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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

**TECHNICAL WORKING PARTY
FOR
AGRICULTURAL CROPS**

**Thirty-Third Session
Poznań, Poland, June 28 to July 2, 2004**

VARIETY DENOMINATION CLASSES

Document prepared by the Office of the Union

1. The UPOV recommendations concerning variety denominations are set out in document UPOV/INF/12 Rev. "UPOV Recommendations on Variety Denominations," which is reproduced as Annex I to this document. However, the Administrative and Legal Committee (CAJ) has established the Working Group on Variety Denominations (WG-VD) to review these recommendations. The purpose of this document is to explain the considerations taking place with regard to Recommendation 9 of document UPOV/INF/12 Rev., which establishes classes for taxonomic units which are considered to be closely related, and the corresponding list of classes.

Recommendation 9 (closely related taxonomic units)

2. Recommendation 9 states that:

"For the purposes of the fourth sentence of Article 13(2) of the Convention, all taxonomic units are considered closely related that belong to the same botanical genus or are contained in the same class in the list in Annex I to these Recommendations."

(Annex I to document UPOV/INF/12 Rev. is reproduced as Annex II to this document.)

3. The WG-VD has noted that the current wording of Recommendation 9 applies to the 1978 Act of the UPOV Convention and will need to be revised to apply also to the 1991 Act

of the Convention. As a part of the initiative to develop “explanatory notes” on certain articles of the 1991 Act of the UPOV Convention, the WG-VD is considering the following explanatory note concerning Article 20(2)¹ of the 1991 Act of the Convention to replace Recommendation 9 of document UPOV/INF/12 Rev.:

“1. For the purposes of Article 20(2) of the 1991 Act of the UPOV Convention, and subject to points (2) and (3), the general recommendation is that all plant species that belong to a different genus are considered not to be closely related and are not liable to mislead or to cause confusion concerning the identity of the variety.

“2. In addition to 1, plant species, which are in different classes in Part I of the List of Classes, notwithstanding the fact that they may belong to the same genus, are considered not to be closely related and are not liable to mislead or to cause confusion concerning the identity of the variety.

“3. As an exception to 1, above, plant species that belong to any of the genera in the same class in Part II of the List of Classes, are considered to be closely related and/or are liable to mislead or cause confusion concerning the identity of the variety.”

Variety Denomination Classes

4. At its sixth meeting held in Geneva on April 1, 2004, the WG-VD reached a consensus that, unless there were clear reasons to the contrary, classes should be deleted in order to apply the general principle (see point 1 in paragraph 3). The WG-VD also considered that certain proposals for revision of the List of Classes would require further consultation or coordination with relevant parties, including the relevant Technical Working Parties (TWPs).

5. Annex III to this document summarizes the possible changes to the list of classes proposed by the WG-VD and indicates where comments from the TWPs are particularly invited. The comments from the TWPs will be reflected in the next draft of the list of classes, which will be considered by the WG-VD at its seventh meeting, to be held in Geneva in October 2004. It is anticipated that, at its seventh session, the WG-VD will finalize a proposal concerning the list of classes for consideration by the CAJ at its fifty-first session in April 2005.

¹ Article 20(2) states that “The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in the territory of any Contracting Party, an existing variety of the same plant species or of a closely related species.”

6. At its thirty-eighth session held in Seoul, Republic of Korea, from June 7 to 11, 2004, the TWV considered the classes presented in Annex III to this document and made the following proposals:

Classes	TWV Comments
3	To delete Class 3
5, 6, 28	To create 3 Classes: Class (a): Brassica oleracea Class (b): Brassica rapa (B. campestris): Chinensis group and the Pekinensis group only Class (c): other Brassica
9, 30	To delete Classes 9 and 30
10, 11, 31	To retain Classes 10, 11 and 31
12	To delete Valerianella from Class 12
13	To create 3 Classes: Class (a): Cucumis sativus Class (b): Cucumis melo Class (c): other Cucumis
14	To delete Class 14
15	To delete Class 15
16	To delete Class 16
17	To delete Class 17
23, 24	To merge Classes 23 and 24, pending ISF comments
35	To retain Class 35

Proposals	TWV Comments
C, D	Not to create a Class for Allium porrum and a Class for species other than Allium porrum
G, H	Not to create a Class for Raphanus sativus L. var. oleiformis and a Class for species other than Raphanus sativus L. var. oleiformis

7. *The TWA is invited to:*

(a) note the developments in the WG-VD concerning recommendations on variety denominations; and

(b) to comment on the proposals in Annex III of this document and those made by the TWV (see paragraph 6) concerning classes 1–11, 21–24, 28–35 and proposals B, G, H.

