

CHINA

Contribution received in reply to UPOV Circular E-24/047 of April 22, 2024

From: 植物新品种保护办公室 <cnpvvp@agri.gov.cn>

Sent: Thursday, May 16, 2024 11:47 AM

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

Subject: Re-Action by May 20, 2024: call for replies to questions by the WG-SHF (UPOV Circular E-24/047)

Dear Sir:

please check the answers for your questions as below:

1. Is your country/intergovernmental organization implementing the exception “acts done privately and for non-commercial purposes”? If so, how is it implemented?

There are no specific rules. In Article 10 of the 《Regulations on the Protection of New Varieties of Plants PR China》 and Article 29 of the 《Seed Law PR China》, mandatory exceptions are provided for two situations, but exceptions for private and non-commercial acts are not included. (1) Using authorized varieties for breeding and other scientific research activities; (2) Reproduction materials of authorized varieties used by farmers themselves.

2. Concerning this exception, are there definitions for the following term: “acts done privately and for non-commercial purposes”?

There are no definitions for this term.

3. Please specify legislation/regulation and jurisprudence concerning this exception.

NO

4. Are there any challenges and/or opportunities in implementing this exception in your jurisdiction? Please explain.

No challenge. At present, there are no litigation cases against private non-commercial purposes in judicial practice, and if similar cases occur in the future, the judicial department will deal with them at its discretion.

Yours sincerely,

Division of Plant variety protection

Development Center of Science and Technology

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