

AUSTRALIA

Contribution received in reply to UPOV Circular E-21/228, of November 19, 2021

Thank you for your invitation to send proposals for the revision of the following Explanatory Notes for the upcoming WG-HRV meeting:

- “Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention” (document UPOV/EXN/HRV/1);
- “Explanatory Notes on Propagating Material under the UPOV Convention” (document UPOV/EXN/PPM/1); and
- “Explanatory Notes on Provisional Protection under the UPOV Convention” (document UPOV/EXN/PRP/2).

While IP Australia does not have specific text proposals at this stage, we would like to note that:

- We support the determination, made at the ‘Seminar on breeder’s right in relation to harvested material’ on May 27, 2021, that the Explanatory Notes would benefit from further clarification of the term ‘Harvested Material’ and the term ‘Propagating Material’ with the view of providing better consistency in the way the concepts are implemented across UPOV member states.
- We consider the ‘Explanatory Notes on Harvested Material’ would also benefit from further discussion on the interpretation of the term ‘reasonable opportunity’ which has been a point of uncertainty for our stakeholders. We suggest that both timing and scope of what is ‘reasonable’ should be clarified if possible, and we also suggest some examples may be beneficial if suitable examples can be identified.

We look forward to attending the first WG-HRV meeting to be held (virtually) on March 15, 2022.

[...]