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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

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EXAMINATION OF THE CONFORMITY OF THE LAW OF TUNISIA WITH THE 1991 ACT OF THE UPOV CONVENTION

Document prepared by the Office of the Union

Introduction

1. By letters dated September 9, 2000, from the Ministry for Agriculture of Tunisia and by Note No. 483 dated October 12, 2000, from the Permanent Mission of Tunisia in Geneva, which are reproduced in Annex I to this document, the Government of Tunisia requested the advice of the Council of UPOV on the conformity with the 1991 Act of the UPOV Convention (hereinafter called "the Convention") of the Tunisian legislation on Seeds, Seedlings and New Plant Varieties. Annex II to this document contains the texts of Law No. 99-42 of May 10, 1999, relating to Seeds, Seedlings and New Plant Varieties of Tunisia (hereinafter called "the Law"), the Decree No. 2000-102 of January 18, 2000 (which establishes the composition and mode of functioning of the Technical Committee for Seeds, Seedlings and New Plant Varieties, and the Order of the Minister for Agriculture of June 24, 2000, Establishing the List of Plants Eligible for Protection, the Data and Methods for the Entry of Applications and New Plant Variety Certificates on the National List of New Plant Varieties (hereinafter called "the Ministerial Order"). The Law and the Ministerial Order are analyzed below for conformity with the Convention.

2. Tunisia did not sign the Convention. Under Article 34(2) of the Convention, it must deposit an instrument of accession in order to become a member State of UPOV on the basis of the Convention. Under Article 34(3), an instrument of that kind can only be deposited if

the State in question has requested the advice of the Council on the conformity of its laws with the provisions of the Convention and if the decision of the Council embodying the advice is positive.

Basis for the Protection of New Plant Varieties in Tunisia

3. The protection of new plant varieties is governed in Tunisia by the Law and the Ministerial Order. An analysis of the Law and the Ministerial Order follow in the order of the substantive law provisions of the Convention.

4. However, it should be noted that under a provision of Article 32 of the Constitution of Tunisia (the “Constitutional Provision”), the provisions of international treaties to which Tunisia is a party are incorporated into Tunisian national law on accession and have precedence over the provisions of Tunisian national law. The Constitutional Provision will remedy any lacunae or minor departures from the substance of the Convention identified in this document.

Article 1 of the Convention: Definitions

5. Paragraphs 4, 5 and 6 of Article 2 of the Law contain definitions of “obtentions végétales,” (translated into English in the text in Appendix II as “new plant varieties”) “variety” and “breeder,” respectively. The definitions of variety and breeder differ from the corresponding definitions in Article 1(iv) and (vi) of the Convention. The definition of variety as a “group of plants from a plant varietal unit of the lowest known rank” is broad. The definition of breeder as the person who “breeds, discovers or creates a new plant variety” does not include the notion of “discovery and development” called for by the definition of “breeder” in the Convention.

6. “New plant varieties” (“obtentions végétales” in the French text) are defined as “new plant varieties created or discovered and resulting from a particular genetic process or a particular combination of hereditary processes and different from all other plant groups and which constitutes a unit from the standpoint of their suitability for multiplication”. Since Article 5 of the Law makes provisions for the protection of new plant varieties, i.e. of “obtentions végétales” and not varieties, it is possible that the additional language incorporated into the definition that is not found in the Convention could have the effect of creating additional conditions for the grant of protection.

7. It is not considered that the definitions referred to above depart radically from the spirit of the Convention and would be interpreted in the light of the Constitutional Provision. Nonetheless, it is suggested that the provisions be reviewed when an opportunity arises with a view to following more closely the definitions in the Convention.

Article 2 of the Convention: Basic Obligation of the Contracting Parties

8. Article 1 of the Law specifies that the Law is applicable to all seeds, plants and new plant varieties used in plant production and that it fixes, *inter alia*, the modalities for the protection of rights applicable to them. The Law thus complies with Article 2 of the Convention.

Article 3 of the Convention: Genera and Species to be Protected

9. The last sentence of Article 18 of the Law provides that the list of plants eligible for protection will be fixed by an order of the Minister of Agriculture. The Ministerial Order lists 75 species which are eligible for protection, which more than satisfies the requirements of Article 3 of the Convention concerning the number of plant genera and species protected at the time of accession to the Convention.

Article 4 of the Convention: National Treatment

10. Article 15 of the Law provides that any foreign person may apply for protection subject to the “principle of reciprocity.” This provision can be interpreted to mean that if, after Tunisia accedes to the Convention, a UPOV member State extends the full benefit of Article 4 of the Convention to nationals and residents of Tunisia, that the Government of Tunisia will do likewise. On this basis, Article 15 of the Law satisfies Article 4 of the Convention.

Articles 5 to 9 of the Convention: Conditions of Protection; Novelty, Distinctness; Uniformity; Stability

11. The conditions for protection are set out in Article 9 of the Ministerial Order in language which mirrors Articles 5 to 9 of the Convention. Article 49 of the Law contains a provision concerning a transitional derogation from the novelty condition which satisfies Article 6(2) of the Convention. The Law accordingly conforms with Articles 5 to 9 of the Convention.

Article 10 of the Convention: Filing of Applications

12. The Law contains no provisions which conflict with those of Article 10 of the Convention.

Article 11 of the Convention: Right of Priority

13. Article 11 of the Ministerial Order contains provisions concerning priority which satisfy in all respects Article 11 of the Convention.

Article 12 of the Convention: Examination of the Application

14. Articles 4, 9 and 14 of the Ministerial Order contain provisions relating to the examination of candidate varieties which conform with Article 12 of the Convention.

Article 13 of the Convention: Provisional Protection

15. Article 20 of the Law provides that the filing of an application for protection confers a right to the provisional protection of the variety against infringement.

Article 14 of the Convention: Scope of the Breeder's Right

16. Articles 21 and 22 of the Law describe the scope of the protection afforded by a new plant variety certificate. Article 21 provides that a certificate confers on its holder the right "to produce the obtained variety that has been bred and to dispose of it." There is no reference in the Law to the nature of the material covered by the protection right; no reference, for example, to the propagating material or to the harvested material. Equally, there is no reference to any of the acts which require the authorization of the breeder which are found in Article 14(1) of the Convention. The questions arise whether

(a) the words "the variety obtained" in Article 21 can be so interpreted as to include all physical material of the variety, particularly the propagating and harvested material of the variety, and

(b) the words "to dispose of it" enable the holder of the right to prevent the unauthorized carrying out of all acts referred to in Article 14(1) of the Convention.

