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CAJ/XII/ 2

ORIGINAL: French

DATE: August 17, 1983

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Twelfth Session

Geneva, November 7 and 8, 1983

LEGAL ASPECTS OF THE
PROBLEM OF MINIMUM DISTANCES BETWEEN VARIETIES

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COMMENTS BY THE DELEGATION OF FRANCE

Document prepared by the Office of the Union

The annex to this document contains a letter, dated July 8, 1983, from Mr. M. Simon, Secretary General of the Committee for the Protection of New Plant Varieties of France, addressed to the Vice Secretary-General. This letter contains a comment relating to item I.3 of the annex to document CAJ/XI/12.

[Annex follows]

LETTER, DATED JULY 8, 1983, FROM Mr. M. SIMON,
SECRETARY GENERAL OF THE COMMITTEE FOR THE PROTECTION
OF NEW PLANT VARIETIES OF FRANCE, TO THE VICE SECRETARY-GENERAL

Subject: Minimum distances between varieties, legal aspects, document
CAJ/XI/12
Conclusions drawn by the Administrative and Legal Committee at its
eleventh session.

The reply to the question "chapter on distinctness, question 3" contains the following sentence: "A breeder's description published or handed to the plant variety protection office or a statement of the formula for a hybrid are not sufficient to make the existence of the variety in question a matter of common knowledge."

This wording assimilates a variety description published by a breeder to a variety description submitted to a plant variety protection office.

This assimilation would seem rather exaggerated.

Indeed, it is conceivable that a national plant variety protection office --holding a variety description sheet or the formula for a hybrid variety, both of which filed officially by a breeder--might therefore deem, particularly if a sample has been supplied, that the variety covered by these filings is a matter of common knowledge.

It would seem to me necessary that the reply to be given to this question be examined once more in order to avoid this pitfall.

[End of document]