



CAJ/41/7

ORIGINAL: French

DATE: February 1, 2000

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Forty-First Session
Geneva, April 6, 2000

SIGNS WHICH MAY CONSTITUTE A VARIETY DENOMINATION

Document prepared by the Office of the Union

1. The Administrative Council of the Community Plant Variety Office (CPVO) is currently examining draft guidelines on variety denominations.
2. Under the draft, a denomination may take the form of a “fancy name” or of a “code”. A denomination would not be admissible in accordance with the following rules:
 - (a) In the case of a fancy name:
 - (i) if it consists of a single letter or of two letters;
 - (ii) if it contains a number, except where it is an integral part of the name (for example Henry VIII, Catch 22 or Friday the 13th) or if it indicates that the variety is part of a numbered series of biologically related varieties;
 - (iii) if it consists of an excessive number of words (mostly, if more than three);
 - (iv) if it consists of an excessively long word or contains such a word;
 - (v) if it contains a hyphen, a punctuation mark, a mixture of uppercase and lowercase, superscript or subscript elements, a symbol, etc.

(b) In the case of a code:

(i) if it is composed solely of figures, except where that is an established practice for designating varieties;

(ii) if it contains more than ten characters (letter or letters and figures);

(iii) if it contains more than four alternating “groups” of one or more letters and one or more figures (for example, 12AB34CD, 123ABC456 are acceptable, but 1A2B3 is not);

(iv) if it contains a hyphen, a punctuation mark, a mixture of uppercase and lowercase, superscript or subscript elements, a symbol, etc.

3. Moreover, the draft guidelines note that the prohibition on use of an element subject to a prior right concerns the prior rights of third parties. It concludes that there is no obstacle to using as a denomination or part of a denomination a trademark belonging to the (future) holder of the breeder’s right.

4. Under the UPOV Convention, “a variety must be submitted to all Contracting Parties under the same denomination”. The denomination that is first registered must also be registered by the other Contracting Parties, except if it is unsuitable. In view of the principle of a single variety denomination, the Committee may wish to comment on the rules proposed by the CPVO.

[End of document]