17. Support for the extension of the rights of the holder to the harvested material is found in Articles 39 and 40 concerning infringement which permit a tribunal to transfer all material of the variety to the breeder in an action for infringement. Support for the suggestion that the breeder's right is intended to cover all acts referred to in Article 14(1) of the Convention is provided by the fact that Article 22 of the Law extends protection to all categories of variety (including essentially derived varieties), referred to in Article 14(5)(e) of the Convention. This suggests that the legislation is intended in practice to provide the full scope of protection of the Convention. The full text of the convention will in any event be incorporated into the Tunisian national law as a result of the Constitutional Provision.

18. The text of the Law contains no definition of an essentially derived variety. This also suggests that the Tunisian legislation is intended to be supplemented by the more detailed provisions of the Convention.

Article 15 of the Convention: Exceptions to the Breeder's Right

19. Articles 23 and 36 of the Law establish an exception to the breeder's right equivalent to that in Article 15(1)(ii) and (iii). There is no exception equivalent to that in Article 15(1)(i), although the first indent of Article 23 is probably intended to have that effect. The Tunisian legislation contains no optional exception made under Article 15(2) of the Convention.

Article 16 of the Convention: Exhaustion of the Breeder's Right

20. There are no provisions in the Tunisian legislation concerning the exhaustion of the breeder's right.

Article 17 of the Convention: Restrictions on the Exercise of the Breeder's Right

21. Article 24 of the Law contains provisions concerning the grant of compulsory licenses by the Authorities where a new plant variety "assumes great importance for human or animal life." The requirements for the grant of compulsory licenses can be taken to fall within the

public interest condition of Article 17 of the Convention. Article 24 specifies that the holder of the rights must receive equitable compensation.

22. Article 30 of the Law makes provision for the compulsory transfer of the breeder's right to another party in circumstances where the holder has failed, after a time interval, to exploit the variety. There is no express provision for compensation although the Constitutional Provision will remedy this deficiency.

23. Article 32 provides that the State may, in the public interest, exploit the plant variety on payment of compensation as if a compulsory license had been granted under Article 24 of the Law.

Article 18 of the Convention: Measures Regulating Commerce

24. The Law contains no provisions which conflict with Article 18 of the Convention.

Article 19 of the Convention: Duration of Breeder's Right

25. Article 25 of the Law provides that the breeder's right shall last 20 years for ordinary varieties and 25 years for varieties whose productivity necessitates a longer period. These provisions have been interpreted in the Annex to the Ministerial Order so as to provide a minimum period of protection of 25 years for trees and vines and 20 years for other plant genera and species. Such periods satisfy Article 19 of the Convention.

Article 20 of the Convention: Variety Denomination

26. Article 5 of the Ministerial Order contains provisions concerning variety designations which satisfy the requirements of paragraphs (2) (first two sentences) and (3) of Article 20 of the Convention. There are no provisions of the Law which satisfy the requirements of paragraphs (1), (2) (last sentence), (4), (6), (7) and (8) of Article 20 of the Convention. The provisions of the Law can be considered to be effectively supplemented in respect of the substance of the said paragraphs (1), (2) (last sentence), (4), (6), (7) and (8) of Article 20 of the Convention by the Constitutional Provision.

Article 21 of the Convention: Nullity of the Breeder's Right

27. Article 12 contains provisions concerning nullity which provide that the breeder's right must be nullified when the variety lacked novelty, distinctness, uniformity and stability at the time of grant and the decision to grant protection was based on information supplied by the applicant. However, the Article does not provide that the protection must be annulled when the variety was not novel or distinct at the time of grant when the decision is based upon other sources of information as required by Article 21 of the Convention.

Article 22 of the Convention: Cancellation of the Breeder's Right

28. Articles 33 and 34 of the Law contain provisions concerning cancellation, which reproduce the substance of Article 22 of the Convention.

Article 30 of the Convention: Implementation of the Convention

29. Article 30(1)(i) of the Convention requires adhering States to provide for appropriate legal remedies for the effective enforcement of breeders' rights. Articles 36, 37, 38, 39 and 40 of the Law make provision for civil remedies for enforcement of the breeder's right. Articles 41, 44, 45 and 46 of the Law contain provisions concerning criminal sanctions for infringement and other matters. The Law thus conforms with the said Article 30(1)(i) of the Convention.

30. Article 30(1)(ii) of the Convention requires adhering States to "maintain an authority entrusted with the task of granting breeders' rights ..." Article 1 of the Ministerial Order appoints the General Directorate of Plant Production of the Ministry of Agriculture as the competent authority for the grant of plant variety protection. The Law thus conforms with Article 30(1)(ii) of the Convention.

31. Article 30(1)(iii) of the Convention requires adhering States to publish information concerning applications and grants of breeders' rights and proposed and approved denominations. Articles 18, 19 and 34 of the Law and the sixth indent of Article 15 of the Ministerial Order contain provisions requiring the publication of information concerning applications, grants and cancellation of protection in the Official Journal of Tunisia. These provisions satisfy the requirements of Article 30(1)(iii) of the Convention.

General Conclusion

32. The Law, in its main provisions, incorporates the substance of the Convention. The deviations from strict conformity referred to above will be remedied by the Constitutional Provision. However, it is recommended that the texts of the Tunisian legislation be supplemented when opportunity presents so as to avoid recourse to the Constitutional Provision.

33. The Office of the Union therefore suggests that the Council may wish

(a) to advise the Government of Tunisia that the Law in its main provisions incorporates the substance of the Convention, and that it may deposit an instrument of accession to the Convention;

(b) to further advise the Government of Tunisia that it may wish to supplement the texts of its legislation, where necessary, so as to avoid recourse to the Constitutional Provision.

34. The Council is invited to take note of the information given above and to adopt the decision set out in the preceding paragraph.

