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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE**Eleventh Session****Geneva, April 26 and 27, 1983**

MINIMUM DISTANCES BETWEEN VARIETIES

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LEGAL ASPECTS
(JAPAN)Note prepared by the Office of the Union

1. The Office of the Union received observations of the Seeds and Seedlings Division of the Japanese Ministry for Agriculture, Forestry and Fisheries to the questionnaire contained in the Annex to Circular No. U 771-08.1.
2. The observations are reproduced in the Annex to this document.

[Annex follows]

OBSERVATIONS OF THE DELEGATION OF JAPAN

LETTER OF MR. YOSHIMURA TO THE VICE-SECRETARY GENERAL OF UPOV
DATED MARCH 30, 1983

Ministry of Agriculture, Forestry and Fisheries

Japanese Government

Replies to questionnaire prepared by the office of the Union

I. Distinctness

1. It belongs to the variety the subject of an application for protection.
2. The "other variety" can be a plant population which is so homogeneous that it is distributed in commercial market.
3. A description by the breeder is not sufficient.
The description must be checked by a plant variety protection authority.
In the case of a hybrid variety, it is sufficient to indicate the formula if the parent lines are a matter of common knowledge.
4. (a) It is desirable to establish common rules.

(b) (i) It is not desirable to consider characteristics that are not "capable of precise recognition" without means that are not normally available to breeders.

(ii) It should not be considered.

(c) The effect of taking a new characteristics to rights already granted must be considered before taking into account a new characteristic.
As to the criteria in such a case, we need further consideration.

II. Novelty

1. It is detrimental to novelty.
In this case a parallel breeder's agreement must have been given.
2. It is detrimental to novelty when the difference between the variety under application and "quasi variety" is only of homogeneity.
3. It is not detrimental to novelty of the parent lines.

III. Scope of protection

- (a) No.

Ministry of Agriculture, Forestry and Fisheries
Japanese Government

- (b) Yes.
- (c) Yes.
- (d) No.

Explanatory notes

In respect of your questionnaire, there are no case-law or official decisions or other publications of authority competent for plant variety matters.

Above answers are the views of our office at present.

We would like to continue to discuss this matter based on the discussions of Administrative and Legal Committee.

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