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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

**DIPLOMATIC CONFERENCE
ON THE REVISION OF THE INTERNATIONAL CONVENTION
FOR THE PROTECTION OF NEW VARIETIES OF PLANTS****Geneva, October 9 to 23, 1978**

PROPOSAL FOR THE AMENDMENT OF ARTICLE 13

submitted by the Delegation of the United States of AmericaVariety Denomination

- (1) A variety shall be designated by a denomination.
- (2) Such denomination must enable the variety to be identified. It must not be liable to mislead or cause confusion as to the characteristics, value, or identity of the variety or the identity of the breeder. In particular, it must differ, in a way that avoids confusion on the part of the public, from every denomination which designates an existing variety in any member State of the Union.
- (3) The denomination of the variety shall be submitted by the breeder to the authority referred to in Article 30. If it is found that such denomination does not satisfy the requirements of the preceding paragraph, the authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered at the same time as the title of protection is issued in accordance with the provisions of Article 7.
- (4) (a) If a breeder submits in a member State of the Union a denomination for a variety in which he enjoys a right that could hamper the free use of the denomination, he may not, as from the time the variety denomination is registered, continue to assert his right against the free use of the denomination in that State.

(b) Each member State shall provide measures to assure that the prior rights of others are not affected by the registration of a variety denomination under this Article. If it is established that such registration would affect such a prior right, the competent authority shall require the breeder to submit another denomination for that variety.
- (5) The breeder shall submit the same denomination for registration in all member States of the Union in which he seeks protection provided that, if the competent authority of any such State finds that the denomination does not meet the requirements specified in paragraph (2), or that it is unsuitable, or that its use would be unlawful in that State, such authority shall require the applicant to submit for the purposes of that State a different denomination acceptable for registration.
- (6) The member States of the Union are encouraged to take measures for assuring that the competent authorities of the member States are informed of matters concerning variety denominations.

(7) Each member State shall endeavor to assure to the extent needed, by means of consumer protection, unfair competition, marketing, or other laws or regulations, that persons offering for sale or marketing protected or previously protected reproductive or vegetative propagating material in a member State of the Union shall be obliged to use the registered denomination of that variety, insofar as the prior rights of others do not prevent such use.

(8) When the variety is offered for sale or marketed, it shall be permitted to associate a trademark, tradename or other proprietary indication with a registered variety denomination.

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