[Annex I follows]

C/34/14

ANNEX I

Letter from the Directorate General for Agricultural Production, Ministry of Agriculture,
Republic of Tunisia, to the Vice Secretary-General, UPOV, Geneva,
dated September 9, 2000

Ref No.: 4115

Subject: Tunisian Law on Seeds, Seedlings and Plant Varieties

Ref.: Your letter of August 17, 2000

Encl.: 2

Dear Sir,

Further to your letter referred to above, I have the honor to enclose a copy of the Tunisian legislation on seeds, seedlings and plant varieties.

A request has already been made through diplomatic channels to the UPOV Office for an examination of whether this legislation conforms to the 1991 Act of the UPOV Convention.

We would appreciate receiving a prompt reply to our request.

Sincerely yours,

Deputy Director for Supervision
And Certification of Seeds and Seedlings

(signed)

Aïssa BOUZIRI

Director General
for Agricultural Production

(signed)

Abderrazak DAALOUÏ

Letter from the Permanent Mission of Tunisia to the Secretary-General
of the International Union for the Protection of New Varieties of Plants
dated October 12, 2000

SIA/ms
No.483

The Permanent Mission of Tunisia in Geneva presents its compliments to the Secretary-General of the International Union for the Protection of New Varieties of Plants in Geneva and has the honor to confirm that the competent Tunisian authorities have requested an examination of whether the national legislation conforms to the 1991 Act of the UPOV Convention.

In that regard, the Permanent Mission of Tunisia wishes to point out that the laws to be submitted for examination were forwarded on September 22, 2000 (note verbale No.437).

Decree No.2000-102 of January 18, 2000, a copy of which is attached, complements the texts already transmitted.

In response to a question raised by the UPOV Secretariat, the Permanent Mission of Tunisia wishes to indicate that Article 32 of the Constitution of the Republic of Tunisia states, *inter alia*, that “duly ratified treaties shall prevail over ordinary laws.”

The Permanent Mission of Tunisia would be grateful if the UPOV Secretariat could provide it with additional information regarding the procedure for examining Tunisian legislation (date; participation of national experts).

The Permanent Mission of Tunisia takes this opportunity to renew to the Secretary-General of the International Union for the Protection of New Varieties of Plants the assurances of its highest consideration.

[Annex II follows]

ANNEX II

LAW NO. 99-42 OF 10 MAY 1999 ON SEED, SEEDLINGS
AND NEW PLANT VARIETIES

TITLE I

GENERAL PROVISIONS AND DEFINITIONS

Article 1

This Law applies to all seed, seedlings and new plant varieties used in the production of plants.

It lays down the conditions for their production, propagation, import, marketing and the protection of the relevant rights.

Article 2

For the purposes of this Law:

- (1) “Seed and seedlings” means all seeds, plants, parts of plants such as grafts, tubers, bulbs and stubs.
- (2) “Nurseries” means planted plots and fields reserved for the production of seed and seedlings of fruit trees, ornamental trees, forestry trees and vegetables and others.
- (3) “Reproduction plots” means fields reserved for the production of selected seed.
- (4) “New plant varieties” means new plant varieties created or discovered and resulting from a particular genetic process or a particular composition of hereditary processes and different from all other plant groups and which constitute a unit from the standpoint of their suitability for multiplication.
- (5) “Variety” means the group of plants from a plant varietal unit of the lowest known rank.
- (6) “Breeder” means any natural or legal person who breeds, discovers or creates one of the plant varieties or his successor in title.
- (7) “Breeder’s right” means the exclusive right of the breeder to exercise the rights afforded by this Law in relation to new plant varieties.
- (8) “New plant variety certificate” means the certificate issued by the competent authority to the holder of the plant variety.
- (9) “Competent authority” means the services responsible for the protection of plants and new plant varieties under the Ministry of Agriculture.

TITLE II

SEED AND SEEDLINGS

CHAPTER I

CLASSIFICATION OF SEED AND SEEDLINGS AND ENTRY OF THEIR VARIETIES

Article 3

Seed and seedlings of all species and varieties of agricultural plants shall be classified in the following categories:

- basic seed and seedlings
- certified seed and seedlings
- standard seed and seedlings.

The conditions for classifying seed and seedlings in the above categories shall be laid down by decree.

Article 4

There is created an official catalogue in which shall be entered plant varieties that are distinct, stable, uniform and have considerable agricultural value.

The competent authority shall keep the official catalogue.

Entry in the catalogue shall be made on a request submitted by the person concerned to the competent authority, accompanied by a detailed description of the variety and a sample of its seed or seedlings.

The form of the catalogue and the procedure for entry shall be laid down by decree.

Article 5

The official catalogue shall record the principal morphological and physiological specific features and the other characteristics enabling a distinction to be made between the various plant varieties entered.

However, the basic elements of hybrid plants and of compound varieties shall remain secret if their breeders so request.

Article 6

There is established a Technical Committee for Seed, Seedlings and New Plant Varieties.

This Committee shall have the following tasks:

- Propose measures suitable to develop and guide the seed, seedlings and new plant variety sector.

- Issue opinions on requests for entry of varieties and new plant varieties in the official catalogue.
- Issue opinions on applications for the granting of ownership of new plant varieties.

The composition and working procedures of the aforementioned Committee shall be laid down by decree.

CHAPTER II

PRODUCTION OF SEED AND SEEDLINGS

Article 7

Any person may produce seed and seedlings and propagate them directly or through third persons in accordance with specifications approved by decree.

Article 8

To ensure the quality of seed and seedlings and protect them from diseases and insects that are liable to be propagated within their environment, each producer or propagator shall be required to have a disease-free woodyard and to establish a protection area around the nursery or the fields reserved for the production and propagation of seed and seedlings, of which the width shall be laid down by order of the Minister responsible for agriculture.

The nurseries and production and propagation fields shall also be subject to inspection by the competent authority to ensure that they are free of quarantine organisms and any other plant disease and to ensure the purity and originality of the variety.

In addition, the Minister responsible for agriculture may, by order and each time required by the need, specify special methods for the production of certain seed and seedlings in accordance with the nature and degree of their affection by their production environment.

