Seminar on the impact of policy on essentially derived varieties (EDVs) on breeding strategy

UPOV guidance on EDV

SESSION I: TO AN EDV CONCEPT FOR THE PRESENT AND THE FUTURE

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Geneva, October 30, 2019

The concept of Essentially Derived Varieties (EDVs)

• Introduced in the 1991 Act of the UPOV Convention

• Guidance on EDV is provided in document UPOV/EXN/EDV/2 of 2017

• Seminar is expected to assist the Administrative and Legal Committee (CAJ) in its review of the guidance on EDV
PURPOSE:

to ensure sustainable plant breeding development by:

– providing effective protection for the breeder and

– encouraging cooperation between breeders and developers of new technologies
ESSENTIALLY DERIVED VARIETIES

...a variety shall be deemed to be essentially derived from another variety ("the initial variety") when

(i) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety,

(ii) it is clearly distinguishable from the initial variety and

(iii) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

Can EDVs be protected?

YES

same conditions:
novelty, distinctness, uniformity, stability

Can EDVs be commercialized?

It requires the authorization of the PBR holder of the initial variety

AUTHORIZED NEEDED
ESSENTIALLY DERIVED VARIETY?

ASSESSMENT OF ESSENTIALLY DERIVED VARIETIES

possible starting points

• predominant derivation (e.g. evidence of genetic conformity with the initial variety)

• conformity on the essential characteristics (e.g. evidence on conformity in the expression of the essential characteristics of the initial variety)
Predominantly derived from the initial variety (Article 14(5)(b)(i))

- The intention is that a variety should only be essentially derived from another variety when it retains virtually the whole genotype of the other variety.
- A derived variety could not, in practice, retain the expression of the essential characteristics of the variety from which it is derived unless it is almost entirely derived from that initial variety.

The following might be considered in relation to the notion of “essential characteristics”:

(i) essential characteristics [...] means heritable traits [...] that contribute to the principal features, performance or value of the variety;

(ii) characteristics that are important from the perspective of the producer, seller, supplier, buyer, recipient, or user;
(iii) characteristics that are essential for the variety as a whole, including, for example, morphological, physiological, agronomic, industrial and biochemical characteristics

(iv) essential characteristics may or may not be phenotypic characteristics used for the examination of distinctness, uniformity and stability (DUS);

(v) essential characteristics are not restricted to those characteristics that relate only to high performance or value (for instance, disease resistance may be considered as an essential characteristic when the variety has susceptibility to disease);

(vi) essential characteristics may be different in different crops/species.
Conformity

- judgment on the basis of the essential characteristics
- the differences must not be such that the variety fails “to retain the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety”.
- the differences which result from the act of derivation should be one or very few
- the derived variety must retain almost the totality of the genotype of the initial variety and be different from that variety by a very limited number of characteristics.

Another example.....

More than one or a few characteristics were affected by spontaneous mutation event in Dianthus....EDV yes/no??