

Update on the EDV Concept by the Seed Industry

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Lorelei Ana Garagancea

IP & Legal Affairs Manager, International Seed Federation



Essentially Derived Varieties - Overview

- *In technical terms:*
 - **Mono-parental** varieties (*per se* predominantly derived from their IV) resulting from e.g.,:
 - Mutations (induced or spontaneous)
 - Genetic modification induced via breeding approaches and technologies (old and new)
 - **Multi-parental** varieties (e.g., repeated back-crossing)
- *In practical terms:*
 - The EDV concept clarifies the scope of protection of the original breeder's innovation during the term of protection of the initial variety from which the EDV was created



Overview of Actions by the Seed Industry

- Supporting & furthering the improved UPOV EXN (2023) – work on scope and predictable implementation:
 - Revised **ISF position paper on intellectual property** achieving an updated EDV concept compared to the previous ISF position and in line with the current EXN
 - **Arbitration process** feasible across the industry
 - Alignment within the industry on **practical examples**
 - Partnering with stakeholders to implement predictable, transparent, flexible interpretation of the EDV concept



Guidelines with Thresholds for Genetic Similarity

- Useful for EDVs assessment
 - Tool to reverse the burden of proof – not set figures
 - Streamline dispute resolution process
 - Create predictability across the industry for a given crop
- See certain ISF's crop-specific guidelines (including thresholds) to help in assessing the genetic distance between varieties



ISF's Revised EDV Concept



- ISF revised the scope of the EDV concept in its IP position paper, resulting in an updated concept:

In relation to Essentially Derived Varieties (EDV), pages 21 to 26 of the ISF View on Intellectual Property have been revised to read as follows:

1.4.3 ISF interpretation on essential derivation

1.4.3.1 The technical aspect: the derivation

c. Conformity to the initial variety

The degree of conformity of a putative EDV to the initial variety should be assessed on the basis of the expression of the essential characteristics which result from the genotype of the initial variety, except from the differences which result from the act(s) of derivation.

According to ISF the number of differences between an EDV and its initial variety is not limited to one or very few differences. Instead, it rather depends on how those differences have been obtained.



ISF's Revised EDV Concept

- No longer limited to a few differences in order for the variety to be considered an EDV.
- It is recognized that a single act of derivation can lead to an EDV, despite differences in multiple characteristics.
- It reflects that the EDV concept is technology agnostic. A range of existing or future methods could be used to obtain an EDV.



