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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

TECHNICAL COMMITTEE

**Thirty-Ninth Session
Geneva, April 7 to 9, 2003**

THE NOTION OF "ESSENTIALLY DERIVED VARIETY" IN THE BREEDING OF ORNAMENTAL PLANT VARIETIES

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1. At its thirty-eighth session, held in Geneva from April 15 to 17, 2002, the Technical Committee (hereinafter referred to as "the TC") noted the view of the representative of ASSINSEL, expressed at the Technical Working Party for Ornamental Plants and Forest Trees (hereinafter referred to as "the TWO"), that under the 1991 Act of the UPOV Convention, breeders of varieties who develop "improved" forms of their protected varieties would have protection for these improved varieties, if these were considered to be essentially derived varieties. It heard that, also at the TWO meeting, the representative of ASSINSEL expressed the view that the protection of selected parent lines, used in different hybrid varieties, might be the most cost-effective method of achieving protection for a series of hybrid varieties. The representative of ASSINSEL clarified to the TC that these matters were raised as possible means of encouraging breeders of seed-propagated ornamental varieties to utilize plant breeders' rights and should not be interpreted as a change to the UPOV system of protection. Nevertheless, the TC decided to refer the views of ASSINSEL to the Administrative and Legal Committee (hereinafter referred to as "the CAJ") for comment, with an explanation of the context.

2. The CAJ included an item on “The notion of ‘essentially derived variety’ in the breeding of ornamental varieties” in the agenda for its forty-sixth session, held in Geneva on October 21 and 22, 2002, for discussion on the basis of document CAJ/46/7. However, due to time constraints, it was not possible to deal with the item at that session and the discussion was deferred until its forty-seventh session, to be held in Geneva on April 10, 2003.

3. The TC is invited to note that this matter will be considered by the CAJ at its forty-seventh session in April 2003.

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