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VARIETY DENOMINATIONS: THEIR TRANSLITERATION
AND TRANSLATION

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1. Article 20(1) of the 1991 Act of the Convention (substantially identical with Article 13(1) of the 1978 Act) provides in particular the following:

“(1) [*Designation of varieties by denominations; use of the denomination*] (a) The variety shall be designated by a denomination which will be its generic designation.”

2. The Office of the Union has been requested some months ago to give advice on the policy to be adopted, at both legislative and administrative level, by States which have two very different official languages and in particular use two different alphabets or even systems of writing, such as the Republic of Moldova (or the Chinese Special Administrative Region of Hong Kong).

3. The same issue arises more generally with the extension of UPOV towards new linguistic regions, in view of the provision set out in Article 20(5) of the 1991 Act of the Convention (or Article 13(5) of the 1978 Act):

“(5) [*Same denomination in all Contracting Parties*] A variety must be submitted to all Contracting Parties under the same denomination. The authority of each Contracting Party shall register the denomination so submitted, unless it considers the denomination unsuitable within its territory. In the latter case, it shall require the breeder to submit another denomination.”

4. The International Code of Nomenclature for Cultivated Plants published in 1980 provides the following in Article 32:

“When a cultivar name has to be rendered in another language, it is preferably left unchanged. It may, however, be transliterated or translated, in which case the transliteration or translation is regarded as the original name in a different form and its date is that of the original.”

5. The aforesaid Article establishes the same order of priority as Article 20(5) of the 1991 Act with respect to leaving the denomination unchanged or changing it. It is also clear that the transliteration of a denomination does not create a new denomination. On the other hand, a translation would not be permitted by the Convention, except where a member State would accept it in a particular case, when it considers “the [submitted] denomination unsuitable within its territory.”

6. For plurilingual States (and economic integration organizations), the options seem to be as follows:

(a) request, pursuant to the letter of the Convention, a single denomination, which will then have to be transcribed in the other alphabet or system of writing; or

(b) allow the simultaneous submission by the breeder—either at his discretion or in particular cases, in particular where the denomination has a pre-existing meaning—of two designations, one being the translation of the other; or even

(c) admit the possibility of submitting two unrelated denominations.

The last option would, however, go against the principle that the denomination should be unique in a member State and would not appear to be advisable for a plurilingual State (or organization).

7. It is to be noted that, in the case of a plurilingual State, the obligation to use the denomination in trade normally applies to both forms of the denomination where it is to be indicated in writing. The attention of the users is thus systematically drawn to the link between the two designations, which is not the case where the latter have been accepted in two different States.

8. The Committee may wish to give an advice on the policy that a plurilingual State using different alphabets or systems of writing should follow and, in particular, on the question whether translations should be accepted on a broad basis or only in particular cases, where the original denomination is unsuitable. Over and above this advice arises the question whether the UPOV Recommendations on Variety Denominations should not be amended in order to add a provision on the lines of the one quoted in paragraph 4, above.

9. *The Committee is invited to pronounce on the issues raised in this document.*

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