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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Forty-Eighth Session
Geneva, October 20 and 21, 2003

VARIETY DENOMINATIONS

Document prepared by the Office of the Union

1. Information on the workplan of the *Ad hoc* Working Group on Variety Denominations (hereinafter referred to as "the Working Group") has already been provided, in document CAJ/47/6, for the forty-seventh session of the Administrative and Legal Committee (hereinafter referred to as "the CAJ"). This document complements document CAJ/47/6, with the progress made at the fourth meeting of the Working Group, on April 10, 2003.

2. The Working Group welcomed Romania as a new member. Mr. Piers Trehane, Rapporteur, International Code of Nomenclature for Cultivated Plants (ICNCP), informed the Working Group about the creation of a complete list of genera that was currently open for review by the taxonomic community and that that list containing all genera would appear in the next edition of the ICNCP Code that was currently under preparation.

Draft Explanatory Notes on Article 20 of the 1991 Act of the UPOV Convention Concerning Variety Denominations

3. At its fourth meeting, the Working Group studied a second draft of document "Draft Explanatory Notes on Article 20 of the 1991 Act of the UPOV Convention Concerning

Variety Denominations" (document WG-VD/4/2)[1] (hereinafter referred to as "the Draft Explanatory Notes") (see also paragraphs 2 to 4 of document CAJ/47/6).

4. Discussions took place on a possible solution to permit the traceability of a variety when different denominations were necessary. Whilst recognizing the need to find a solution to this situation, the Working Group stressed the importance to avoid undermining the essential principle of Article 20(5) of the 1991 Act (the same denomination should be registered in all members of the Union) and the unnecessary creation of synonyms.

5. One delegation pointed out that, in certain cases, for example where different alphabets were used, the registration of different denominations for the same variety might be unavoidable. The same delegation requested that the Working Group should consider how to indicate when different denominations were registered for the same variety.

6. Oral and written contributions concerning document WG-VD/4/2, made by members and observers of the Working Group, will provide the basis for a new version of the Draft Explanatory Notes for discussion at its next meeting.

Report on the Questionnaire on UPOV Recommendation 9 and the Corresponding List of Classes for Variety Denomination Purposes

7. Discussions were based on document WG-VD/4/3[2] which provided a summary of the responses to a questionnaire (the "Questionnaire") seeking advice on whether there was a need for a review of Recommendation 9 and the corresponding List of Classes for purposes of identifying what are considered to be "closely related species," contained in Annex I of document UPOV/INF/12 Rev. "UPOV Recommendations on Variety Denominations" (see also paragraphs 9 to 13 of document CAJ/47/6).

8. It was noted that, while the replies to the Questionnaire had indicated that Recommendation 9 and the corresponding List of Classes were followed by the majority of members of the Union, nine authorities would like a change or clarification concerning the general principle in Recommendation 9[3], and 19 authorities and one non-governmental organization were in favor of certain changes in the List of Classes.

9. The Working Group was in favor of retaining the general principle in Recommendation 9, because it provided the most appropriate and practical guidance. However, it agreed on the redrafting of the general principle in order to address what was considered to be closely related from a taxonomic point of view and, in addition, to be extended to address matters concerning use and, in particular, confusion in relation to the identity of the variety (as provided in the third sentence of Article 20(2) of the 1991 Act).

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1 Document WG-VD/4/2 can be found at:
http://www.upov.int/restrict/en/wg-vd/index_wg-vd4.htm

2 Document WG-VD/4/3 can be found at:
http://www.upov.int/restrict/en/wg-vd/index_wg-vd4.htm

3 The general principle in Recommendation 9 is reproduced for ease of reference: "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."

10. It was agreed that the Office of the Union, with the assistance of the Working Group, will prepare a detailed proposal to be presented at the next meeting, which will include a redrafting of the general principle in Recommendation 9 and a revision of the List of Classes reflecting the replies to the Questionnaire.

Other Matters

11. The fifth meeting of the Working Group will take place in Geneva, on October 20, 2003. An oral report on the fifth meeting will then be made to the CAJ at its forty-eighth session.

12. *The CAJ is invited to note and comment on the contents of this document.*

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