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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Forty-Sixth Session
Geneva, October 21 and 22, 2002

VARIETY DENOMINATIONS

Document prepared by the Office of the Union

1. At its forty-fourth session, the Administrative and Legal Committee (the Committee) agreed, on October 23, 2001, the terms of reference of an *Ad hoc* Working Group on Variety Denominations (the Working Group) to study the means to harmonize decisions on variety denominations among members of the Union (see document CAJ/44/3).
2. Several members and observers covering different regions and alphabets participate in the Working Group: Argentina, Belgium, Canada, Chile, China, Colombia, Croatia, France, Japan, New Zealand, Spain, as members of the Union, the Community Plant Variety Office (CPVO) and three non-governmental organizations, the International Seed Federation (ISF), the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Tree Varieties (CIOPORA), and the International Union of Biological Sciences Commission for the Nomenclature of Cultivated Plants (IUBS Commission), as observers.
3. The Working Group has held two meetings, on October 23, 2001 and on April 18, 2002. In preparation of the second meeting, the Office of the Union sent a Questionnaire intended to identify the key issues that needed to be explored by the Working Group. A discussion paper was prepared based on the replies to the Questionnaire (document WG -VD/02/1, which includes a copy of the Questionnaire, is available at the following electronic address: <http://www.upov.int/restrict/document.htm>, or can be sent by the Office of the Union, on request, in English only).

4. The Office of the Union received a large number of responses to the Questionnaire and detailed comments on the issues arising when considering decisions on variety denominations. As a summary, the general aspects which arose as a result of the responses were the need to: update UPOV Recommendations on Variety Denominations (document UPOV/INF/12 Rev.); acknowledge the 1991 Act of the UPOV Convention (hereinafter referred to as "the Convention"); provide a clear link between the recommendations and the relevant Articles of the Convention; eliminate inconsistencies between the Recommendations and the Convention; provide, as far as possible, explanatory notes for certain key elements in the Convention, which are not addressed in the current Recommendations; review if the classes of closely related species specified in document UPOV/INF/12 Rev. are still universally acceptable; consider how the effectiveness of the UPOV -ROM might be improved; and to provide a mechanism for revising Recommendations in response to ongoing developments.

5. In parallel to the activities of the UPOV Working Group, the CPVO and the IUBS Commission are also working on matters related to variety denominations. The Working Group has coordinated its efforts of harmonization with these two Organizations.

6. The work of the CPVO Variety Denominations Working Group is related to three main areas: Simplification of the CPVO Administrative Council Guidelines on Variety Denominations, coordination and harmonization of approaches and centralization of data in order to assist authorities during the decision making procedure. A representative of the Office of the Union has participated in an observer capacity in several meetings of the CPVO Working Group.

7. The IUBS Commission is responsible for the International Code of Nomenclature for Cultivated Plants (ICNCP) which aims to provide a stable method of naming taxonomic groups of cultivated plants, independently of their status as far as protection is concerned. The ICNCP provides for an international system of cultivar associations (70 members) who, via Cultivar Registration Authorities, are mandated by the ICNCP to record all variety denominations recorded by any UPOV member and to ensure that no variety denominations are in conflict with ICNCP rules. A draft for the next edition of the ICNCP is also under preparation and was submitted to the IUBS Commission at its meeting in August 2002. The Working Group had the opportunity to comment on the ICNCP draft.

8. At its second meeting, the Working Group decided on its work plan (see paragraph 13 of the draft report of the meeting WG -VD/02/2 Prov.) available at the following electronic address: <http://www.upov.int/restrict/document.htm>, or can be sent by the Office of the Union, on request, in English only). The status of the work plan is summarized below:

(a) The Office has drafted an updated version of UPOV/INF/12 Rev., in the form of "explanatory notes" clearly linked to the Convention. This utilizes the existing Recommendations as far as possible, but eliminates any inconsistencies with the Convention and, as appropriate, elaborates and clarifies to take into account responses received from the Questionnaire. In particular, it addresses the matters raised in paragraphs 3 to 13 of document WG-VD/02/01. This draft has been sent to the Working Group for discussion during its third meeting on October 21, 2002. A summary of the discussions concerning this first draft will be reported orally to the Committee during the current session.

(b) The Office has drafted a questionnaire for all members of the Union and other interested organizations, seeking information on how the effectiveness of the UPOV -ROM (or

similar web-based database) might be improved. It has also sought advice from members on how important and relevant they consider this mechanism to be for complying with Article 20(6) of the 1991 Act of the Convention. This draft questionnaire was sent to the members of the Working Group for comment. In August 2002, the final version of the questionnaire was sent to all members of the Union in order that the responses can be analyzed by the Working Group at its third meeting and its recommendations reported to the Committee during the current session (copy of the Questionnaire concerning the UPOV -ROM is available on request, in English, French, Spanish and German).

(c) The Office will draft a questionnaire for all members of the Union and other interested organizations, to seek advice on whether there is a need for a review of the classes of closely related species contained in Annex I of document UPOV/INF/12 Rev. and, if so, of the aspects which need to be considered. This draft questionnaire will be sent to the members of the Working Group for comment, with the aim of issuing a questionnaire for all members of the Union by December 2002.

9. On the question of whether to consider establishing a "standing" group for ongoing review of matters concerning variety denominations, it was agreed that these meetings should be held at the same time as the UPOV sessions; however, it was thought that on the revised draft of the document UPOV/INF/12 Rev., in the form of explanatory notes, was approved, the Working Group would only need to meet on an *ad hoc* basis.

10. The Committee is invited to note and comment the contents of this document.

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