

From: [萩原 実のり\(HAGIWARA Minori\)](#)
To: [mail, Upov](#)
Cc: [吉松 亨\(YOSHIMATSU Toru\)](#); [田中 弘幸\(TANAKA Hiroyuki\)](#); [HAGA TATSUYA](#); [鍛冶 亮太\(KAJI Ryota\)](#); [石丸 彰子\(ISHIMARU Akiko\)](#); [松江 真美\(MATSUE Naomi\)](#); [三浦 祐子\(MIURA Yuko\)](#)
Subject: RE: Meeting invitation: WG-HRV/9, March 19, 2026 (Circular E-26/006) and Final version of the Study on the "Scope of the Breeder's Right" and the relationship with the "Exhaustion of the Breeder's Right"
Date: Saturday, 14 March 2026 04:21:19
Attachments: [image001.png](#)
[image004.png](#)
[image005.png](#)
[● HRV EXN revision_20260314 Japan's Proposal \(reference to study included\).docx](#)

Dear UPOV Secretariat,

I apologize for the late submission of Japan's comments.

We want to thank the authors of the expert study for providing a very positive result confirming that Plant Breeder's right does include the authorization of harvested material, within its scope.

By understanding "unauthorized use" as "not having the authorization to use the propagating material for the purpose of producing harvested material", and understanding that the basis of that authorization is in Article 14(1)b in relation to Article 14(1) a, Japan sees that,

UPOV 1991 Convention Article 14(1) & (2) allows the PBR holder to;

1. Not only, stop, any unconsented harvest import from territory outside of the PBR protected territory, **but also**,
2. **license the production of harvested material**

One of the biggest achievements of UPOV 1991 Convention, Japan believe is that, it stipulated in Article 14(1)b that the PBR holder can condition and limit the authorization to sell the propagating material as explained in the study, and stipulate that exhaustion is based on the breeders consent(article 16). This is somewhat unusual for many IP doctrines in the world today. Most countries today adopt the first sale doctrine, where condition and limitations at the point of sales would not change the course of exhaustion. This uniqueness of UPOV 1991 Convention, is decisive for the business models of fruit licensing world, because it always involves nurseries and growers, and thus, production of harvested material is second in line of the value chain. Without such clause (Article 14(1)b and Article16), it would be natural to believe UPOV 1991 Convention was only focused on protecting propagating material due to the most common exhaustion rules.

From the diplomatic records ([para 953~1022](#))(attached), many of the delegates explained that if a PBR holder, authorized to sale a propagating material of a fruit tree, without any conditions or limitations, that authorization implicitly covered the authorization to produce harvested material. However, if there was an explicit condition or restriction not to sell or produce the harvested material, the producer who produces and sells a fruit will be against this condition and is infringing the PBR right. **The authorization of producing a harvest, is indeed included in Article 14(1) b in relation to Article 14(1) a.**

We see sufficient grounds to propose for the revision of the "Explanatory Notes on Acts in Respect of Harvested Material under the 1991 Act of the UPOV Convention (UPOV/EXN/HRV)" and therefore hereby submit our original draft revision.

Regarding questions for the WG, we would like to ask for clarifications below;

1 In para 20 (page 37) “20. The use of harvested material like plants or bulbs for the production of derived material like flowers, does not fall under the exhausted breeder’s right, where paragraph 14(1)(b) can be used to exercise the right on that material.”

We would like clarification on this para whether it means that, UPOV1991 Convention Article 14(1)b (conditions and limitations) exercised in relation to Article 14(1)a, is the basis for authorization on the use of harvested material, and any breach of such conditions or limitations will not be exhausted?

2 In the Conclusions: point 9 (bottom of pg. 40) refers to “reasonable opportunity” pertaining primarily to the exercise of rights (e.g., licensing or royalty collection). We believe that the intention of the authors was to distinguish “exercise his right” from “enforce his right” which are very different concepts. We would like to ask if, “primarily” is really needed here. Japan understands the meaning of “exercise” as “whether the breeder had a commercially meaningful chance to intervene upstream”(p40 para 9), and not to legal remedies, and would like to see that clarification.

