

Administrative and Legal Committee

CAJ/78/4 Add.

**Seventy-Eighth Session
Geneva, October 27, 2021**

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ADDENDUM TO EXPLANATORY NOTES ON ESSENTIALLY DERIVED VARIETIES UNDER THE 1991 ACT OF THE UPOV CONVENTION

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EXECUTIVE SUMMARY

1. The purpose of this addendum is to present the recommendations of the Working Group on Essentially Derived Varieties (WG-EDV), at its fourth meeting, held via electronic means on October 19, 2021, with regard to document UPOV/EXN/EDV/3 Draft 2, as announced in document CAJ/78/4 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention”, paragraphs 17 to 19(b).

RECOMMENDATIONS FROM THE WG-EDV TO THE CAJ

2. The WG-EDV, at its fourth meeting, agreed the following changes to the text of document UPOV/EXN/EDV/3 Draft 2 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)”:

Document UPOV/EXN/EDV/3 Draft 2	Changes agreed by the WG-EDV at its fourth meeting
Paragraph 7	“An essential characteristic is a characteristic that results from the expression of one or more genes or other heritable determinants <u>the genotype</u> and includes, but is not limited to, morphological, physiological, agronomic, industrial (e.g. oil characteristics) and/or biochemical characteristics.”
Paragraph 8	“An ‘essential characteristic’ is a characteristic that is essential <u>fundamental</u> for the variety as a whole. It should contribute to the principal features, performance or value for use of the variety and be relevant for one the following: the producer, seller, supplier, buyer, recipient, user of the propagating material and/or of the harvested material and/or of the directly obtained products and/or the value chain.”
Paragraph 11	“ A predominantly <u>An essentially</u> derived variety typically retains the expression of essential characteristics of the variety from which it is derived, except for those differences resulting from act(s) of derivation, which may also include differences in essential characteristics.”
Figures 2, 3, 4, 5, box 3:	“- predominantly derived from A <u>‘or B’</u> ”
Figures 2, 3, 4, 5, box 6:	“- predominantly derived from A <u>‘or Z-1’</u> ”

3. The WG-EDV recommended that the CAJ, at its seventy-eighth session, to be held on October 27, 2021, consider document UPOV/EXN/EDV/3 Draft 2 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)”, in conjunction with the changes agreed by the WG-EDV, as presented in paragraph 2 and the following comments:

(a) the WG-EDV noted the comments made by the Delegation of Spain in relation to document UPOV/EXN/EDV/3 Draft 2 and agreed it would be important for members of the WG-EDV to take the opportunity to discuss those comments with the Delegation of Spain prior to the CAJ; and

(b) the representative of the Association for Plant Breeding for the Benefit of Society (APBREBES) did not agree with the text of Section II and the inclusion of Section III in document UPOV/EXN/EDV/3 Draft 2, as explained in the comments of APBREBES, in document UPOV/WG-EDV/4/2, Annex, Appendix IV (see at https://www.upov.int/edocs/mdocs/upov/en/wg_edv_4/upov_wg_edv_4_2.pdf).

4. The CAJ is invited to consider document UPOV/EXN/EDV/3 Draft 2 “Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention (Revision)”, in conjunction with the recommendation by the WG-EDV, at its fourth meeting, held on October 19, 2021, as presented in paragraph 3 of this document.

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