

ORDINANCE MAPA Nº 93, April 26th 2021

Incorporates into the national legal system the criteria for the approval of variety designations, approved by the MERCOSUR/GMC/RES No. 05/20 Resolution.

The MINISTER OF AGRICULTURE, LIVESTOCK AND FOOD SUPPLY, using the powers conferred on him by art. 87, sole paragraph, item II, of the Constitution, considering the provisions of Law N°. 10.711, of August 5th, 2003, in its Regulation, approved by Decree N°. 10.586, of December 18th, 2020, in Legislative Decree N°. 188, of December 15th, 1995, in Decree N°. 1,901, of May 9th, 1996, in Decision N°. 6/96 of MERCOSUR and what is contained in Process N°. 21000.014020/2021-71, resolves:

Art. 1 The criteria for the approval of variety names, approved by Resolution MERCOSUR/GMC/RES N°.05/20, incorporated in the form of the Annex to this Ordinance, are incorporated into the national legal system.

Art. 2 This Ordinance takes effect on June 1st, 2021.

TEREZA CRISTINA CORREA DA COSTA DIAS

ANNEX

MERCOSUR/GMC/RES. N°. 05/20

CRITERIA FOR APPROVING THE NAMES OF SEED VARIETIES IN EACH STATE PARTY

IN VIEW: The Treaty of Asunción, the Ouro Preto Protocol and Resolutions N°.53/02, 16/14, 21/17 and 25/17 of the Common Market Group.

WHEREAS:

That it is necessary to establish criteria for the approval of variety names, for the purposes of facilitating trade between States Parties.

That it is convenient to complement the procedures approved by the Common Market Group related to the certification and commercialization of botanical seeds.

THE COMMON MARKET GROUP resolves:

Art. 1 To approve the "Criteria for the approval of seed variety names in each State Party", which is included as an Annex and is part of this Resolution.

Art. 2 The States Parties shall indicate, within the scope of Working Subgroup No. 8 "Agriculture" (SGTN N°. 8), the national bodies competent for the implementation of this Resolution.

Art. 3 This Resolution shall be incorporated into the legal order of the States Parties before 01/01/2021.

GMC (Dec. CMC N°. 20/02, Art. 6) - Montevideo, 11/VIII/20)

CRITERIA FOR APPROVING THE NAMES OF SEED VARIETIES IN EACH STATE PARTY

1. SCOPE

This Resolution applies within MERCOSUR for the registration of varieties in the National Property Registry and the National Cultivar Registry (RNC).

2. REFERENCES

- Law on Seeds and Plant Genetic Creations N°. 20.247 of 1973. Regulatory Decree N°. 2183/1991 - ARGENTINA
- Resolution 669-E /2017 - ARGENTINA
- Cultivar Protection Law N°. 9.456/1997. Decree N°. 2.366/1997 - BRAZIL
- Seed Law N°. 10.711/2003. Decree N°. 5.153/2004 - BRAZIL
- Law on Seeds and Protection of Cultivars N° 385/94. Regulatory Decree N°. 7797/2000. PARAGUAY
- Seed Law N°. 16,811 of 2/21/1997 and its amendment Law N°. 18.467 of 2/27/2009 - Regulatory Decree N°. 438/004 and its amendments by Decrees N°. 140/008 and 219/010 - URUGUAY
- The International Union for the Protection of New Varieties of Plants (UPOV) Minutes 1978
- UPOV Explanatory notes on the denominations of varieties according to the UPOV Agreement - UPOV INF/12/5.

3. CRITERIA

When assessing the proposed denomination for the registration or protection of a variety, the following criteria on the denomination of the variety must be considered:

- a) There cannot be two varieties of a species or of the same class (UPOV classes) with the same denomination in the country where the variety will be registered or abroad (search for homonyms);
- b) The denomination of the variety must be maintained, except when linguistic reasons prevent its use. In such cases, reference should be made to the first registration or protection name;
- c) In the event that the proposed denomination is wholly or partly a registered trademark, the criteria defined in the Explanatory Note on the variety

denominations adjusted to the UPOV Agreement - UPOV INF/12/5 must be followed;

d) It cannot be expressed solely by numbers, except in cases where it is an established practice. Is it considered an established practice in the case of varieties used within a limited circle of specialists (for example, endogenous lines) or when they are accepted marketing practices for certain types of varieties (hybrids) and certain species (for example Medicago, Helianthus);

e) You cannot use graphic signs, except in words that require them;

f) It cannot give the impression that the variety has attributes that in reality it does not;

g) You cannot use terms that identify characteristics that are common to other varieties of the same species;

h) It must avoid giving the impression that the variety is derived from or is related to another variety, when this does not correspond to reality;

i) You should avoid a name composed of word (s) that induces the buyer to think that the variety contains characteristics superior to others of the same species;

j) It is recommended to avoid word (s) that indicate (m) geographic place in those cases that are not related to the plant variety's origin site, in order to avoid confusion regarding sowing conditions;

k) A difference of only one letter or a number can be considered susceptible to mislead or to confuse the identity of the variety, except when it marks a clear visual or phonetic difference;

l) It must not be liable to be misleading or liable to confusion regarding the identity of the variety or breeder;

m) It must not have a botanical or common name of a plant genus or species;

n) Should not include terms such as: variety, cultivar, shape, hybrids, generation and their translations;

o) It cannot be contrary to morals and good customs; and

p) Regarding the registration of the variety in the RNC, the name cannot be modified after commercialization, except when there are conflicts related to the acceptance of the name for protection or if a previous property right has been verified.