

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

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International Union for the Protection of New Varieties of Plants

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

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# ESSENTIALLY DERIVED VARIETIES

## PURPOSE:

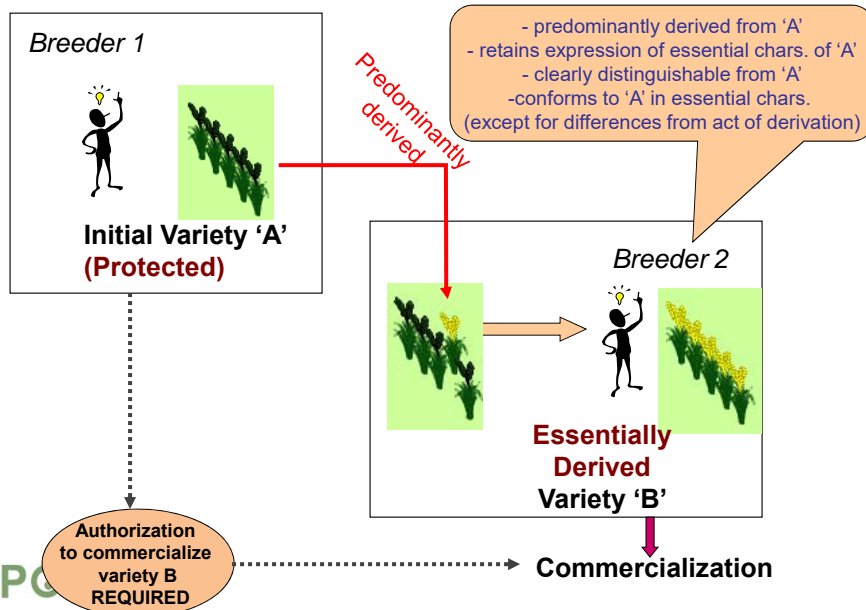
to ensure sustainable plant breeding development by:

- providing effective protection for the breeder and
- encouraging cooperation between breeders and developers of new technologies

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# ESSENTIALLY DERIVED VARIETIES



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## 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.

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## ESSENTIALLY DERIVED VARIETIES

**Can EDVs be protected ?**

same conditions:

novelty, distinctness, uniformity, stability



**Can EDVs be commercialized?**

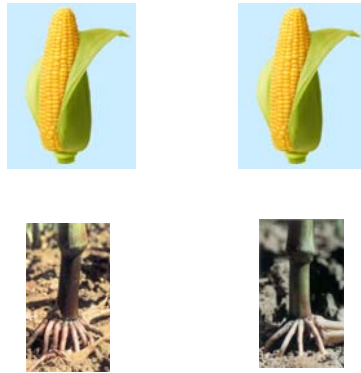
It requires the authorization of the  
PBR holder of the initial variety



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## ESSENTIALLY DERIVED VARIETY?



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## 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)

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**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**

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## UPOV/EXN/EDV/2



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;**

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(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);**

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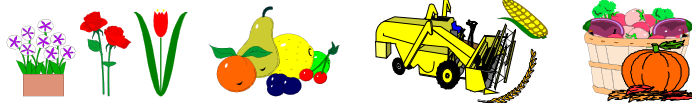
## UPOV/EXN/EDV/2



(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.**



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### 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**.



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### Another example.....



nak / tuinbouw

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

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