

Attn. Mr. Peter Button
Vice Secretary-General of UPOV
34, chemin des Colombettes
CH-1211 Genève 20
Switzerland

Brussels, 11 July 2014

Subject: CropLife International comments to draft CAJ-AG documents

Dear Mr. Button,

Croplife International wishes to express its appreciation for the possibility to comment on the draft documents for the ninth session of the Administrative and Legal Committee Advisory Group (CAJ-AG), to be held in Geneva on October 14 and 17, 2014. In the paragraphs below you will find our comments to the different draft documents.

As has been stated before during recent UPOV meetings, the Earth is facing a number of unprecedented challenges: there will be more people that need more food and energy, and this needs to be produced on less land with less water, under a changing climate, with likely a higher disease pressure. It will be largely upon the plant breeders of this world to come up with the new plant varieties that can meet these challenges and can produce enough high quality food for generations to come. Therefore, any guidance that is being drafted on plant variety protection, eligibility, scope of protection, possibilities for enforcement etc. should be drafted and explained in favor of those much needed innovative breeders. With this crucial notion in mind, Croplife International has reviewed the draft documents and provided its comments.

UPOV/EXN/CAN/2 DRAFT 1 - Explanatory Notes on the Cancellation of the Breeder's Right under the 1991 Act of the UPOV Convention

CropLife International wishes to support the proposal to develop guidance on the use of information, documents or material provided by the breeder for verifying the maintenance of the variety and offers its assistance in the drafting of such guidance.

UPOV/EXN/EDV/2 DRAFT 4 - Explanatory Notes on Essentially Derived Varieties under the 1991 Act of the UPOV Convention

CropLife International notes with interest the proposed changes in the document.

CropLife International would like to note that we support initiatives that lead to more harmonized and similar interpretations and implementation of the principle of EDV among different UPOV members.

UPOV/EXN/HRV/2 DRAFT 1 - Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention

CropLife International notes with interest the proposed changes in the document.

With regards to the alternatives in §7 (page 5), CropLife International wishes to express its preference for alternative text 2.

In example 3 (page 10), CropLife International has a strong preference for alternative (a), however this should not mean that a breeder has to protect his variety in each and every country where variety protection is possible in order to be able to exercise his rights.

In example 4 (page 12), CropLife International has a strong preference for alternative (a).

UPOV/EXN/NUL/2 DRAFT 1 - Explanatory Notes on the Nullity of the Breeder's Right under the UPOV Convention

CropLife International has no further comments to this draft document.

UPOV/EXN/PPM DRAFT 2 - Explanatory Notes on Propagation and Propagating Material under the UPOV Convention

CropLife International has read with interest the draft document and its proposed changes.

We regret the deletion of the second half of the paragraph in (b) on page 5, as this was clarifying beyond doubt that at least some forms of harvested material have the potential to be used as propagating material.

We furthermore state that a UPOV definition of "propagating material" should be sufficiently broad in order to provide the best possible protection for the innovative plant breeders. Having studied the differences among UPOV Member States in their definitions of "propagating material" CropLife International wishes to express its strong support for those definitions that state that plants or parts of plants from which another plant with the same characteristics can be produced are to be considered as propagating material.

With this in mind, we also regret the divergence among UPOV member states in their wording and definitions of "propagating material". It is hoped that the finalization of this Explanatory Note will form the trigger for UPOV member states to revise their national definitions on propagating material in harmony with the newly adopted broad definition of UPOV.

UPOV/EXN/PRP/2 DRAFT 1 - Explanatory Notes on Provisional Protection under the UPOV Convention

CropLife International is content with the proposed revisions, and has no further comments to this draft document.

UPOV/INF/12/5 DRAFT 1 - Explanatory Notes on Variety Denominations under the UPOV Convention

CropLife International has no further comments to this draft document.

Please do not hesitate to contact CropLife International if you have any questions. We would be happy to provide you with more information if needed.

With the highest regards,



Howard Minigh
CEO CropLife International



Dominic Muyldermans
Senior Legal Consultant to CropLife International