Thank you very much.

Sincerely Yours,
Minori Hagiwara

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

Sent: Thursday, January 22, 2026 11:56 PM

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

Subject: Meeting invitation: WG-HRV/9, March 19, 2026 (Circular E-26/006) and Final version of the Study on the “Scope of the Breeder’s Right” and the relationship with the “Exhaustion of the Breeder’s Right”

[EN]

UPOV Circular E-26/006

January 22, 2026

To: Members of the Working Group on Harvested Material and Unauthorized Use of Propagating Material (WG-HRV)

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Madam,
Sir,

I am pleased to invite you to the

Ninth Meeting of the Working Group on Harvested Material and Unauthorized Use of Propagating Material (WG-HRV/9),

which will be held by electronic means (Zoom) on Thursday, March 19, 2026, from 12:00 to 14:00 (Geneva time (CET)).

The draft agenda of the session is attached hereto (document WG-HRV/9/1).

The working document “Study on the ‘Scope of the Breeder’s Right’ and the relationship with the ‘Exhaustion of the Breeder’s Right’ (document WG-HRV/9/2) in English is available on the UPOV website, under: https://www.upov.int/meetings/en/details.jsp?meeting_id=90361.

The French and Spanish translations of document WG-HRV/9/2 will be published on the UPOV

website next week.

The authors will be invited to present the key findings and conclusions of the Study, and answer questions from delegates. The authors will be present during the first part of the meeting, while the second part of the meeting will be dedicated to discussions among delegates on the next steps of the work of the WG-HRV.

For preparatory and interpretation purposes, delegates are invited to send any comments and questions on the Study in writing before the meeting by **March 6, 2026** at the latest. It would also be possible to ask questions or make comments on the Study during the meeting.

The working languages will be English, French, and Spanish; simultaneous interpretation will be provided in these languages.

You are invited to register online by **March 6, 2026** at:
<https://wipo-int.zoom.us/meeting/register/wlpvloi5QMWLgeMGpJLDhA>

Please note that only registered delegates will be provided with the link to access the meeting.

In order to ensure that interpretation can be provided, delegates that plan to take the floor online are requested to wear a wired headset with microphone and to turn on the camera when invited to speak.

With my best wishes,

Yolanda Huerta
Vice Secretary-General

Enclosure: Document WG-HRV/9/1 (E, F, S)

[FR]

Circulaire UPOV E-26/006

22 janvier 2026

Aux : Membres du groupe de travail sur le produit de la récolte et l'utilisation non autorisée de matériel de reproduction ou de multiplication (WG-HRV)

Madame, Monsieur,

J'ai le plaisir de vous inviter à la

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neuvième réunion du groupe de travail sur le produit de la récolte et l'utilisation non autorisée de matériel de reproduction ou de multiplication ((WG-HRV/9),

qui se tiendra par voie électronique (Zoom) le jeudi 19 mars 2026 de 12:00 à 14:00 (heure de Genève (Europe Centrale)).

Le projet d'ordre du jour de la réunion (document (WG-HRV/9/1) est joint à la présente invitation.

Le document de travail de l'Étude sur l'«Étendue du droit d'obtenteur» et le rapport avec l'«Épuisement du droit d'obtenteur» (document WG-HRV/9/2) est disponible en anglais sur le site Web de l'UPOV, à l'adresse suivante : https://www.upov.int/meetings/en/details.jsp?meeting_id=90361.

Les traductions en français et en espagnol du document WG-HRV/9/2 seront publiées sur le site Web

de l'UPOV la semaine prochaine.

Les auteurs seront invités à présenter les principales conclusions de l'étude et à répondre aux questions des délégués. Les auteurs seront présents pendant la première partie de la réunion, tandis que la deuxième partie sera consacrée aux discussions entre les délégués sur les prochaines étapes des travaux du WG-HRV.

