

Seminar on the breeder's right in relation to harvested material

CONCLUDING REMARKS

How does the lack of effective protection on harvested material impact on growers and consumers?

- Evidence was presented at the Seminar that the lack of effective protection for new varieties of fruit trees, prior to the grant of breeders' rights, could inhibit the early introduction of new and improved varieties, thus reducing the benefits of those varieties for growers and consumers and, therefore, society as a whole. Furthermore, if breeders do not have effective protection to recover the investment in breeding, improved varieties might not be developed at all.

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cont. concluding remarks

What are the main challenges in the exercise of the breeder's right in relation to the harvested material?

- A common area of concern is lack of predictability concerning the breeder's right in relation to the harvested material.
- For certain species, trees, once planted, can produce fruits for many years. Therefore, a minimum scope of provisional protection and/or a narrow interpretation of "unauthorized use of propagating material" may not provide the means for the breeder to exercise and enforce their right in relation to the growing of the plants and producing and selling of the fruit.

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cont. concluding remarks

At the level of UPOV: what solutions do you see for those challenges in the exercise of the breeder's right in relation to the harvested material?

- Clear indication from presentations and discussions that guidance in the explanatory notes on harvested material would benefit from further clarification.
- To help to encourage the development of new varieties of plants, further guidance would be helpful on:
 - propagating material
 - harvested material
 - effective provisional protection
 - notion of “unauthorized use of propagating material”
 - the doctrine of exhaustion of rights in relation to the reversal of the burden of proof.