[Annex I follows]

UPOV RECOMMENDATIONS ON VARIETY DENOMINATIONS

The Council of the international Union for the Protection of New Varieties of Plants (UPOV) refers to Articles 6(1)(e) and 13 of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978, and in particular to the fact that, according to that Convention, a variety must be given a denomination destined to be its generic designation before a title of protection can be issued in respect of it.

The Council points out that, according to Article 13, a variety denomination must be suitable as a generic designation and must enable the variety to be identified; it must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder.

The Council emphasizes that the main purpose of the rules laid down in Article 13 is to ensure that, as far as possible, protected varieties are designated in all member States by the same variety denomination, that the approved variety denominations establish themselves as the generic designations and that they are used in the marketing of reproductive or propagating material, even after the expiration of protection.

The Council considers that such an aim can only be achieved if the broadly worded provisions on variety denominations in Article 13 are uniformly interpreted and applied by the member States, and that the adoption of appropriate recommendations is therefore advisable.

The Council also considers that the adoption of such recommendations for the uniform interpretation and application of the provisions of Article 13 would be of assistance not only to the authorities of member States but also to breeders having to select variety denominations.

The Council, having regard to Article 21(h) of the Convention, under which it has the task of taking all necessary decisions to ensure the efficient functioning of the Union, and in the light of the experience acquired by member States in connection with variety denominations, recommends that the authorities of member States,

- (i) base their decisions on the suitability of proposed variety denominations on the recommendations set out in Part I below,
- (ii) take into account, when assessing such suitability, the recommendations, on the exchange of information and on procedure set out in Part II below,
- (iii) give comprehensive information on the recommendations to the breeders so that they can take them into account when selecting variety denominations.

PART I

SUITABILITY OF PROPOSED VARIETY DENOMINATIONS

Recommendation 1

Designations that do not show clearly enough their status of variety denomination are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with designations that are identical or may be confused with other indications, in particular those that are commonly used in trade.

Recommendation 2

(1) Designations that the average user cannot recognize or reproduce in speech and/or writing are not suitable as generic designations and thus also as variety denominations.

(2) In the case of varieties whose propagating material is exclusively marketed within a limited circle of specialists, as in the case of parent varieties for the production of hybrids, the average user should be taken to mean the average specialist in that circle.

Recommendation 3

Designations whose use is to remain free are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with designations which consist exclusively or predominantly of terms in everyday language whose recognition as variety denominations would prevent others from using them when marketing reproductive or propagating material of other varieties.

Recommendation 4

Designations whose use may be forbidden in the marketing of propagating material of the variety are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with:

(i) designations in which the applicant himself has some other right (for instance a right in the name or a trademark) which he could assert under the legislation of the member State concerned to oppose use of the registered variety denomination, either at any time or at least after the expiration of protection;

(ii) designations in which third parties have asserted a prior right;

(iii) designations that are contrary to public policy in the member State concerned.

Recommendation 5

Names and abbreviations of international organizations which are excluded by international conventions from use as trademarks or parts of trademarks are not suitable as generic designations and thus also as variety denominations.

Recommendation 6

A designation is not suitable as variety denomination on the ground of liability to mislead if there is a risk of it giving rise to misconceptions concerning the characteristics or value of the variety. This may be the case in particular with:

(i) designations that convey the impression that the variety has particular characteristics which in reality it does not have;

(ii) designations that refer to specific characteristics of the variety in such a way that the impression is created that only the variety possesses them, whereas in fact other varieties of the species in question also have or may have the same characteristics;

(iii) comparative and superlative designations;

(iv) designations that convey the impression that the variety is derived from or related to another variety when that is not in fact the case.

Recommendation 7

A designation is not suitable as variety denomination on the ground of liability to mislead if there is a risk of it giving rise to misconceptions concerning the identity of the breeder.

Recommendation 8

(1) A designation is liable to cause confusion and/or to mislead, and therefore is not suitable, if it is identical or similar to a designation under which a variety of the same or a closely related botanical species has been made known or officially registered or under which reproductive or propagating material of that variety has been marketed.

