

UNITED STATES OF AMERICA

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

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

Yes, 7 U.S.C. § 2541(e) provides, “It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.”

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

No. The United States Code does not provide a definition for this section of law (i.e., 7 U.S.C. § 2541(e). The Code of Federal Regulations also does not provide a definition (7 CFR 97.1 et seq.).

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

It does not appear that 7 U.S.C. § 2541(e) has ever been construed in a U.S. judicial proceeding.

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

No comment.