



Disclaimer: unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

This document has been scanned from a paper copy and may have some discrepancies from the original document.

Avertissement: sauf si le Conseil de l'UPOV en décide autrement, seuls les documents adoptés par le Conseil de l'UPOV n'ayant pas été remplacés peuvent représenter les principes ou les orientations de l'UPOV.

Ce document a été numérisé à partir d'une copie papier et peut contenir des différences avec le document original.

Allgemeiner Haftungsausschluß: Sofern nicht anders vom Rat der UPOV vereinbart, geben nur Dokumente, die vom Rat der UPOV angenommen und nicht ersetzt wurden, Grundsätze oder eine Anleitung der UPOV wieder.

Dieses Dokument wurde von einer Papierkopie gescannt und könnte Abweichungen vom Originaldokument aufweisen.

Descargo de responsabilidad: salvo que el Consejo de la UPOV decida de otro modo, solo se considerarán documentos de políticas u orientaciones de la UPOV los que hayan sido aprobados por el Consejo de la UPOV y no hayan sido reemplazados.

Este documento ha sido escaneado a partir de una copia en papel y puede que existan divergencias en relación con el documento original.



CAJ/27/5

ORIGINAL : German

DATE : June 20, 1990

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Twenty-seventh Session

Geneva, June 25 to 29, 1990

REVISION OF THE CONVENTION:

PROPOSAL BY THE DELEGATION OF THE FEDERAL REPUBLIC OF GERMANY

Document prepared by the Office of the Union

The Annex to this document contains a proposal submitted by the delegation of the Federal Republic of Germany, by letter dated June 19, 1990, with respect to the definition of "variety" (Article 1(vi) proposed in document CAJ/27/2).

[Annex follows]

ANNEX

ANNEXES TO THE LETTER, DATED JUNE 19, 1990,
FROM DR. H. HEINEN, MINISTRY OF FOOD, AGRICULTURE AND FORESTRY,
TO THE OFFICE OF THE UNION

"Variety" shall mean a set of botanical individuals which is characterized as follows, irrespective of whether the conditions for the grant of a plant breeder's right are fully met or not:

- The set can be defined as an entity on the basis of its genotype or its combination of genotypes which can be established on the basis of the expression of characters.
- The set can be delineated from other sets of the same botanical taxon on the basis of the said expressions of characters.
- The expressions of characters are inherited or can be reproduced through repeated use of its components.

Recognition of the existence of a variety shall not be denied on the ground that only a single plant, a plant part, or plant parts are used for its creation or exploitation, provided that a set as defined in the first sentence can be produced therefrom.

Explanations

The term "variety" is defined in this proposal solely by reference to biological considerations.

The elements for the recognition of the existence of a variety are described as follows:

The technical norms for the granting of a breeder's right need not be met. The set must nevertheless satisfy certain minimum requirements.

The expressions of characteristics that can be established must be controlled genetically and, where relevant, genetically definable. The individuals of the set must belong to the same genotype; alternatively, certain genotypes must be represented in the set in an unvariable combination. This is the minimum amount of homogeneity.

The set may not cover a whole botanical taxon but must be capable of delineation from other sets of the same botanical taxon. This is the minimum amount of distinctness.

The genetically controlled expressions of characteristics must be reproducible over successive generations either by inheritance or (as with hybrids) through repeated use of the components. This is the minimum amount of stability.

Insofar as a set which fulfills the above requirements can be produced from botanical material, the recognition of the existence of a variety is not hampered by the fact that this does not happen in practical breeding or exploitation, or does only happen in part, i.e. that, for example, there is only a single plant or a plant part (as in the case of discoveries) from which further similar plants can be produced (for example through cloning), or that only certain parts of plants are reproduced or otherwise exploited (as in the case of vine rootstocks and fruiting varieties).