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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

ADMINISTRATIVE AND LEGAL COMMITTEE

**Seventy-Third Session
Geneva, October 25, 2016**

VARIETY DENOMINATIONS

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. The purpose of this document is to report on work concerning the possible development of a UPOV similarity search tool for variety denomination purposes and to consider the possible revision of document UPOV/INF/12 “Explanatory Notes on Variety Denominations under the UPOV Convention”.

2. The CAJ is invited to note:

(a) the work by the Working Group on Variety Denominations (WG-DEN) concerning the Revision of Document UPOV/INF/12 “Explanatory notes on Variety Denominations under the UPOV Convention”;

(b) that France, the Netherlands, New Zealand and the European Union provided comments concerning document UPOV/INF/12/6 Draft 1, and that those comments will be considered by the WG-DEN at its second meeting;

(c) the work by the WG-DEN concerning the possible development of a UPOV similarity search tool for variety denomination purposes; and

(d) the work by the WG-DEN concerning the expansion of the content of the PLUTO database.

3. The structure of this document is as follows:

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4. The following abbreviations are used in this document:

CAJ: Administrative and Legal Committee
CAJ-AG: Administrative and Legal Committee Advisory Group
WG-DEN: Working Group on Variety Denominations
WG-DST: Working Group for Variety Denomination Search Tools

PURPOSE

5. The purpose of this document is to report on work concerning the possible development of a UPOV similarity search tool for variety denomination purposes and the possible revision of document UPOV/INF/12 “Explanatory Notes on Variety Denominations under the UPOV Convention”.

REVISION OF DOCUMENT UPOV/INF/12 “EXPLANATORY NOTES ON VARIETY DENOMINATIONS UNDER THE UPOV CONVENTION”

Discussion at the CAJ

6. The background to this matter is provided in document CAJ/72/3 “Variety denominations”.

7. The CAJ, at its seventy-second session,¹ noted the work by the WG-DST concerning the possible development of a UPOV similarity search tool for variety denomination purposes.²

8. The CAJ, at its seventy-second session, noted the following elements from the oral report by the Vice Secretary-General on the third meeting of the WG-DST:^{3,4}

(a) Members of the Union had been invited, by means of a circular E-15/156 of August 19, 2015, to participate in the second step of the Test Study for the development of an effective denomination similarity search tool. The objective of the second step was to refine the algorithm that had been identified as the best algorithm in the first step of the Test Study. On the basis of the results of the second step, the Office of the Union would refine the algorithm during November/December 2015 and would customize the algorithm by December 2015. The revised algorithm would be reviewed by the WG-DST at its fourth meeting, to be held on February 4, 2016;

(b) With regard to non-acceptable terms, the WG-DST had proposed to consider botanical and common names as non-acceptable terms. In the case of common names, it had agreed that it would be necessary to restrict the common names, perhaps to those in the GENIE database and for selected crops/species only;

(c) With regard to comparatives/superlatives, the WG-DST had agreed to investigate the feasibility of including a list of comparatives/superlatives as non-acceptable terms. That possibility would be reviewed by the WG-DST at its fourth meeting;

(d) The WG-DST had concluded that it would not be feasible to address “established practice” with regard to the use of denominations consisting solely of figures and had noted that this was not a difficult matter for members of the Union to implement.

9. The CAJ, at its seventy-second session, agreed the following next steps for the revision of the “Explanatory Notes on Variety Denominations under the UPOV Convention”:⁵

(a) to expand the mandate and the composition of the WG-DST to prepare recommendations for the CAJ concerning the revision of document UPOV/INF/12 “Explanatory Notes on Variety Denominations under the UPOV Convention” (Working Group on Variety Denominations (WG-DEN));

¹ Held in Geneva, on March 26, 2015.

² See document [CAJ/72/9](#) “Report on the Conclusions”, paragraph 21.

³ Held in Geneva on October 2, 2015.

⁴ See document [CAJ/72/9](#) “Report on the Conclusions”, paragraph 22.

⁵ See document [CAJ/72/9](#) “Report on the Conclusions”, paragraph 23.

(b) the Office of the Union to issue a circular with a request to CAJ members and observers to participate in the WG-DEN and, if appropriate, to present proposals for revisions of document UPOV/INF/12, by January 20, 2016;

(c) the WG-DEN to meet during the week of the UPOV sessions in March 2016;

(d) the WG-DEN to take the proposals received in response to the circular in paragraph (b) above and the proposals in paragraphs 28 to 37 and 41 of document CAJ/72/3 in conjunction with the work on the development of an effective UPOV similarity search tool;

(e) the WG-DEN to consider proposals for the expansion of the content of PLUTO database to include all recognized varieties, including those that had not been, or were no longer, registered/protected (see document CAJ/72/6 “UPOV Information Databases”, paragraph 38).

Discussion at the WG-DEN, at its first meeting

10. The Office of the Union issued Circular E-15/276 “Working Group on Variety Denominations (WG-DEN)” including an invitation to submit comments on UPOV/INF/12/5 on December 3, 2015. In reply to Circular E-15/276, the Office of the Union received comments from the Community Plant Variety Office of the European Union (CPVO), New Zealand, and joint comments from the European Seed Association (ESA) and the International Seed Federation (ISF). The comments were included in document UPOV/INF/12/6 Draft 1 “Explanatory Notes on Variety Denominations under the UPOV Convention”.