(2) Paragraph (1) is not to be applied where the variety made known or registered earlier or already marketed is no longer cultivated and its denomination has not acquired any particular importance, except where special circumstances nevertheless might make it liable to mislead.

Recommendation 9

For the purposes of the fourth sentence of Article 13(2) of the Convention, all taxonomic units are considered closely related that belong to the same botanical genus or are contained in the same class in the list in [Annex I](#) to these Recommendations.

PART II
PROCEDURE

Recommendation 10

(1) When rendering its decision on the suitability of a variety denomination, the authority referred to in Article 30(1)(b) of the Convention (hereinafter referred to as "the authority") should take into account all observations made by the authorities of other member States.

(2) The authorities should accept as far as possible a variety denomination established in another member State even if they have objections to it.

Recommendation 11

(1) The information exchanged between the authorities of member States on variety denominations and the communication of observations on proposed variety denominations, required in Article 13(6) of the UPOV Convention, should be effected by the exchange of the official gazettes published by the member States in accordance with Article 30(1)(c) of the UPOV Convention. The layout of those official gazettes should be based on the UPOV Model Plant Breeders' Rights Gazette (document UPOV/INF/5) and on any other recommendations made by UPOV; in particular, the chapters containing information on variety denominations should be appropriately identified in the table of contents.

(2) Each authority should send a mutually agreed number of copies of each issue of its official gazette immediately on publication to the authorities of the other member States.

Recommendation 12

(1) Each authority should examine the filed variety denominations published in the official gazettes of the other member States. If it finds a variety denomination to be unsuitable, it should proceed as follows:

(i) As soon as possible, but not later than three months after publication of the issue concerned, it should communicate its observations, together with its reasons, to the authority that has published the variety denomination, on the form reproduced in Annex II to these Recommendations. (In some countries, the statutory period for filing comments on a proposed denomination may be less than three months, after which time comments may no longer be acceptable for consideration.)

(ii) A copy of the above-mentioned communication should be sent at the same time to the authorities of the other member States.

(2) The authority that has published the filed denomination should immediately examine the observations communicated by the authorities of the other member States and should proceed as follows:

(i) If the observations refer to an obstacle to approval that according to the Convention applies to all member States, the authority should accept the observations in case of doubt and should reject the filed denomination. If it does not share the misgivings of the other authority, it should inform that other authority accordingly and should give its reasons. As far as possible the offices concerned should endeavor to reach agreement.

(ii) If the observation refers to a circumstance that is an obstacle to approval only in the member State whose authority has transmitted the observation, but not in the member State whose authority has published the filed denomination (e.g. the denomination is identical with someone else's trademark in the former State only), the latter authority, depending on the circumstances of the case, either should reject the filed denomination or should inform the applicant accordingly, requesting him to file another variety denomination if it is envisaged that protection will be applied for in the member State whose authority has transmitted the observation or if it can be expected that reproductive or propagating material of the variety will be marketed in that same State. If this procedure does not result in the filing of another variety denomination, no communication need be addressed to the authority that has transmitted the observation.

[Annex II follows]

LIST OF CLASSES FOR VARIETY DENOMINATION PURPOSES

As amended by the Council at its twenty-fifth ordinary session, on October 25, 1991. /
Telle que modifiée par le Conseil à sa vingt-cinquième session ordinaire, le 25 octobre 1991. /
In der vom Rat auf seiner fünfundzwanzigsten ordentlichen Tagung am 25. Oktober 1991
geänderten Fassung.

[Recommendation 9]

For the purposes of the fourth sentence of Article 13(2) of the Convention, all taxonomic units are considered closely related that belong to the same botanical genus or are contained in the same class in the list in Annex I to these Recommendations.]

Note: Classes which contain subdivisions of a genus may lead to the existence of a complementary class containing the other subdivisions of the genus concerned (example: Class 9 (*Vicia faba*) leads to the existence of another class containing the other species of the genus *Vicia*).