CHAPTER III

MARKETING OF SEED AND SEEDLINGS

Article 9

Only those seed and seedlings of plant varieties entered in the official catalogue in one of the categories referred to in Article 3 of this Law may be marketed.

The use of any notice or sign or any other signal such as to cause confusion in the mind of the acquirer with regard to the designation of seed and seedlings or their purity or their origin or their age or their phytosanitary status shall be prohibited.

Article 10

The Minister responsible for agriculture may, during exceptional circumstances, authorize the marketing of seed and seedlings meeting special conditions laid down following the opinion of the Technical Committee for Seed, Seedlings and New Plant Varieties.

The Minister responsible for agriculture may also authorize the marketing of seed and seedlings that have been recently bred on condition that they be entered on a waiting list held by the competent authority.

Entry in that list shall be made under conditions laid down by decree.

Article 11

Subject to the statutory provisions in force, the importing and marketing of seed and seedlings shall be effected in accordance with the specifications approved by decree.

Article 12

Marketed seed and seedlings shall satisfy the general standards for storing, packaging and labeling laid down by decree.

CHAPTER IV

INSPECTION OF SEED AND SEEDLINGS

Article 13

Produced seed and seedlings shall be subject to inspection by the competent authority to ensure their quality and their phytosanitary status.

To that end, and in addition to the measures laid down by the legislation on the protection of plants, the competent authority shall inspect the nurseries and fields and shall carry out laboratory tests to check compliance with the standards for each category of seed and seedlings.

Those standards and the inspection procedures shall be laid down by decree.

Article 14

The sworn agents of the competent authority designated by the Minister responsible for agriculture shall be empowered to visit all nurseries, propagating plots and premises for processing, storage and marketing in order to carry out the necessary inspection.

However, access to living premises effectively reserved for living shall be carried out in accordance with the search procedures laid down by the code of penal procedure.

TITLE III

NEW PLANT VARIETIES

CHAPTER I

PROTECTION OF NEW PLANT VARIETIES

Article 15

The competent authority shall ensure the protection of new plant varieties where their breeders or successors in title so request.

Protection for a new plant variety may be requested by any person of Tunisian nationality, by any foreign person subject to application of the principle of reciprocity.

The application for protection shall be filed by the breeder, by his representative or by his successor in title directly with the competent authority or by registered letter with acknowledgement of receipt.

Article 16

The application for protection shall be accompanied by a detailed description of the new plant variety, its proposed denomination, a sample for conservation and by all the data liable to assist the competent authority in taking the measures of protection.

Article 17

Where there is agreement as to the application, the applicant shall receive a new plant variety certificate.

Article 18

The competent authority shall keep a national catalogue of new plant varieties, comprising two parts:

- A first part in which shall be entered the applications for new plant variety certificates.
- A second part in which shall be entered the new plant variety certificates.

The lists of plants eligible for protection, the data and the method of entry of applications and certificates in the aforementioned catalogue shall be laid down by an order of the Minister responsible for agriculture.

Article 19

The new plant varieties, the relevant applications and the new plant variety certificates issued in respect of them shall be published in the Official Journal of the Tunisian Republic.

CHAPTER II

RIGHTS ARISING FROM APPLICATIONS AND PLANT VARIETY CERTIFICATES

Article 20

An application for a new plant variety certificate filed with the competent authority in accordance with the provisions of this Law shall afford the following rights:

- priority for obtaining a new plant variety certificate in the event of more than one application for that variety;
- transfer of the application to third parties;
- provisional protection of the variety against infringement;
- exploitation of the variety that is the subject matter of the application.

Article 21

A new plant variety certificate shall afford to its holder the right to produce the variety that has been bred and to dispose of it.

Article 22

The breeder's right shall cover:

- the protected plant variety;
- any variety that is not clearly different from the protected variety;
- any variety essentially derived from the protected variety if the latter is not predominantly essentially derived from another variety;
- any variety whose production requires the repeated use of the protected variety.

Article 23

The breeder's right shall not extend to:

- acts done privately for experimental purposes without being of a commercial nature;
- operations carried out as part of teaching or scientific research for the purpose of the creation of new varieties.

Article 24

Notwithstanding the provisions of Articles 21 and 22 of this Law, certain new plant varieties of extreme importance for the life of man or animals may be subject to a compulsory authorization to exploit.

A compulsory authorization to exploit shall be given by an order of the Minister responsible for agriculture.

As from publication of the order concerned, the competent authority may allocate exploitation of the new plant variety that is the subject matter of the certificate to specialized public establishments or to organisms or to private persons having the necessary technical and professional capabilities in that field.

The holder of the breeder's right shall be awarded equitable compensation for the exploitation of the variety concerned or the transfer of revenue received from private persons in that same respect.

In either case, the amounts shall be agreed amicably. In the event of disagreement, the competent judicial authority shall lay down the amounts concerned.

Article 25

The breeders' rights shall subsist for 20 years for ordinary varieties and for 25 years for varieties where development of the production elements necessitates longer timescales.

Those periods shall begin to run as from the grant of the new plant variety certificate.

Article 26

Ownership of a new plant variety created by a public research official in the execution of his duties shall belong to the State, represented by the public establishment to which he belongs. The name of the official who has created the variety shall be entered on the new plant variety certificate.

The public establishment alone shall be entitled to file a request for entry of the new plant variety in the national catalogue referred to in Article 18 of this Law.

Article 27

In the event of joint ownership of a new plant variety certificate, the provisions of the code of rights *in rem* concerning joint ownership shall be applied.

CHAPTER III

TRANSFER AND LOSS OF RIGHTS

Article 28

The rights relating to an application for a new plant variety certificate or to a new plant variety certificate may be transferred in whole or in part.

Transfer of rights in whole or in part shall be established in writing on pain of absolute nullity.

Article 29

Rights shall be transferred with the exception of the right to the amounts accruing from the compulsory authorization to exploit under Article 24 of this Law.

Article 30

Rights may be transferred to others on expiry of a period of three years as from grant of the new plant variety certificate or a period of four years as from the filing of the application to obtain the certificate in the event of the owner of the certificate or applicant or his successor in title omitting, without good reason, to do the following:

- to begin to exploit the plant variety that is the subject matter of the certificate or make serious and effective preparation for so doing.
- to market the plant variety.
- to relinquish exploitation of the plant variety for a period of more than 3 years.

