

STATE COMMISSION OF THE RUSSIAN FEDERATION
FOR SELECTION ACHIEVEMENTS TEST AND PROTECTION

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Attention: Mr. Peter Button, Vice Secretary-General

December 17, 2013.

[...]

1) When preparing any Explanatory Notes it should be guided by the UPOV Convention provisions but not be tempted to extend breeder's right on a harvested material produced beyond the territory protected.

It should not be considered in the Explanatory Notes any private treaties including new forms of direct contracts with farmers pretending to profit earning over and above those provided by scope of the breeder's right in the UPOV Convention.

2) The term "reasonable opportunity" must not be considered in Explanatory Notes on Acts in Respect of Harvested Material.

Act 14 (2) of the UPOV Convention provides the breeder wide opportunities (within provisions of 14(1)) to suppress illegal activities in respect of propagating material which sometime has the place in the territory protected. In case of production of harvested material from the illegal propagating material the breeder according to Act 14(2) has opportunity to claim in court his right on that harvested material. The court only establishes on the base of parties evidence if the breeder had a reasonable opportunity to exercise his right in respect of the propagating material used. The proof of absence of the reasonable opportunity is a matter of the very breeder.

[...]

Thank you for your attention.

Sincerely yours,

Y. Rogovskiy,
Deputy Chairman