

Closing Remarks by Mr. Martin Ekvad,  
Chair of the Administrative and Legal Committee (CAJ)  
at the Seminar on Propagating and Harvested Material in the context of the UPOV Convention,  
held in Geneva on October 24, 2016

- Propagating material and harvested material are two core concepts of the UPOV Convention
- No definitions on propagating material and harvested material in the UPOV Convention
- UPOV members have implemented the notions of propagating material and harvested material in their own context
- One complicating factor is that the same plant material can be propagating material and harvested material
- Harmonisation or consistency helps all stakeholders to understand the scope of the breeders' rights
- It is important to communicate with farmers, producers and other stakeholders involved in the value chain about the benefits of new plant varieties and therefore plant breeders' rights
- All types of farmers are necessary and complementary and the UPOV Convention has particular exceptions to cover activities of, for example, subsistence farmers
- Judges have given judgments in relation to propagating and harvested material in some UPOV members
- Judgments have taken into account consideration
  - Intention
  - Cascade principle for propagating and harvested material
  - Safeguarding of the interests of the breeders and producers/farmers
- Relevant cases seem to provide satisfactory interpretations in the seed sector and the ornamental sector
- It would be helpful for breeders to report on concrete issues they face

**Messages for UPOV**

- To work on achieving a common understanding on propagating material and harvested material
- A non-exhaustive list of possible factors in the Draft Explanatory Notes is useful, even if UPOV members have their own definitions
- Better understanding of "reasonable opportunity" would be beneficial
- The Proceedings of this Seminar can serve as a valuable source of information for UPOV members
- Cases reported to UPOV will be published on the UPOV website

**Messages for breeders**

- Breeders may want to use the legal systems to clarify the situation
- Breeders may want to cooperate on bringing cases before courts (examples AIB/Breeders Trust)
- Depending on the outcome of cases legislator may decide whether to react
- Breeders should ensure that effective contracts are used to be able to exercise their breeders' rights in relation to harvested material