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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**ADMINISTRATIVE AND LEGAL COMMITTEE**

**Forty-Seventh Session**  
**Geneva, April 10, 2003**

VARIETY DENOMINATIONS

*Document prepared by the Office of the Union*

1. The *Ad hoc* Working Group on Variety Denominations (hereinafter referred to as “the Working Group”) was established on October 23, 2001, to study the means to harmonize decisions on variety denominations among members of the Union (see document CAJ/44/3). Progress of the workplan of the Working Group since the forty-sixth session of the Administrative and Legal Committee (hereinafter referred to as “the CAJ”) is described below. The fourth meeting of the Working Group will take place in Geneva, on April 10, 2003.

Draft Explanatory Notes on Article 20 of the 1991 Act of the UPOV Convention Concerning Variety Denominations

2. At its third meeting, on October 21, 2002, the Working Group studied a document concerning a proposed draft “Explanatory Notes on Article 20 of the 1991 Act of the UPOV Convention Concerning Variety Denominations” (Document WG -VD/3/2) (hereinafter referred to as “the Draft Explanatory Notes”). A new document of the Draft Explanatory Notes (WG -VD/4/2), incorporating the comments of the Working Group, will be discussed at the fourth meeting of the Working Group.

3. One of the main objectives of the Draft Explanatory Notes is to assist in the implementation of the principle provided in Article 20(5) of the 1991 Act of the UPOV Convention, which establishes that, unless a proposed denomination is unsuitable in a

particular territory, the same denomination should be proposed and registered in all members of the Union (see paragraph 42 of document CAJ/46/8 Prov.).

4. Guidance on what to consider unsuitable and whether, in certain cases, different denominations will be necessary, is a matter which will be considered further in the discussions at the fourth meeting of the Working Group.

#### Matters for Further Consideration Arising from the Responses to the Questionnaire on Improving the Effectiveness of the UPOV -ROM

5. During the discussions of the Draft Explanatory Notes (WG/VD/4/2), the Working Group will further consider two matters that were identified in the replies to the questionnaire designed to investigate how the effectiveness of the UPOV -ROM could be improved (Circular U 3256 for authorities and Circular U 3257 for breeders and other subscribers). More precisely, the Working Group may consider whether the introduction of a unique variety identifier might offer a solution in those cases where it is necessary to have different variety denominations, in different territories, for the same variety. A "field" for this unique identifier might, for example, then be included in the UPOV -ROM, UPOV model application forms, etc.

6. The other matter that may be considered by the Working Group is the examination of the feasibility of the UPOV -ROM becoming one means by which authorities could comply with the requirement under Article 20(6) of the 1991 Act of the UPOV Convention, to inform other members of the Union of matters concerning variety denominations.

7. The two matters referred to in paragraphs 5 and 6, above, are further explained in paragraphs 13 to 20 of document TC/39/14-CAJ/47/5 entitled "Review of UPOV -ROM Plant Variety Database," which constitutes the basis for discussions under item 7 of the draft Agenda of the CAJ session in April 2003 (document CAJ/47/1).

#### Questionnaire on Recommendation 9 and the Corresponding List of Classes

8. At its second meeting, on April 18, 2002, the Working Group decided, as part of its work plan, that the Office of the Union should issue a questionnaire seeking advice on whether there was a need for a review of Recommendation 9 and the corresponding List of Classes for purposes of identifying what are considered to be "closely related species," contained in Annex I of document UPOV/INF/12 Rev. "UPOV Recommendations on Variety Denominations."

9. Of particular relevance for this exercise is the fourth sentence of Article 20(2) of the 1991 Act of the UPOV Convention (Article 13(2) of the 1978 Act) which states that the denomination must be different from every denomination which designates, in the territory of any member of the Union, an existing variety of the same plant species or of a "closely related species." The Convention does not provide for a definition of what should be considered "closely related species". Recommendation 9 and the List of Classes provide the available guidance in the interpretation of "closely related species" for variety denomination purposes.

10. A draft questionnaire was prepared by the Office of the Union and sent, on November 22, 2002, to the members and observers of the Working Group for comments. A final version of the questionnaire, including the suggestions of the Working Group, was sent to members of the Union and other interested organizations on January 16, 2003.

11. The questionnaire had two main objectives. The first objective was to identify the degree to which Recommendation 9 and the corresponding List of Classes is followed by members of the Union, and the second objective was to identify any particular problems concerning the general principle in Recommendation 9 or the List of Classes and, as a consequence, possible changes or improvements to them.

12. As of March 10, 2003, the Office of the Union has received replies to the questionnaire from 27 members of the Union, one observer State, one intergovernmental organization and one non-governmental organization (see the Annex to this document).

13. A summary of the responses to the questionnaire has been prepared by the Office of the Union and will be considered by the Working Group at its fourth meeting (document WG-VD/4/3). An oral report on this matter will then be made to the Committee at its forty-seventh session on April 10, 2003.

14. *The Committee is invited to note and comment on the contents of this document.*

[Annex follows]

ANNEX

LIST OF MEMBERS OF THE UNION AND OTHER AUTHORITIES  
WHICH RESPONDED TO THE QUESTIONNAIRE

Members of the Union:	Argentina Australia Belarus Belgium Brazil Canada China Croatia Czech Republic Denmark Estonia Finland France Germany Hungary Ireland Israel Japan Kyrgyz Republic Latvia Mexico Netherlands Poland Romania Russian Federation Spain Switzerland
Non-member of the Union:	Uzbekistan
Intergovernmental organization:	Community Plant Variety Office
Non-governmental organization:	International Seed Federation

[End of Annex and of document]