Class 1: *Avena*, *Hordeum*, *Secale*, *Triticale*, *Triticum*

Class 2: *Panicum*, *Setaria*

Class 3: *Sorghum*, *Zea*

Class 4: *Agrostis*, *Alopecurus*, *Arrhenatherum*, *Bromus*, *Cynosurus*, *Dactylis*, *Festuca*, *Lolium*, *Phalaris*, *Phleum*, *Poa*, *Trisetum*

Class 5: *Brassica oleracea*, *Brassica chinensis*, *Brassica pekinensis*

Class 6: *Brassica napus*, *B. campestris*, *B. rapa*, *B. juncea*, *B. nigra*, *Sinapis*

Class 7: *Lotus*, *Medicago*, *Ornithopus*, *Onobrychis*, *Trifolium*

Class 8: *Lupinus albus* L., *L. angustifolius* L., *L. luteus* L.

Class 9: *Vicia faba* L.

Class 10: *Beta vulgaris* L. var. *alba* DC., *Beta vulgaris* L. var. *altissima*

Class 11: *Beta vulgaris* ssp. *vulgaris* var. *conditiva* Alef. (syn.: *Beta vulgaris* L. var. *rubra* L.), *Beta vulgaris* L. var. *ciela* L., *Beta vulgaris* L. ssp. *vulgaris* var. *vulgaris*

Class 12: *Lactuca*, *Valerianella*, *Cichorium*

Class 13: *Cucumis sativus*

Class 14: *Citrullus*, *Cucumis melo*, *Cucurbita*

Class 15: Anthriscus, Petroselinum

Class 16: Daucus, Pastinaca

Class 17: Anethum, Carum, Foeniculum

Class 18: Bromeliaceae

Class 19: Picea, Abies, Pseudotsuga, Pinus, Larix

Class 20: Calluna, Erica

Class 21: Solanum tuberosum L.

Class 22: Nicotiana rustica L., N. tabacum L.

Class 23: Helianthus tuberosus

Class 24: Helianthus annuus

Class 25: Orchidaceae

Class 26: Epiphyllum, Rhipsalidopsis, Schlumbergera, Zygocactus

Class 27: Proteaceae

COMPLEMENTARY CLASSES

Class 28: Species of Brassica other than
(in Class 5 + 6) Brassica oleracea, Brassica chinensis, Brassica pekinensis + Brassica napus,
B. campestris, B. rapa, B. juncea, B. nigra, Sinapis

Class 29: Species of Lupinus other than
(in Class 8) Lupinus albus L., L. angustifolius L., L. luteus L.

Class 30: Species of Vicia other than
(in Class 9) Vicia faba L.

Class 31: Species of Beta + subdivisions of the species Beta vulgaris other than
(in Class 10 +11) Beta vulgaris L. var. alba DC., Beta vulgaris L. var. altissima + Beta
vulgaris ssp. vulgaris var. conditiva Alef. (syn.: Beta vulgaris L. var. rubra L.), Beta vulgaris
L. var. cicla L., Beta vulgaris L. ssp. vulgaris var. vulgaris

Class 32: Species of Cucumis other than
(in Class 13 + 14) Cucumis sativus + Citrullus, Cucumis melo, Cucurbita

Class 33: Species of Solanum other than
(in Class 21) Solanum tuberosum L.

Class 34: Species of *Nicotiana* other than
(in Class 22) *Nicotiana rustica* L., *N. tabacum* L.

Class 35: Species of *Helianthus* other than
(in Class 23 + 24) *Helianthus tuberosus* + *Helianthus annuus*

[Annex III follows]

* The complementary classes have been added by the Office of the Union for the convenience of the reader and are given the numbers 28 to 35.

WG-VD PROPOSALS CONCERNING THE REVISION
OF THE LIST OF CLASSES

To facilitate comments, the proposals are presented in boxes. Each box contains, at the top, a shaded part with the existing class, followed by the proposals of the WG-VD at its sixth meeting. Relevant comments by the Office of the Union concerning possible consequences of those proposals are also contained in the box. New proposals, which do not correspond to the existing classes, are included at the end of the document. If applicable, additional information concerning the reasoning behind those proposals appears under the title “reasons” preceded by the ISO country code¹ of the authority, or abbreviation of the organization that has made the proposal.

Class 1: Avena, Hordeum, Secale, Triticale, Triticum

WG-VD Proposal: Reduction of class 1 to: Secale, Triticale, Triticum

Comments: Effect would be to delete Avena and Hordeum from Class 1. The general recommendation applies to Avena and Hordeum.

Class 2: Panicum, Setaria

WG-VD Proposal: no change

Class 3: Sorghum, Zea

WG-VD Proposal: Delete this class

Comments: general recommendation to apply to Sorghum and Zea.

