

# CIOPORA—AIPH

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## REPORT YEARLY BILATERAL

**On October 21, 2025, AIPH met with CIOPORA's Secretary General, Edgar Krieger, and its Vice Secretary General, Micaela Filippo, to discuss recent developments. CIOPORA is the international association representing breeders of asexually reproduced horticultural plants, and an Affiliate Member of AIPH.**

The main topic was the Progress report of the Expert Group on Harvested Material (HRV), which would be presented by Huib Ghijsen the next day at the eighth meeting of the WG-HRV, on 22 October, 2025, during the UPOV meetings in Geneva. Huib Ghijsen, who AIPH has appointed as an independent member of the Expert Group, joined Mia Buma, advisor to AIPH's Novelty Protection group, in the CIOPORA bilateral.

*Link to Progress report on the study of Expert Group:*

*[https://www.upov.int/meetings/en/details.jsp?meeting\\_id=88391](https://www.upov.int/meetings/en/details.jsp?meeting_id=88391) under [WG-HRV/8/2](#)*

CIOPORA stated that it would not support the third chapter of the progress report. In this chapter, the intentions of the drafters of UPOV's Convention 1991 on the two principles of propagating and harvested material are further analysed, in that it depends on how the material is used in practice to be finally classified as propagating or harvested material.

The Expert Group cites the Records of the 1991 Conference, which takes a clear position on **not** defining "propagating material". For cut flowers, the records give clear indications that the drafters considered them as "harvested materials". The drafters referred to breeders who wish to have more extensive protection of their rights, to make their position more sure by making appropriate license-contracts.

In AIPH's point of view, it is important for the correct application of UPOV article 14 sub 2 (harvested material), to establish in a dispute whether it concerns propagating or harvested material.

As a consequence of the uncertain protection of the harvested material, due to the unclearness of a correct application of article 14 sub 2, breeders (and so the members of CIOPORA) prefer that all plant material of their variety is considered as propagating material or constituents.

This preference of the breeders is precisely where the problem lies, as it is in conflict with the interests of the growers and farmers. Full extension of the scope of the breeders' right to harvested material could cause a too large power position of the breeders (think of competition law regulation) in the production and distribution chain, and could disrupt it. The breeders have to exercise their rights (receiving their royalties) as early as possible in the distribution chain. If possible, the breeders should collect royalties on propagating material. They are only allowed (as article 14, sub 2 says) to

exercise their rights on the harvested material as the breeder has had no reasonable opportunity to do so on the propagating material and if the material was used unauthorised.

Huib Ghijsen explained to CIOPORA that the Expert Group considers it important for these reasons to provide in the final report the results of their deliberations on defining propagated and harvested material, whereby the definitions of both are adapted to be used in practical, concrete cases.

To illustrate: in crops such as heather and bulbs, it isn't easy to distinguish between propagating and harvested material. Full-grown pot plants produced from cuttings can be used for consumption as harvested material or as propagation material to produce new, full-grown plants. This also applies to the production of bulbs.

No need to say that lively, but for the growers, significant discussions will follow the publication of the Expert Group's Final Report. This report will be discussed in the next meeting of UPOV's working group on Harvested Material on 19 March, 2026. Certainly, your advisor will participate in that meeting and keep you informed.

## **PBR AND INDIA**

In the first half-year report 2025, your advisor informed you that a **Stakeholder's Consultation** (in March 2025) took place to discuss the initial findings of the study **on PBR in Indian Floriculture**.

*AIPH was one of the stakeholders. As you might recall, in the last SPG Update, view the link here: <https://aiph.org/spg-update-2025/>*

India is currently far from a functioning PBR system (including collecting royalties and enforcement of PBR). It has no Central Nursery (PBR) Act. Regions do have some initiatives to register varieties and/or negotiate royalty amounts with (internal) breeders.

There is no system to control, and there is a very low awareness among growers and farmers of the contributed value of a PBR system. The lack of a sound PBR system and the unwillingness of breeders from abroad to export propagating material and seeds to India are studied, concentrating on the ornamental and fruit sectors.

**CIOPORA**, as one of the other stakeholders, informed us that it has contributed to Recommendations for improving the Legal Framework Concerning plant breeders in India, aiming to support the ongoing development and refinement of the country's legal framework for plant variety protection.

The Plant Variety Protection and Farmers' Rights Act, 2001 (PPVFRA) of India currently regulates and protects the work and interests of plant breeders. As the Indian government considers potential amendments to this important legislation, CIOPORA appreciates the openness to dialogue and constructive input from stakeholders.

In its submission, CIOPORA acknowledges the progress made by India in establishing a *sui generis* system for plant variety protection. However, the organisation points to several areas where the current legal provisions could be enhanced. These enhancements would further align with international best practices and encourage continued investment in innovative plant breeding.

Key among CIOPORA's proposals is the expansion of the scope of protectable plant species to include all genera and species. Currently, protection is available for a limited number of species. This limitation leaves breeders working with crops not yet included on the list, without protection. CIOPORA notes that international collaboration, such as the use of existing DUS (Distinctness,

Uniformity, and Stability) test reports from other countries, could help facilitate this expansion efficiently.

## **PROTECTING INNOVATION THROUGHOUT THE INDIAN VALUE CHAIN**

CIOPORA also recommends that the Indian law extend protection **to harvested material**, such as fruits, which often represent the primary economic value of a variety. This addition would help ensure comprehensive protection across the full lifecycle of a plant variety.

**AIPH mentioned in this respect** that it hopes the UPOV discussions on harvested material will bring clarity in due time, aiming to avoid more confusion in concrete cases (think of Nagoya) about whether and when the breeder can exercise his right to harvested material instead of propagating material.

CIOPORA's additional suggestions include refining the definition of "essentially derived varieties" (EDVs) to align the Indian law with the latest international guidance. This refinement would ensure sufficient distinctness between varieties to maintain the integrity of breeders' rights. Moreover, considering longer protection durations for trees and vines reflects the substantial investments involved in developing these varieties.

In conclusion, CIOPORA's recommendations present a pathway for enhancing plant variety protection in India. By addressing the current limitations and fostering collaboration, the Indian government can create a more robust legal framework. This framework will not only protect breeders' rights but also promote agricultural innovation and sustainability.

AIPH informed CIOPORA about the current challenges the ornamental sector faces, namely:

- reduction of pesticides or, better yet, no use of them at all.
- dependence of energy (transport, costs, availability)
- lack of employees (availability, knowledge and skills)
- reputation (public opinion, discussion with arguments is out)
- capacity to meet demand for suitable plants, shrubs, bulbs and trees in the context of extreme climate change, biodiversity and ecology conservation.

The need to develop and speed up robotisation, automation, exact monitoring and the use of Artificial Intelligence is crucial to face these challenges.