Article 31

Transfer of rights in the manner referred to in Article 30 of this Law may be made for the benefit of any person satisfying the conditions laid down in Article 15 of this Law on a request submitted to the competent authority and in which the requester proves that he has not been able to obtain an authorization to exploit from the owner of the certificate or from the applicant and that he is in a position to exploit the plant variety concerned in a serious and effective manner.

Article 32

The State may, at any time and for reasons of general interest, obtain authorization to exploit the plant variety that is the subject matter of the certificate or the application, directly or on its behalf.

The compensation arising therefrom shall be computed in accordance with Article 24 of this Law.

Article 33

The holder of a plant variety certificate shall forego his right in the following cases:

- 1.- where the competent authority ascertains that the protected variety no longer satisfies the conditions on the basis of which the new plant variety certificate was issued;
- 2.- where the holder of the certificate is no longer able to prove at any time the plant components used for the production or propagation of the plant variety and which are such as to reproduce the protected variety with its morphological and physiological characteristics that have been specified in the new plant variety certificate;
- 3.- where the holder of the certificate does not permit inspections carried out by the competent authority with a view to checking the precautions taken to safeguard the variety;

4.- where the annual fee laid down in Article 47 of this Law has not been paid within the prescribed time limits.

Article 34

Cancellation shall be pronounced by an order of the Minister responsible for agriculture after hearing the person concerned and on the basis of a reasoned opinion from the Technical Committee for Seed, Seedlings and New Plant Varieties. The order shall be published in the Official Journal of the Tunisian Republic.

The holder of the new plant variety certificate may file an appeal against the cancellation order within a period of one month as from the date of its publication.

To that end, he shall be required to support his appeal, where appropriate, with the results of an expert examination carried out by a reference laboratory within a period of one month as from filing of the appeal.

In the event of the expert opinion being favorable to the petitioner, the latter shall recover all his rights in the plant variety that is the subject matter of the cancellation order.

A list of the reference laboratories shall be laid down by an order of the Minister responsible for agriculture.

Article 35

The holder of a new plant variety certificate may relinquish, at any time, all or a part only of his rights deriving from the plant variety that is the subject matter of the new plant variety certificate.

Relinquishment shall be effected by means of a written declaration to be transmitted to the competent authority.

However, relinquishment concerning a certificate encumbered with third party rights may not be accepted unless accepted by the holders of the rights concerned.

CHAPTER IV

PROTECTION OF BREEDERS' RIGHTS

Article 36

Any violation of the rights of a holder of a new plant variety certificate shall be qualified as infringement liable to sanctions in accordance with the applicable legislation and shall further imply the civil liability of the offender.

However, such violation may not be considered as such unless it has been committed knowingly.

Thus, the use of the protected variety for basic variation for the breeding of a new variety shall not be deemed a violation.

Article 37

The holder of the new plant variety certification is entitled to institute civil proceedings. The beneficiary of a compulsory authorization to exploit or any person entitled to appeal may also institute such proceedings if the holder of the certificate does not do so, following formal notice served by a notarial bailiff.

Article 38

Any beneficiary of an authorization to exploit a plant variety that is the subject matter of a plant variety certificate may join the liability proceedings that the holder of the certificate institutes in order to obtain damages for any prejudice he has personally suffered.

Article 39

The applicant or holder of a new plant variety certificate may request the territorially competent court to permit him to seize all propagating elements and any other product resulting from the use of those elements obtained in violation of his rights, after presentation of a detailed description of such elements.

This right shall also apply to the beneficiaries of the exploitation right and the compulsory authorization.

The request shall be made after producing a copy of the new plant variety certificate or a copy of the application for the grant of a new plant variety certificate or of transfer of the rights deriving therefrom.

Article 40

Where infringement has been established, the court shall order transfer of the ownership of the plants, of their parts or of propagating elements obtained in infringement of the rights of the holder of the new plant variety certificate to such holder and, where appropriate, confiscation of the instruments used to that end.

TITLE IV

ESTABLISHMENT OF CRIMES AND SANCTIONS

CHAPTER I

ESTABLISHMENT

Article 41

Crimes relating to seed, seedlings and new plant varieties shall be established by reports drawn up by judiciary police officers as provided in Article 10 of the Code of Penal Procedure, by agents of the competent authority sworn in for that purpose and by economic control agents.

Article 42

All reports, drawn up and signed by the agents referred to in Article 41 of this Law, shall be addressed to the Minister responsible for agriculture, who shall transmit them to the public prosecutor.

CHAPTER II

SANCTIONS

Article 43

Notwithstanding the penalties provided in the Decree of 3 June 1889 relating to trademarks, by the Decree of 10 October 1919 on the repression of fraud in trade with merchandise and falsification of foodstuffs or of agricultural and natural produce, by Law No. 91-44 of 1 July 1999 on the organization of the distribution trade, as amended and supplemented by Law No. 94-38 of 24 February 1991 and by Law No. 92-117 of 7 December 1992 on the protection of consumers:

– any person infringing the provisions of Articles 8, 12 and 13 of this Law shall be liable to a fine of between 1,000 and 10,000 dinars;

– any person infringing the provisions of Articles 7, 9 and 14 of this Law shall be liable to imprisonment of between one month and one year and a fine of between 1,000 and 20,000 dinars or one only of those two penalties.

Article 44

Notwithstanding the penalties provided by the Decree of 3 June 1889, any infringement made knowingly of the rights of an applicant or of a holder of a new plant variety certificate and any claim in a capacity as applicant or holder of a new plant variety certificate shall be punishable by a fine of between 5,000 and 50,000 dinars.

Article 45

In the event of a repeated offense, the penalties provided in Articles 43 and 44 of this Law shall be doubled.

Article 46

In addition to the sanctions provided in Articles 43, 44 and 45 of this Law, the Minister responsible for agriculture may order the seizure of seed and seedlings of plant species subjects of an infringement of the provisions of this Law, destroy them, declassify them or withdraw their approval either temporarily or definitively.

