOV principles, as the main purpose of the form is still for the authority's use. They do not need to be specially marked as they are sufficiently identified by the Reporting Authority's number.

(iv) The list contains only a small column for brief remarks or for a reference to lengthier remarks which should be reproduced in a footnote.

(d) 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.

[End of document]