

**Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use**

WG-SHF/4/3

**Fourth Meeting  
Geneva, October 25, 2023****Original:** English  
**Date:** January 5, 2024**REPORT***prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***OPENING OF THE MEETING**

1. The Working Group on Guidance concerning Smallholder Farmers in relation to private and non-commercial use (WG-SHF) held its fourth meeting in Geneva on October 25, 2023, in hybrid format, chaired by Mr. Yehan Cui, President of the Council.
2. The meeting was opened by the Chair, who welcomed the participants.
3. The list of participants is reproduced in the Annex to this report.

**ADOPTION OF THE AGENDA**

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

**POSSIBLE REVISION OF THE FAQs**

5. The WG-SHF considered document WG-SHF/4/2.
6. The WG-SHF noted the compilation of replies to UPOV Circular E-23/116 of July 6, 2023, as set out in document WG-SHF/4/2 and in its Annexes II and III.
7. The WG-SHF agreed, at that stage not to consider the specific suggestions and comments made by the members of the WG-SHF on the matters raised in Circular E-23/116.
8. Members of the WG-SHF emphasized the importance that small holder farmers have access to high quality seed to ensure food security. Some members of the WG-SHF expressed the view that finding a text for the explanatory notes that would satisfy all UPOV members would be a difficult challenge since key terms, including the notion of what was a small holder farmer, were defined or understood differently amongst UPOV members for reasons related to geopolitical and socio-economic circumstances. Other members of the WG-SHF acknowledged that whilst finding a text would be far from easy considering the complexity of the matter, it would be worth to continue the work that the working group had been tasked to carry out by the Consultative Committee.
9. Some members of the WG-SHF indicated that there were examples of breeders giving authorization to use protected seeds under different conditions depending on the size of the farmers' holdings. The WG-SHF noted the question raised as to whether the interpretation of the exception on private and non-commercial acts was indeed an obstacle for countries and organizations to become members of UPOV and if so, what were the perceived negative practical implications. It was further discussed if the exception on private and non-commercial acts had in fact been implemented in a manner that had unwanted implications for small holder farmers in practice.

10. The WG-SHF agreed that it would be useful to gather further information on those matters. However, the WG-SHF noted that more work was needed to identify relevant questions and from whom further information could be collected. Accordingly, the WG-SHF agreed that the Office of the Union should issue a circular to the members of the WG-SHF with a request to identify questions and to whom they should be addressed, to collect information for the WG-SHF to continue its work. Based on the replies to the Circular, the Office of the Union would prepare a questionnaire for consideration by the WG-SHF at its next meeting.

## **CONCLUSIONS**

11. The WG-SHF concluded that gathering information would be useful to provide the basis for developing guidance concerning smallholder farmers in relation to private and non-commercial use.

12. The WG-SHF agreed that the Office of the Union should issue a circular to the members of the WG-SHF with a request to identify questions and to whom they should be addressed, in order to collect information for the WG-SHF to continue its work. Based on the replies to the Circular, the Office of the Union would prepare a questionnaire for consideration by the WG-SHF at its next meeting.

13. The WG-SHF proposed to hold its next meeting by virtual means on March 22, 2024;

14. The WG-SHF agreed to ask the Consultative Committee to welcome the proposal to gather further information and to invite the WG-SHF to finalize the work that it has been tasked to carry out.

15. The WG-SHF noted that the Chair of the WG-SHF will make a report to the Consultative Committee on the work of the WG-SHF, with a request for the Consultative Committee to approve the work of the WG-SHF.

## **DATE AND PROGRAM OF THE FIFTH MEETING**

16. The WG-SHF agreed that the fifth meeting of the WG-SHF be held virtually, on March 22, 2024.

17. The WG-SHF agreed that its program for the fifth meeting would be to consider the replies to the Circular issued by the Office of the Union to the members of the WG-SHF with a request to identify questions and to whom they should be addressed, in order to collect information for the WG-SHF to continue its work.

[Annex follows]

ANNEXE / ANNEX / ANEXO

(dans l'ordre alphabétique des noms français des membres /  
in the alphabetical order of the French names of the members /  
por orden alfabético de los nombres en francés de los miembros)

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