Class 4: Agrostis, Alopecurus, Arrhenatherum, Bromus, Cynosurus, Dactylis, Festuca, Lolium, Phalaris, Phleum, Poa, Trisetum

WG-VD Proposal:

Retain: Agrostis, Dactylis, Festuca, Lolium, Phalaris, Phleum and Poa on the basis that these genera can all be included in the same mixture.

Add 1: Festulolium

Add 2: Deschampsia and Kolleria subject to ISF information (see comments)

Delete Alopecurus, Arrhenatherum, Bromus, Cynosurus, Trisetum.

Comments: In relation to Deschampsia and Kolleria, ISF will obtain further information from grass breeders as to whether these would be included in mixtures containing genera in class 4. If so, they will be added to class 4. General recommendation to apply to deleted genera.

Class 5: Brassica oleracea, Brassica chinensis, Brassica pekinensis

WG-VD Proposal:

Revision of Classes 5 and 6 concerning Brassica in order to create 3 Classes:

Class (a): Brassica oleracea

Class (b): Brassica rapa (B. campestris): Chinensis group and the Pekinensis group only

Class (c): other Brassica

Comments: ISF will verify the situation with B. sinapis

Class 6: Brassica napus, B. campestris, B. rapa, B. juncea, B. nigra, Sinapis

See comments on Class 5

Class 7: Lotus, Medicago, Ornithopus, Onobrychis, Trifolium

WG-VD Proposal:

To produce class(es) of genera which can be found in the same mixture. ISF to provide information on the content of mixtures.

Class 8: Lupinus albus L., L. angustifolius L., L. luteus L.

WG-VD Proposal: Delete Class 8 and corresponding Class 29 (species of Lupinus other than in Class 8)

Comments: Lupinus would be covered by the general recommendation.

Class 9: Vicia faba L.

WG-VD Proposal: to delete the class and to apply the general recommendation.

Class 10: Beta vulgaris L. var. alba DC., Beta vulgaris L. var. altissima

WG-VD Proposal: Botanical classification to be reviewed by the Technical Working Party for Agricultural Crops (TWA) and the Technical Working Party for Vegetables (TWV)

Class 11: Beta vulgaris ssp. vulgaris var. conditiva Alef. (syn.: Beta vulgaris L. var. rubra L.), Beta vulgaris L. var. cicla L., Beta vulgaris L. ssp. vulgaris var. vulgaris

WG-VD Proposal: Botanical classification to be reviewed by the Technical Working Party for Agricultural Crops (TWA) and the Technical Working Party for Vegetables (TWV)

Class 12: Lactuca, Valerianella, Cichorium

WG-VD Proposal: Deletion of Valerianella.

Comments: Acceptance of this proposal would result in the general recommendation applying for Valerianella.

Class 13: Cucumis sativus

WG-VD Proposal: Creation of 3 classes for Classes 13 and 14:

- (a) Cucumis sativus
- (b) Cucumis melo
- (c) other Cucumis

Class 14: Citrullus, Cucumis melo, Cucurbita

See Class 13.

Comments: Cucurbita and Citrullus to follow the general recommendation.

Class 15: Anthriscus, Petroselinum

WG-VD Proposal: to delete the class and to apply the general recommendation.

Class 16: Daucus, Pastinaca

WG-VD Proposal: to delete the class and to apply the general recommendation.

Class 17: Anethum, Carum, Foeniculum

WG-VD Proposal: to delete the class and to apply the general recommendation.

Class 18: Bromeliaceae

WG-VD Proposal: To apply the general recommendation subject to comment from the TWO.

Class 19: Picea, Abies, Pseudotsuga, Pinus, Larix

WG-VD Proposal: to delete the class and to apply the general recommendation.

Class 20: Calluna, Erica

DE Proposal: Addition of genus: Daboecia

DE reasons: Daboecia belongs to the same family as Calluna and Erica and has a similar use. To prevent confusion in the market, the three genera should be in the same group.

WG-VD Proposal: TWO to comment.

Class 21: Solanum tuberosum L.

WG-VD Proposal: No change

Class 22: Nicotiana rustica L., N. tabacum L.

WG-VD Proposal: Merge Class 22 with Class 34 (species of Nicotiana other than in Class 22).

Comments: Nicotiana to be covered by the general recommendation.

