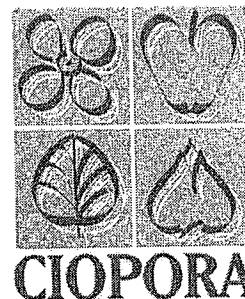


**Communauté Internationale des Obtenteurs de Plantes
Ornementales et fruitières de Reproduction Asexuée**



INTERNATIONAL UNION FOR THE PROTECTION OF
NEW VARIETIES OF PLANTS (UPOV)
Consultative Committee and COUNCIL

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Hamburg, 30 September 2009

**CIOPORA comments on the Draft Law No. 4013 on the Protection of New Varieties of
Plants of the Republic of Guatemala**

Dear members of the Consultative Committee and the Council,

CIOPORA appreciates it that the Republic of Guatemala has submitted a revised draft PBR law to UPOV that in its core is in compliance with the UPOV 1991 Act.

In regard to the Draft Law CIOPORA would like to point out the following:

1. In the definition of "breeder" in Article 3 of the English version it reads: "**Breeder.** A natural person or a legal entity who has bred, discovered and developed a variety". It is recommended to replace the comma between the words "bred" and "discovered" by the word "or". Otherwise one could get the impression that all three conditions must be fulfilled in order to be considered a breeder.
2. In Article 43, chapter 4, last sentence it reads: "This obligation shall also apply to varieties covered by the breeder's right under Article 15 of this Law." This sentence is not clear to us. The varieties, which are covered by the breeders' right under Article 15 are EDV, varieties which are not clearly distinguishable from the protected variety and varieties whose production requires the repeated use of the protected variety. Does the sentence mentioned before mean, that all these varieties have to use the denomination of the protected variety? This would not be correct, because at least EDV, which are in any case clearly distinguishable from the protected variety, must have their own denomination.
3. Articles 48 and 49 of the Draft Law contain provisions regarding civil and criminal measures. In order to entirely fulfill Article 31 (1) (i) of the UPOV 1991 Act, measures for customs controls are necessary, too, in order to enforce the exclusive right of the title holder to import and to export material of the protected variety. CIOPORA kindly asks the UPOV Council to assure itself whether such measures are provided for in Guatemala.

CIOPORA kindly asks the Consultative Committee and the Council to take note of its comments and to notify the government of the Republic of Guatemala accordingly.

Respectfully yours,

CIOPORA

A handwritten signature in dark ink, appearing to be 'E. Krieger', written over a light blue horizontal line.

Dr. Edgar Krieger
Secretary General