TITLE IV

MISCELLANEOUS

Article 47

The entry of varieties, seed and seedlings and the approval of their production or propagation, together with the entry of applications and new plant variety certificates in the relevant catalogues shall be subject to payment of a fee of which the amount and conditions of payment and utilization shall be laid down by decree.

In addition, after entry, new plant variety certificates shall be subject to the payment of an annual fee of which the amount and conditions of payment and utilization shall be laid down by decree.

Article 48

Contracts for assignment and exploitation of new plant variety certificates shall be registered subject to a fixed fee.

Article 49

Contrary to the provisions of Article 2, item 4, of this Law and for a period of one year as from the entry into force of the latter, the protection of plant varieties offered for marketing or already marketed or distributed inside or outside the country may be requested.

Where protection is granted, the period that has elapsed between the time at which the plant variety concerned was offered for marketing, marketed or distributed for the first time and the time at which the application for protection was filed shall be deducted from the term of protection.

Article 50

Law No. 76-113 of 25 November 1976 on the organization, inspection of production and of marketing of seed and seedlings is hereby repealed.

This Law shall be published in the Official Journal of the Tunisian Republic and executed as a law of the State.

Decree No.2000-102 of January 18, 2000, Establishing the membership and working methods of the Technical Commission for Seeds, Seedlings and Plant Varieties

The President of the Republic,

On a proposal by the Minister of Agriculture,

Taking into consideration Law No.99-42 of May 10, 1999, relating to Seeds, Seedlings and Plant Varieties, *inter alia* Article 6;

Taking into consideration Decree No.78-479 of May 2, 1978, Establishing the Tasks, Membership and Working Methods of the National Advisory Committee on Seeds and Seedlings;

Taking into consideration the opinion of the Administrative Tribunal;

Hereby decrees:

Article 1. – The Technical Commission for Seeds, Seedlings and Plant Varieties shall comprise:

- the Director General for Plant Production within the Ministry of Agriculture: President;
- the President of the Agricultural Research and Higher Education Institution: member;
- a representative of the Directorate General for Plant Production: member;
- a representative of the Tunisian Agriculture and Fisheries Union: member;
- a representative of seedling producers: member;
- a representative of seed producers: member;
- a representative of seed and seedling distributors;
- the Presidents of the Sectoral Technical Commissions specified in Article 4 of this Decree: members.

Members of the Commission other than those appointed as a result of their status shall be designated by decision of the Minister of Agriculture following proposals by the parties concerned.

The President of the Commission may call on any person among those noted for their competence, expertise or experience to participate in the work of the Commission in an advisory capacity, or to carry out tasks of an advisory nature for the Commission's benefit.

Article 2. – The Technical Commission for Seeds, Seedlings and Plant Varieties shall meet, on convocation by its President, at least twice a year and whenever circumstances require.

Its deliberations shall be valid only when at least half of its members are present. It shall issue opinions supported by a majority of its members and, where it is divided, its President shall have the deciding vote.

The Directorate General for Plant Production attached to the Ministry of Agriculture shall provide the secretariat of the Commission.

Article 3. – Specialized sectoral commissions for different groups and plant species shall be set up within the Technical Commission for Seeds, Seedlings and Plant Varieties.

These specialized sectoral commissions shall be set up and their membership established by decision of the Minister of Agriculture on a proposal by the President of the Technical Commission for Seeds, Seedlings and Plant Varieties; the specialized commissions shall be responsible for studying technical aspects specific to varieties and species within their competence, plant varieties and certification, and for communicating the results of their work to the President of the Technical Commission.

The Technical Commission shall consider these results in accordance with the procedures specified in Article 2 of this Decree.

Article 4. – Decree No.78-479 of May 2, 1978, which establishes the tasks, membership and working methods of the National Advisory Committee on Seeds and Seedlings, is repealed.

Article 5. – The Minister of Agriculture shall be responsible for implementing this Decree, which shall be published in the Official Gazette of the Republic of Tunisia.

Tunis, January 18, 2000.

Zine El Abidine Ben Ali

ORDER OF THE MINISTER FOR AGRICULTURE OF 24 JUNE 2000
ESTABLISHING THE LIST OF PLANTS ELIGIBLE FOR PROTECTION,
THE DATA AND METHOD OF ENTRY OF APPLICATIONS AND NEW PLANT VARIETY
CERTIFICATES IN THE NATIONAL LIST OF NEW PLANT VARIETIES

CHAPTER I

Applications for Protection

Article 1

Applications for protection of new plant varieties shall be filed by the breeder, his representative or his successor in title directly with the Directorate General of Plant Production at the Ministry of Agriculture or addressed to it by registered mail with acknowledgement of receipt.

Article 2

Applications for protection shall include the following elements:

- the duly completed forms as provided by the competent authority
- a description of the method by which the plant variety has been bred or discovered
- a detailed description of the plant variety mentioning the characteristics that enable it to be distinguished from varieties already known
- a sworn statement confirming, in particular, that the variety for which protection is sought constitutes a new plant variety within the meaning of Law No. 99-42 of 10 May 1999 referred to above and of this Order
- payment of the prescribed fees at the time of filing the application
- written authorization from the title holder or holders if the application refers to a variety of which the commercial production requires the repeated use of a protected variety.

Article 3

The filing date of the application for protection shall be deemed to be the date on which the applicant has duly filed all the elements referred to in Article 2 of this Order. An acknowledgement of receipt confirming the day and time of filing of the application and bearing a registration number shall be issued to the applicant.

Article 4

The applicant shall be required to provide all the information, documents or material required for the technical examination of the variety on the dates laid down in the table annexed to this Order.

Unless the applicant is able to present a good reason that is accepted by the competent authority, failure to supply the above shall lead to rejection of the application.

Article 5

The applicant shall be required to propose a denomination for the variety that is the subject matter of the application for protection.

A denomination may consist of any word, combination of words, combination of words and figures or combination of letters and figures, with or without an existing meaning, provided that such denominations allow the variety to be identified.

The denomination shall be filed at the same time as the application. Filing may be postponed on payment of a special fee.

Any concerned person may submit observations on the proposed denomination within three months of its publication.

The applicant may either justify his proposal or propose a new denomination within a period of 30 days as from the day on which he has been contacted by the competent authority to that end.

