

Comments under document **UROV/EXN/HRV Draft 10**

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Dear colleagues,

Could you, please, note some remarks below concerning document
UPOV/EXN/HRV Draft 10.

I think the remarks might be appropriate.

Thank you for your attention.

1. Paragraph 5 should be added by the following:

“Article 16(1)(ii) of the 1991 Act states: “ The breeder's right shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of Article 14(5), which has been sold or otherwise marketed by the breeder or with his consent in the territory of the Contracting Party concerned, or any material derived from the said material, unless such acts

...

(ii) involve an export of material of the variety, which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption purposes.”

2. It would be applicable paragraph 6 to write down in the following edition:

“E.g., unauthorized export of propagating material from the territory of a UPOV member, where the breeder’s right has been granted and it is in force, into a country which does not protect varieties of the plants genus or species to which the variety belongs, except where the exported material is for final consumption purposes, would be unauthorized act.”

3. Paragraphs 7 and 8 should be excluded because:

The person who has been authorized (under Article 14 (1) ((i – vii)) to acts in respect of propagating material, but not kept to the conditions and limitations made by the breeder (under Article 14 (1) (b)), was the very infringer. The breeder has reasonable opportunity to exercise his right on the given batch of the propagating material, having sued to the licensee. The law-abiding farmer having purchased the propagating material from the licensee (violated conditions and limitations of the breeder), has the right to produce harvested material of the variety without any liabilities to the breeder (Article 16 (1)).