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Sent: 08 March 2023 04:12

To: mail, Upov <upov.mail@upov.int>

Cc: Isabel Ward <Isabel.Ward@ipaaustralia.gov.au>

Subject: RE: Action: March 14, 2023: WG-HRV/3 - comments on posted documents and examples on unauthorized use (Circular E-23/022) [SEC=OFFICIAL]

OFFICIAL

Dear Secretariat

Thank you for the opportunity to comment on these documents ahead of the working group meeting.

Australia does not have any examples to contribute at this time on understanding the notion of 'unauthorized use'.

We submit the following comments on document WG-HRV/2/5. We would appreciate it if you could acknowledge receipt of our comments.

Thank you
Paul

WG-HRV/2/5 Annex page 4, paragraph 5 of the explanatory notes

Australia supports the comments from Japan regarding Article 13 of the Convention, and agrees that the explanatory notes should reflect the options available to members under that Article.

Australia further notes that the proposal from ISF, CIOFORA, Croplife International, Euroseeds, APSA, AFSTA and SAA that protection should start from the date of priority is not consistent with Article 13 of the Convention, which does not provide for any such option. Further, it would undermine the territorial nature of IP Rights where protection can only begin once an application is filed in the member concerned.

WG-HRV/2/5 Annex page 6, paragraph 8 of the explanatory notes

We are uncertain of the purpose of the text proposed by ISF, CIOFORA, Croplife International, Euroseeds, APSA, AFSTA and SAA, as it does not appear to explain or interpret the text of the Convention, but rather puts forward a desire or policy objective that may not be shared by all members.

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