11. The WG-DEN, at its first meeting,⁶ considered documents UPOV/WG-DEN/1/2 “Revision of Document UPOV/INF/12/5 ‘Explanatory Notes on Variety Denominations under the UPOV Convention’” and UPOV/INF/12/6 Draft 1 “Explanatory Notes on Variety Denominations under the UPOV Convention”.

12. The WG-DEN agreed to request the Office of the Union to prepare a new draft of document UPOV/INF/12 (document UPOV/INF/12/6 Draft 2), for consideration at its second meeting, reflecting the conclusions of the WG-DEN, at its first meeting, and the comments received in relation to the matters identified for further comments by the WG-DEN at its first meeting.⁷

13. The Office of the Union issued Circular E-16/088 to invite experts to provide information concerning the following matters, as provided in document UPOV/WG-DEN/1/6, by May 20, 2016:

- to provide examples for acceptable cases of variety denominations that consisted solely of descriptive terms;
- to submit examples of acceptable and unacceptable use of superlatives and comparatives;
- to provide examples and information on the use of prefixes to identify the breeder and issues that could arise;
- to make proposals concerning a possible revision of the variety denomination classes;
- to submit comments/proposals on Section 4(a), in relation to their practices concerning searches and measures concerning prior rights; and
- to provide information of cases in which the denomination accepted in the first application was not the denomination used by other authorities when a different denomination was accepted by a second authority.

14. The Office of the Union received comments from France, the Netherlands and New Zealand by May 20, 2016.

15. The comments submitted by France, the Netherlands and New Zealand will be considered at the WG-DEN, at its second meeting.

⁶ Held in Geneva, on March 18, 2016.

⁷ See document [UPOV/WG-DEN/1/6](#) “Report”, paragraph 49

16. *The CAJ is invited to note:*

(a) the work by the WG-DEN concerning the Revision of Document UPOV/INF/12 "Explanatory Notes on Variety Denominations under the UPOV Convention"; and

(b) that France, the Netherlands and New Zealand provided comments on document UPOV/INF/12/6 Draft 1 and that those comments will be considered by the WG-DEN at its second meeting.

POSSIBLE DEVELOPMENT OF A UPOV SIMILARITY SEARCH TOOL FOR VARIETY DENOMINATION PURPOSES

17. The background to this matter is provided in document CAJ/72/3 "Variety denominations".

Test Study

18. At its first meeting, the WG-DEN considered document UPOV/WG-DEN/1/3 "UPOV Denomination Similarity Search Tool".

19. The WG-DEN noted the developments in the WG-DST.

20. The WG-DEN noted that a web page to compare the search results of the refined algorithm and the existing search tools in the PLUTO database was planned to be created by the end of March 2016. A circular would be issued to the WG-DEN, inviting experts to evaluate the refined algorithm and to provide feedback by the end of June 2016.

21. The WG-DEN agreed that, at its second meeting, the WG-DEN should consider the results of the evaluation and feedback received and should consider whether it would be appropriate to seek expert customization of the refined algorithm to improve the performance.

22. The preparation of a web page to compare the search results of the refined algorithm and the existing search tools in the PLUTO database was delayed due to developments within WIPO.

23. The Office of the Union will prepare a circular to invite experts to evaluate the refined algorithm and to provide feedback, subject to developments in the WG-DEN concerning the revision of document UPOV/INF/12/5 "Explanatory Notes on Variety Denominations under the UPOV Convention".

Non-acceptable terms for variety denomination

24. At its first meeting, the WG-DEN considered document UPOV/WG-DEN/1/5 "Non-Acceptable Terms" and noted the developments reported in that document.

25. The WG-DEN agreed to defer consideration of a possible survey of members of the Union with regard to botanical and common names of genera that had a wider meaning until its second, or a subsequent, meeting.

26. The WG-DEN agreed to defer investigating a list of common comparatives/superlatives until its second, or a subsequent, meeting.

27. The CAJ is invited to note the work by the WG-DEN concerning the possible development of a UPOV similarity search tool for variety denomination purposes.

EXPANSION OF THE CONTENT OF THE PLUTO DATABASE

28. At its first meeting, the WG-DEN considered document UPOV/WG-DEN/1/4 "Expansion of the Content of the PLUTO Database".

29. The WG-DEN agreed to defer the consideration of the matters in document UPOV/WG-DEN/1/4 until its second, or a subsequent, meeting.

30. The CAJ is invited to note the work by the WG-DEN concerning the expansion of the content of the PLUTO database.

DATE AND PLACE OF THE NEXT MEETING

31. The WG-DEN, at its first meeting, agreed that the second meeting of the WG-DEN should be held in Geneva, in the evening of October 25, 2016.

32. The following program was agreed for the second meeting of the WG-DEN:

1. Opening of the session
2. Adoption of the agenda
3. Revision of document UPOV/INF/12/5 "Explanatory Notes on Variety Denominations under the UPOV Convention"
4. UPOV denomination similarity search tool
5. Expansion of the content of the PLUTO database
6. Non-acceptable terms
7. Date, place and program of the next meeting

33. The CAJ is invited to note the date and place of the next meeting.

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