



Mrs Yolanda Huerta  
Vice-Secretary General of UPOV  
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Switzerland

Date: 12 October 2026

RE: AIPH contribution in response to UPOV Circular E-26/074, dated September 14, 2026

Dear Mrs Huerta, Dear Yolanda,

AIPH would like to contribute to UPOV Circular E-26/074, aiming to be of support and of cooperation to the Working Group on Harvested material, the tenth meeting of which is scheduled on October 21, 2026.

After taking knowledge of the “Proposals concerning the revision of the Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention” (document WG-HRV/10/2), AIPH would like to give the following written comments.

General:

1. AIPH certainly appreciates the work invested by the UPOV staff in drafting the proposals concerning the revision of the Explanatory Notes on HRV, but it questions whether these proposals sufficiently address the clear findings and conclusions set out in the Expert Group’s report.
2. Given the importance to society of a well-functioning plant breeders’ rights system, it is of great importance to AIPH that the findings of the report—which articulates the relevant aspects of plant breeders’ rights so excellently and which are based on an analysis of the Records of the 1991 Act Diplomatic Conference and its preparatory work—are optimally utilised to guide everyone involved with plant breeders’ rights toward their correct application and interpretation.
3. As said, AIPH does not consider the report’s findings to be accurately or adequately reflected in the proposal to revise the EXN. In fact, AIPH believes that the wording chosen for the proposals leaves so much room for debate regarding the relevant breeders’ rights concepts that the revised proposal will merely lead to larger ambiguity in practice.

Against this background, AIPH would like to make the following specific comment on the “Proposals concerning the revision of the Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention” (document WG-HRV/10/2):



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- Regarding the process of the work of the WG-HRV, AIPH considers the time between publication of the draft and the October meeting too short to allow sufficient consideration of its practical implications and the development of carefully worded amendment proposals. Therefore, AIPH suggests that the tenth meeting of WG-HRV focuses on identifying the main issues requiring further consideration and not discussing concrete amendment proposals for the concerned Explanatory Notes at the upcoming working group meeting, but rather first defining essential concepts - such as "unauthorized use," "reasonable opportunity," and "exhaustion"- and incorporating these as explanatory notes into the amendment document for a subsequent WG-HRV meeting. This allows for the phased implementation of the expert report's conclusions; a key advantage is that all parties involved have more time to digest the findings, potentially leading to a smooth implementation process in the EXN on HRV. In short, this creates increased scope for reflection and discussion.

May I please also inform you that based on this information, AIPH would like to give further contribution in the discussion itself on October 21, 2026.

Thanking you in advance, and AIPH is very willing to provide further response if needed,

Sincerely yours,

Tim Briercliffe  
Secretary-General