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FOR SELECTION ACHIEVEMENTS TEST AND PROTECTION

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To: UPOV Office
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Attention: Mr. Peter Button, Vice Secretary-General

February 24, 2014.

Subj.: EDV Examples comments

Dear Vice Secretary-General,

Please, note our remarks below in reply to UPOV Circular E-13/274 of November 18, 2013.

1. ANNEX I EXTRACT FROM DOCUMENT IOM/6/2 "ESSENTIALLY DERIVED VARIETIES"

1.1. I think it would be reasonably to retain the first sentence only in paragraph 19 of ANNEX I.

Argumentation: It is no reason to write in details discussions of the 1991 Diplomatic Conference since the decisions adopted at the Conference is reflected in 1991 Act of the UPOV Convention.

1.2. Example worded in paragraph 21 where variety X has been created by selection from progeny of varieties A and B crossing should not be used as EDV example.

Argumentation: Variety X has been breed by a classical breeding method - by selection from progeny of two varieties crossing what, according to Article 15(1)(iii)of the UPOV Convention, is Exception to the Breeder's Right on varieties A and B.

2. ANNEX I (b) IOM/6/2

2.1. It is not necessary to establish in Examples 3 and 4 relation of a new variety to EDVs depending on complexity of breeding process and expenses. New varieties created by using of gene engineering methods are not more labour-consuming or expensive than ones created by classical breeding methods and, as a rule, their initial varieties are the most demanded varieties.

2.2. Example 8. Male sterile version of a fertile line is often created by inbreeding and it is considered in the Russian Federation as a sterile analog of the fertile line registered.

3. ANNEX II "Experience of Essentially Derived Varieties in Australia"

Experience on EDV provisions development in Australian Law is very unique and specific. However, it would be not quite applicable to elaborate definitions "essential characteristics" or "not essential characteristics", "important" or "cosmetic" distinct when drafting explanatory notes on EDVs.

Thank you for your attention.

Sincerely yours,

Y. Rogovskiy,
Deputy Chairman