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To: mail, Upov <upov.mail@upov.int>

Subject:

The draft of Explanatory Notes on Essentially Derived Varieties (Draft EXN/EDV) that are going to be approved by UPOV contains three points that will lead to the control of new varieties by a small number of multinationals, with serious consequences to small and medium-sized plant breeding companies. Blocking in this way genetic innovation to obtain new varieties will also be to detriment of consumers and farmers:

- 1) The proposed amendment refers to the fact that the main derivation is based on the genetic source of the EDV, in 1991 UPOV law the plant variety protection system is based on phenotype and not on genotype. One of the main characteristics of the UPOV system is the possibility for the breeder to use any variety to obtain a new one, the so-called Breeders Exemption (BEX). The use of genotype and not, as to now, on the phenotype, the UPOV protection system is undermined.
- 2) The introduction of the term degree of “genetic conformity” between the EDV and the main variety in the proposed amendments will limit the Breeders Exemption in an illegitimate manner.
- 3) In the proposed amendments the New Breeding Technologies (NBT) are mentioned as examples for obtaining EDV (and whenever NBT are used, EDV will be obtained. In that case, the Breeders Exemption will only take place by the classical breeding methods of selection and crossing. The damage to research in applied plant genetic will be massive. It is worth considering the fact that NBT did not exist when the UPOV 1991 Convention was approved, i

The change in the definition of EDVs, as well as the concept “genetic conformity”, require an amendment of UPOV 1991, which requires the calling of a diplomatic conference for such a purpose; any “Explanatory Notes” will have the power of modifying an international law.