ISF's Revised EDV Concept - Impact



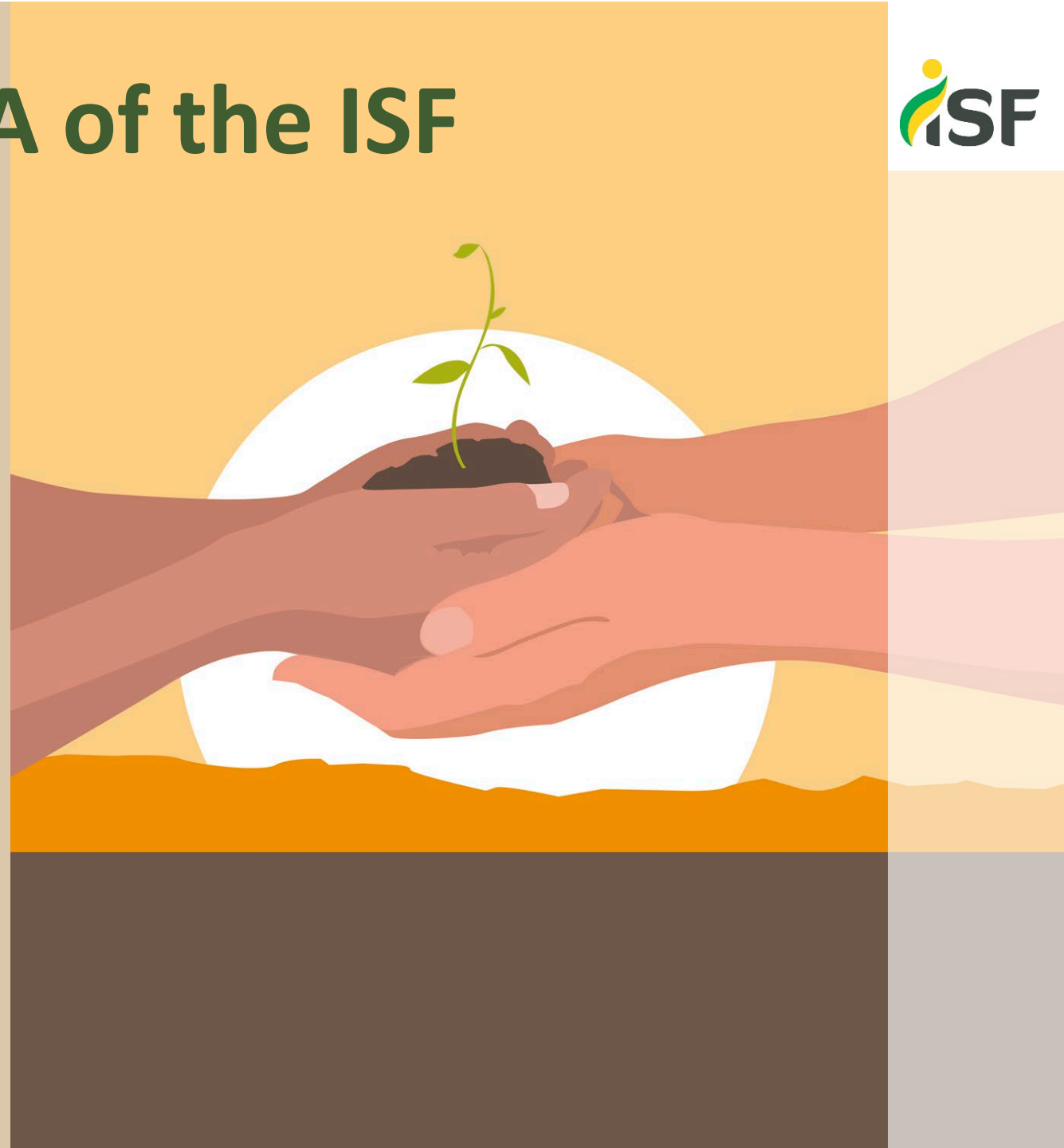
- Creates a **common understanding** about the EDV concept.
- **Levels the playing field** between types of breeding.
- It is a **driver for innovation**.



Signature by CIOPORA of the ISF Arbitration Rules

Following the revision of the ISF EDV position, CIOPORA intends to sign the ISF **Arbitration rules**. Further work is ongoing in this regard.

This allows the industry to bring **predictability in EDV dispute resolution** in the future.



Industry Alignment on Practical Examples

To interpret and apply the notion in a **clear, transparent and predictable** manner across jurisdictions and breeding methods employed, work is currently ongoing to align across the seed industry on what practical activities would fall under the EDV concept.

Necessity:

- As EDV status is a matter under the responsibility of breeders
- To level the playing field and avoid confusion



Other Seed Sector Efforts

Other regional activities are underway in consideration of the updated EXN:

- Americas: continued discussions on industry-driven EDV thresholds in a pilot crop (e.g., soybean)
- Asia: Regional consultations on intellectual property
- Europe: Euroseeds has revised its intellectual property position to update the EDV concept





Final thoughts

- An EDV can be a true improvement over the existing variety, but **a deliberate choice** was made to predominantly use the initial variety
 - Therefore, the EDV concept serves to ensure a fair return on investment to the breeder of the initial variety.
 - The EDV breeder contributes a portion of its revenue to the holder of the initial variety (as mutually agreed)
- The new EXN has been a very positive development and implemented within ISF.



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