Where such new denomination is not accepted, the applicant shall be given official notice to propose a denomination that is in compliance, on pain of rejection of the application.

The denomination shall be registered at the same time as the grant of the right of protection.

Article 6

For each application for protection, the registration shall contain the following particulars:

- the registration number
- the filing date of the application for protection
- the genus and species to which the variety belongs
- the name and address of the applicant and, where appropriate, of his representative
- the name and address of the breeder, if the breeder is not the applicant
- the proposed denomination or, failing that, the reference of the variety and, possibly, a claim to priority right.

The description of the variety given by the applicant and that of the breeding process shall be entered in the National Catalogue of Plant Varieties with a reference to the application.

Where appropriate, the following shall also be entered in the National Catalogue of New Plant Varieties:

- the date of withdrawal of the application by the breeder
- the date of rejection of the application by the Minister for Agriculture and any relevant appeals.

Article 7

An application shall be registered in the first part of the National Catalogue of New Plant Varieties, in the order of filing and under the number communicated to the applicant and which shall be shown on all notifications provided for by this Order.

CHAPTER II

Plant Variety Certificates

Article 8

Plant variety certificates shall be entered in the second part of the catalogue of new plant varieties in their order of grant.

The entry shall contain, in particular:

- the number of the application
- the date and serial number under which the certificate has been granted
- the genus or species to which the variety belongs
- the variety denomination
- a botanical description of the variety
- the name and address of the owner of the new plant variety certificate
- the name and address of the breeder if the breeder is not the owner of the new plant variety certificate
- the name and address of the representative, where appropriate
- any actions claiming ownership
- the dates on which protection begins and expires.

The entry shall be supplemented by notice of all acts relating to the transfer of ownership of the new plant variety certificate, such as assignment, licensing, *ex officio* licensing, waiver, lapse, nullity or any act transmitting or modifying the rights deriving from such certificate.

Article 9

A new plant variety certificate shall be granted if, following prior examination, the variety is acknowledged to be new, distinct, uniform and stable in accordance with the following conditions:

(a) a variety shall be deemed new if, at the date of filing of the application for a breeder's right, propagating material or harvested material of the variety has not been sold or otherwise disposed of to others, by or with the consent of the breeder, for purposes of exploitation of the variety:

- in Tunisia for more than one year
- abroad for more than four years or, in the case of trees and vine, for more than six years.

(b) the variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application.

In particular, the filing of an application for the granting of a new plant variety certificate for another variety or the entering of another variety in an official catalogue of varieties, in any country, shall be deemed to render that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of a breeder's right or to the entering of such other variety in the official catalogue of varieties, as the case may be.

(c) The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

(d) The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

Article 10

As from publication of applications for new plant variety certificates, provided for in Article 19 of Law No. 99/42 of 10 May 1999 referred to above, any person may submit to the competent authority, within a period of three months, observations on the grant of such certificates.

Such observations shall be made in writing and shall be reasoned. The documents serving as proof shall be attached thereto.

The above mentioned observations permit only to assert that a variety is not new, distinct, uniform or stable or that the applicant is not entitled to protection.

Article 11

The applicant may enjoy the priority of a earlier application that has been regularly filed for the same variety.

Where the application has been preceded by more than one application, priority may be based only on the earliest application.

Priority must be expressly claimed. It may be claimed only during a period of 12 months as from the filing date of the first application. The day of filing shall not be comprised in that period.

To enjoy the priority right, the applicant shall provide to the competent authority, within a period of three months as from the filing date, a certified copy of the first application.

As a result of priority, the application shall be deemed to have been filed on the filing date of the first application with regard to the conditions of protection deriving from the variety.

In addition, the applicant shall have the faculty of requesting that examination of the variety be deferred for two years at most as from the expiry date of the term of priority (three

years as from the filing date of the first application). However, if the first application is rejected or withdrawn, the competent authority may initiate the examination of the variety before the date stated by the applicant and in such case shall afford the applicant an appropriate period of time for providing the information, documents or material required for the examination.

Article 12

A new plant variety certificate that has been granted may not be cancelled unless:

- the novelty, distinctness, uniformity and stability requirements were not satisfied at the time the certificate was granted in cases where grant of the certificate was based on the information and documents provided by the applicant
- the new plant variety certificate was granted to a person not entitled thereto, unless it is transferred to the person entitled thereto.

Nullity may be invoked by any person with an interest in taking action, including the competent authority.

Article 13

The new plant variety certificate shall be granted by decision of the Minister for Agriculture after receiving the opinion of the Technical Committee for Seed, Seedlings and New Plant Varieties. It shall be drawn up in the name of the holder of the application and recorded in the National Catalogue of New Plant Varieties in the part concerning new plant variety certificates. Where the holder of the application is not the breeder, the name of the latter shall be mentioned on the certificate.

The new plant variety certificate shall contain the denomination of the variety, its botanical description, the filing date of the application, the grant date of the certificate and the term of protection.

Article 14

The Minister for Agriculture may determine equivalence of an entry in a foreign catalogue of new plant variety protection if the conditions and procedure for entry in such catalogue are equivalent to those applied in Tunisia and if the variety is new within the meaning of Article 9(a) of this Order.

CHAPTER III

Tasks of the Competent Authority

Article 15

In addition to the tasks provided in Law No. 99-42 of 10 May 1999, referred to above, the competent authority shall be responsible for:

- receiving, recording and prosecuting applications for the grant of new plant variety certificates and for opposition to the grant of such certificates,

- keeping the National Catalogue of New Plant Varieties and effecting registration of all acts concerning the right of protection
- examining the varieties submitted for protection or entrusting other bodies in Tunisia or abroad with so doing
- assuring or having assured the conservation of the reference samples of varieties for which an application for protection has been filed
- ensuring the publication of the list of protected new varieties, the applications for protection and the new plant variety certificates in the Official Journal of the Tunisian Republic
- conserving the files of applications for new plant variety certificates
- transferring exploitation of a variety in the general interest in application of Article 30 of Law No. 99-42 of 10 May 1999, referred to above, and after having obtained the opinion of the Technical Committee for Seed, Seedlings and New Plant Varieties.