À des fins de préparation et d'interprétation, les délégués sont invités à envoyer par écrit leurs commentaires et questions sur l'étude avant la réunion, au plus tard le **6 mars 2026**. Il sera également possible de poser des questions ou de faire des commentaires sur l'Étude pendant la réunion.

Les langues de travail seront le français, l'anglais et l'espagnol; l'interprétation simultanée sera assurée dans ces langues.

Vous êtes invités à vous enregistrer en ligne d'ici au **6 mars 2026**, à l'adresse suivante :
<https://wipo-int.zoom.us/meeting/register/wlpvloi5QMWLgeMGpJLDhA>

Veillez noter que seuls les délégués enregistrés recevront le lien pour accéder à la réunion. Afin que l'interprétation puisse être assurée, les délégués qui envisagent de prendre la parole en ligne sont priés de porter un casque filaire avec microphone et d'activer leur caméra lorsqu'ils sont invités à s'exprimer.

Veillez agréer, Madame, Monsieur, mes cordiales salutations.

Yolanda Huerta
Secrétaire générale adjointe

Pièce jointe : Document WG-HRV/9/1 (E, F, S)

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[ES]

Circular de la UPOV E-26/006 22 de enero de 2026

A los: Miembros del Grupo de trabajo sobre el producto de la cosecha y la utilización no autorizada de material de reproducción o de multiplicación (WG-HRV)

De mi consideración:

Tengo el agrado de invitarle a la

novena reunión del Grupo de trabajo sobre el producto de la cosecha y la utilización no autorizada de material de reproducción o de multiplicación ((WG-HRV/9),

que se celebrará por medios electrónicos (Zoom) el jueves 19 de marzo de 2026 de 12:00 a 14:00 (hora de Ginebra (Europa Central)).

Se adjunta el proyecto de orden del día anotado de la reunión (documento (WG-HRV/9/1).

El documento de trabajo del Estudio sobre el "Alcance del derecho de obtentor" y la relación con el "Agotamiento del derecho de obtentor" (documento WG-HRV/9/2) está disponible en inglés en el sitio web de la UPOV, en la siguiente dirección: <https://www.upov.int/meetings/en/details.jsp?>

[meeting_id=90361](#).

Las traducciones al francés y al español del documento WG-HRV/9/2 se publicarán en el sitio web de la UPOV la próxima semana.

Se invitará a los autores a presentar las principales conclusiones del estudio y a responder a las preguntas de los delegados. Los autores estarán presentes durante la primera parte de la reunión, mientras que la segunda parte se dedicará a los debates entre los delegados sobre las próximas etapas de la labor del WG-HRV.

A efectos de preparación e interpretación, se invita a los delegados a enviar por escrito sus comentarios y preguntas sobre el estudio antes de la reunión, a más tardar el **6 de marzo de 2026**. También será posible formular preguntas o comentarios sobre el Estudio durante la reunión.

Los idiomas de trabajo serán el español, el francés y el inglés; habrá interpretación simultánea en estos idiomas.

Le invitamos a inscribirse en línea a más tardar el **6 de marzo de 2026**, en el enlace siguiente: <https://wipo-int.zoom.us/meeting/register/wlpvloi5QMWLgeMGpJLDhA>

Le rogamos tomen nota de que sólo los delegados inscritos recibirán el enlace para acceder a la reunión. Con el fin de garantizar que pueda prestarse el servicio de interpretación, los delegados que prevean hacer uso de la palabra en línea deberán utilizar auriculares con cable que incluyan micrófono, y activar la cámara cuando se les ceda la palabra.

Aprovecho la oportunidad para saludarle muy atentamente.

Yolanda Huerta
Secretaria General Adjunta

Anexo: Documento WG-HRV/9/1 (E, F, S)



International Union for the Protection of New Varieties of Plants
34, chemin des Colombettes, CH-1211 Geneva 20, Switzerland
T +41 22 338 9111 | F +41 22 733 0336
e-mail: upov.mail@upov.int

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