Class 23: Helianthus tuberosus

WG-VD Proposal: Merge Classes 23, 24 (Helianthus annuus) and 35 (other Helianthus).

Comments: ISF will consult with its experts on the possibility to merge Classes 23 and 24 also with Class 35 in order to see if it is possible to delete the three Classes since Helianthus would be covered by the general recommendation.

Class 24: Helianthus annuus

See Class 23

Class 25: Orchidaceae

WG-VD Proposal: To be considered by the TWO.

CPVO It is justified to have all orchids grouped in the same class.

NL: In ornamentals, it should be strongly advised to follow the general rule “that all taxonomic units are considered closely related that belong to the same botanical genus”.

Orchidaceae and Bromeliaceae, however, are not botanical genera but botanical families.

To have an idea of the magnitude of the Orchid family, one should realize that 10% of the botanical taxa of the plant kingdom covering our planet belongs to this family. Therefore, the Netherlands thinks it is inappropriate to consider this “mega” family as a unit for denomination purposes.

The same is applicable to the - smaller- Bromeliad family. So here the recommendation of the Netherlands consists in the deletion of Class 18 and Class 25 and to follow the general recommendation.

Class 25: Orchidaceae (cont'd)

The Royal Horticulture Society (RHS) is responsible for the non-statutory registration of Orchidaceae and they use a keen system to handle the complicated situation in orchids making use of so-called "GreX" names for the crosses between the parents, in order to make the system more clear and more effective. So here we have double name, for instance like Via Vista 'December Gold' for a Cymbidium variety. Via Vista is the name of the cross and December Gold the name of the variety.

Some popular Grexes can contain more than hundred varieties. The RHS registration is important for UPOV denomination testing, taking into consideration that breeders' rights are applied for in less than 0.1% of the varieties.

One should realize that in Sanders List of Orchids (RHS-register) a huge number of variety names is mentioned; probably it is one of the largest registers of variety names in the world.

Another thing one should realize is that the ornamental sector - which is not the most important sector from an economical point of view - is dominating the other sectors as far as taxa applied for are concerned.

Therefore, it should be strongly recommended to coordinate with the TWO, particularly in the case of units smaller than the genus level or combinations of species are concerned.

Class 26: Epiphyllum, Rhipsalidopsis, Schlumbergera, Zygocactus

WG-VD Proposal: To apply the general recommendation subject to comment from the TWO.

Class 27: Proteaceae

WG-VD Proposal: To apply the general recommendation subject to comment from the TWO.

COMPLEMENTARY CLASSES

Class 28: Species of Brassica other than in Classes 5 and 6.

(See comments for Class 5).

Class 29: Species of Lupinus other than (in Class 8) Lupinus albus L., L. angustifolius L., L. luteus L.

(See comments for Class 8).

Comment: general recommendation to apply

Class 30: Species of Vicia other than (in Class 9) Vicia faba L.

(See comments for Class 9).

Comment: general recommendation to apply

Class 31: Species of Beta + subdivisions of the species Beta vulgaris other than (in Class 10 +11) Beta vulgaris L. var. alba DC., Beta vulgaris L. var. altissima + Beta vulgaris ssp. vulgaris var. conditiva Alef. (syn.: Beta vulgaris L. var. rubra L.), Beta vulgaris L. var. cicla L., Beta vulgaris L. ssp. vulgaris var. vulgaris

WG-VD Proposal: Botanical classification to be reviewed by the Technical Working Party for Agricultural Crops (TWA) and the Technical Working Party for Vegetables (TWV)

Class 33: Species of Solanum other than (in Class 21) Solanum tuberosum L.

WG-VD Proposal: no change

Class 34: Species of Nicotiana other than (in Class 22) *Nicotiana rustica* L., *N. tabacum* L.

(See comments for Class 22).

Comment: general recommendation to apply

Class 35: Species of Helianthus other than (in Class 23 + 24) *Helianthus tuberosus* + *Helianthus annuus*

(See comments for Classes 23 and 24).

PROPOSALS FOR THE ADDITION OF NEW CLASSES NOT INCLUDED IN THE EXISTING LIST

Proposal A: Creation of new classes for fruit trees

Comments WG-VD: General reluctancy of the WG-VD to create new classes. It is recommended to consult the TWF. ISF and CIPORA to consult on the possibility of a class for berry fruits and a class for pome fruits.

