

**Working Group on Harvested Material and Unauthorized Use of Propagating Material****WG-HRV/8/4****Eighth Meeting  
Geneva, October 22, 2025****Original:** English  
**Date:** February 6, 2026**REPORT**

*adopted by the Working group on harvested material and unauthorized use of propagating material*

*Disclaimer: this document does not represent UPOV policies or guidance*

**OPENING OF THE MEETING**

1. The Working Group on Harvested Material (WG-HRV) held its eighth meeting in Geneva, on October 22, 2025, in hybrid format, chaired by Ms. Yolanda Huerta, Vice Secretary-General of UPOV.
2. The Chair opened the meeting, welcoming the participants and the authors of the study commissioned to support the work of the WG-HRV.
3. It was noted that the list of participants will be distributed directly to participants via email.

**ADOPTION OF THE AGENDA**

4. The WG-HRV adopted the draft agenda as proposed in document WG-HRV/8/1.

**STUDY ON THE “SCOPE OF THE BREEDER’S RIGHT” AND THE RELATIONSHIP WITH THE “EXHAUSTION OF THE BREEDER’S RIGHT”**

5. With Circular E-25/053 of September 11, 2025, the WG-HRV was informed that the authors of the study requested to postpone the delivery date of the final report to December 15, 2025, as the scope of the study, particularly the review of the history of the development of Articles 14 and 16 of the 1991 Act, was extensive and the collection and analysis of material required more time than initially anticipated.
6. Mr. Huib Ghijsen presented the draft study, reproduced in Annex I of document WG-HRV/8/2.
7. The presentation of Mr. Ghijsen focused on the preliminary analysis of the intentions of the drafters of the 1991 Convention on the notions of “unauthorized use” and “reasonable opportunity”. He mentioned that the relationship with the “Exhaustion of the Breeder’s Right” in Article 16 of the 1991 Act as well as summaries of relevant court cases from UPOV members bound by the 1991 Act would be part of the final version of the study.
8. The WG-HRV was of the view that the contents of section 3 of the draft report covered matters beyond the Terms of Reference for the study and should not be included in the final version.
9. The Chair confirmed that the UPOV procurement rules applicable for commissioning studies and for declaration of any potential conflict of interest had been followed.
10. The WG-HRV noted that (a) the authors will be ready to deliver a final version of the study on December 15, 2025, to the Office of the Union; and (b) the study will be made available to the WG-HRV in January 2026, giving the WG-HRV time to consider the final version of the study before the ninth meeting of the WG-HRV, foreseen to take place on March 19, 2026. The Terms of Reference of the study as approved by the WG-HRV, at its sixth meeting, and amended by Circular E-25/053, are reproduced in the Annex to this report.

DATE OF THE NINTH MEETING

11. The ninth meeting of the WG-HRV will take place in Geneva on Thursday, March 19, 2026 (virtual means), at a time to be announced.

[Annex follows]

WG-HRV/8/4  
ANNEX

TERMS OF REFERENCE OF THE STUDY ON THE "SCOPE OF THE BREEDER'S RIGHT" AND THE  
RELATIONSHIP WITH THE "EXHAUSTION OF THE BREEDER'S RIGHT"  
*as approved by the WG-HRV, at its sixth meeting, and amended by Circular E-25/053*

SCOPE:

The study to include:

- a first part with an analysis of the intentions of the drafters of the 1991 Act of the UPOV Convention in relation to the "Scope of the Breeder's Right" in Article 14(1) and (2) of the 1991 Act, including the notions of "unauthorized use" and "reasonable opportunity" and the relationship with the "Exhaustion of the Breeder's Right" in Article 16 of the 1991 Act; and
- a second part with summaries of relevant court cases from UPOV members bound by the 1991 Act.

COMPOSITION:

The study should be carried out by the five authors mentioned below. The authors should agree on one of them to be coordinating their work.

The working language of the authors should be English and the study should be drafted in English.

<b>Experts (alphabetic order)</b>
Mr. Huib Ghijzen
Ms. Vivianne Kunisawa
Mr. Charles Lawson
Mr. Axel Metzger
Mr. Joseph Straus

MODUS OPERANDI:

Independence:

The authors are independent in drafting the study, in the sense that the authors should not receive individual instructions from anyone and that the authors should be impartial and objective.

The five authors should draft one study and should follow a collaborative working method following academic standards. Following such standards, the authors should manage potential different perspectives or analysis and, if applicable, how such matters should be reflected in the study.

Having received the study, it is up to the WG-HRV to consider a possible follow-up and to request further guidance from the CAJ, as appropriate.

UPOV members are not bound by the content and/or conclusions drawn in the study.

Timeline:

The authors will be asked to deliver the draft study by latest September 1, 2025, for consideration at the eighth meeting of the WG-HRV, on October 22, 2025. The final version of the study to be delivered by latest December 15, 2025.

Financial support:

55,000 Swiss Francs which would include:

- Honorarium of 10,000 Swiss francs for each of the 5 authors.
- Travel expenses up to 5,000 Swiss francs in total for the 5 authors. The purpose of the travel could be to convene a meeting amongst the authors or to support travel to come to Geneva to present the findings of the study or any other unforeseen travel expenses.

The overall estimation of the cost to be shared as follows: UPOV regular budget would cover 30,000 Swiss francs and the Funds-in-Trust Agreement between the Government of Japan and UPOV (JP-FIT) would cover 25,000 Swiss francs.

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[End of Annex and of document]