MX reasons: National experts suggest the possible creation of new classes for berries (*rubus sp, fragaria sp, rubus subgen rubus*), maybe with the inclusion of some species from the genus Prunus and some species from the family Pomaceae (pomos).

Proposal B: Class for Glycine max.

Comments: ISF is going to consult with its experts to see if there are breeding activities for other Glycine than Glycine max.

If a class is created for Glycine max., then there will be a need to create a complementary class.

Proposal C: Class for Allium porrum

ISF proposal

Proposal D: Class for species of Allium other than Allium porrum

Comments: Complementary class for the proposal concerning a class for Allium porrum (see WG-VD Proposal C).

Proposal E: New classes for new ornamental species

Comments: WG-VD recommends to consult TWO.

CPVO makes the following general comments concerning ornamentals: It is justified to have all orchids grouped in the same class. There is a need to revise genera and group of species (e.g. Chrysanthemum and Euphorbia) in light of the increasing number of new species in the ornamental sector.

NL reasons: In ornamentals, it should be strongly advised to follow the general rule “that all taxonomic units are considered closely related that belong to the same botanical genus”.

Orchidaceae and Bromeliaceae, however, are not botanical genera but botanical families. To have an idea of the magnitude of the Orchid family, one should realize that 10% of the botanical taxa of the plant kingdom covering our planet belongs to this family. Therefore, the Netherlands thinks it is inappropriate to consider this “mega” family as a unit for denomination purposes.

The same is applicable to the - smaller- Bromeliad family. So here the recommendation of the Netherlands consists in the deletion of Class 18 and Class 25 and to follow the general recommendation.

The Royal Horticulture Society (RHS) is responsible for the non-statutory registration of Orchidaceae and they use a keen system to handle the complicated situation in orchids making use of so-called “Grexx” names for the crosses between the parents, in order to make the system more clear and more effective. So here we have double name, for instance like Via Vista ‘December Gold’ for a Cymbidium variety. Via Vista is the name of the cross and December Gold the name of the variety.

Some popular Grexes can contain more than hundred varieties. The RHS registration is important for UPOV denomination testing, taking into consideration that breeders’ rights are applied for in less than 0.1% of the varieties.

One should realize that in Sanders List of Orchids (RHS-register) a huge number of variety names is mentioned; probably it is one of the largest registers of variety names in the world.

Another thing one should realize is that the ornamental sector - which is not the most important sector from an economical point of view - is dominating the other sectors as far as taxa applied for are concerned.

Therefore, it should be strongly recommended to coordinate with the TWO, particularly in the case of units smaller than the genus level or combinations of species are concerned.

Chrysanthemum and Euphorbia have already been mentioned by the CPVO.

CPVO reasons: The CPVO is in favor of having new classes for ornamental species and thinks that it should be coordinated within the relevant technical working party.

It could be considered justified for instance to have all orchids grouped in the same class since these are being commercialized directly to the end consumer on the same shelf in the garden centre and since it could be considered that the same denomination for two varieties of different genus could raise confusion for the consumer.

Proposal E: New classes for new ornamental species (cont'd)

On the other hand, some genus are very wide, covering a broad range of species. Some species belonging to the same genus might be trees, other pot plants or cut flowers. It might thus be appropriate to create Classes. The genus Euphorbia is a good example. With the increasing number of species in the ornamental sector subject to plant variety rights' applications, the creation of Classes should be regularly reviewed in order to apply the same philosophy to new species. The TWO should be the relevant instance to discuss such matters.

Proposal F: Class for Petunia and Calibrachoa

WG-VD Proposal: To be considered by the TWO.

DE reasons: These genera are closely related. In respect of botanical nomenclature, Calibrachoa was separated from Petunia only in 1999. A separate consideration for variety denominations according to the general recommendation could result in confusion.

Proposal G: Class for Raphanus sativus L. var. oleiformis

WG-VD Proposal: To be considered by the TWA.

DE reasons: Raphanus sativus L. var. oleiformis is the only Raphanus species for agricultural use (mainly green manure). It is an unjustified impediment for fodder raddish to be in the same denomination group as all other species of Raphanus.

Proposal H: Species of Raphanus other than Raphanus sativus L. var. oleiformis

See Proposal G

[End of Annex III and of document]

¹ The following codes are used: DE (Germany), MX (Mexico), NL (Netherlands) and CPVO (Community Plant Variety Office).