CHAPTER IV

SPECIES ELIGIBLE FOR PROTECTION

Article 16

The list of genera and species eligible for protection, the term of protection, together with the time limit for filing applications for protection and the quantities of propagating material required for the examination of the varieties shall be laid down in accordance with the tables annexed to this Order.

Genera/species (Latin names)	Period of protection (years)
(1) Cereals	
Durham wheat (<i>Triticum durum</i> Desf)	20
Wheat (<i>Triticum aestivum</i> L.)	“
Barley (<i>Hordeum vulgare</i> L.)	“
Oats (<i>Avena sativa</i> L.)	“
Triticale (X <i>Triticosecale</i>)	“
(2) Legumes	
Bean (<i>Vicia faba</i> var <i>major</i>)	20
Lentil (<i>Lens culinaris</i>)	“
Chic pea (<i>Cicer arietinum</i> L.)	“
Pea (<i>Pisum sativum</i>)	“
French bean (<i>Phaseolus vulgaris</i> L.)	“
Field bean (<i>vicia. faba</i> var <i>minor</i>)	“
(3) Fodder Crops	
Fodder beet (<i>Beta vulgaris</i>)	20
Maize (<i>Zea mays</i> L.)	“
Fodder sorghum (<i>Sorghum bicolor</i>)	“
Sudan grass (<i>Sorghum Sudanese</i>)	“
Italian ryegrass (<i>Lolium multiflorum</i>)	“
Perennial ryegrass (<i>Lolium perenne</i>)	“
Phalaris <i>ssp</i>	“
Coxfoot (<i>Dactylis glomerata</i>)	“
Tall fescue (<i>Festuca arundinacea</i> schreb)	“
Couchgrass (<i>Agropyrum</i>)	“
Fodder pea (<i>Pisum arvense</i> L.)	“
Common vetch (<i>Vicia Sativa</i>)	“
Perennial Luzerne (<i>Medicago sativa</i> L.)	“
Annual Luzerne (<i>Medicago ssp</i>)	“
Clover (<i>Trifolium ssp</i>)	“
Hedysarum (<i>Hedysarum coronarium</i>)	“
Lathyrus (<i>Lathyrus ssp</i>)	“
(4) Industrial Crops	
Peanut (<i>Arachis hypogaea</i> L.)	20
Sunflower (<i>Helianthus annuus</i> L.)	“
Colza (<i>Brassica napus</i>)	“
Sugar beet (<i>Beta vulgaris</i>)	“
(5) Vegetable Crops	
Tomato (<i>Lycopersicum Lycopersicum</i>)	20
Carott (<i>Daucus carota</i> L.)	“
Aubergine (<i>Solanum melongena</i> L.)	“
Melon (<i>Cucumis melo</i> L.)	“
Water melon (<i>Citrullus vulgaris</i>)	“
Sweet pepper (<i>capsicum ssp</i>)	“
Cabbage, cauliflower (<i>Brassica oleracea</i>)	“
Beetroot (<i>Beta vulgaris</i> L.)	“
Cucumber, Gherkin (<i>Cucumis Sativus</i> L.)	“
Vegetable Marrow, Squash (<i>Cucurbita pepo</i> L.)	“
Lettuce (<i>lactuca sativa</i> L.)	“
Turnip (<i>brassica rapa</i> L.)	“
Onion (<i>Allium cepa</i> L.)	“
Radish (<i>Raphanus sativus</i> L.)	“
Potato (<i>Solanum tuberosum</i> L.)	“
Strawberry (<i>Fragaria</i> L.)	“

Genera/species (Latin names)	Period of protection (years)
(6) Ornamental and Floral Species	
Rose (<i>Rosa</i> ssp)	25
Carnation (<i>Dianthus</i> ssp)	20
Gladiolus (<i>Gladiolus</i> ssp)	“
Geranium (<i>Pelarganium</i> ssp)	“
Chrysanthemum (<i>Chrysanthemum</i> . ssp)	“
Strelitzia	“
Iris	“
Hibiscus trionum.	“
Laurier (<i>Nerium oleander</i>)	“
(7) Tree and Vine Species	
Citrus ssp	25
Peach (<i>Prunus persica</i> L.)	“
Plum (<i>Prunus domestica</i> L.)	“
Apricot (<i>Prunus armeniaca</i> L.)	“
Almond (<i>Prunus amygdalus</i>)	“
Cherry (<i>Prunus cerasus</i> , <i>avium</i>)	“
Apple (<i>Malus pumila</i> Mill)	“
Pear (<i>Pyrus communis</i> L.)	“
Vine (<i>Vitis vinifera</i> L.)	“
Fig (<i>Ficus carica</i>)	“
Pomegranate (<i>Punica Granatum</i>)	“
Olive (<i>Oléa europaea</i> L.)	30
Date palm (<i>Poenix dactylifera</i>)	“
Loquat (<i>Eriobotrya Japonica</i>)	“
Walnut (<i>Juglans Regia</i>)	“
Hazelnut (<i>Corylus Avellana</i>)	“
Nopal (<i>Oluntia – Ficus – Indica</i>)	“
Pistachio (<i>Pistacia vera</i>)	“

Final dates for filing applications for protection and the quantity of production of propagating material required for variety examination

Genera/species (Latin names)	Final dates for application filing	Quantity of production or propagation material to be supplied
1) Cereals		
Durham wheat (<i>Triticum durum</i> Desf) Wheat (<i>Triticum aestivum</i> L.)	1 September 1 September	3 kgs of basic seed each year during the examination period
Barley (<i>Hordeum vulgare</i> L.)	1 September	
Oats (<i>Avena sativa</i> L.)	1 September	
Triticale (X <i>Triticosecale</i>)	1 September	
(2) Legumes		
Bean (<i>Vicia faba</i> var <i>major</i>)	1 September	1 kg of basic seed (at least 1000 seeds) each year during the examination period
Lentil (<i>Lens culinaris</i>)	1 September	
Chic pea (<i>Cicer arietinum</i> L.)	1 November	
Pea (<i>Pisum sativum</i>)	15 August	
French bean (<i>Phaseolus vulgaris</i> L.)	15 January	
Field bean (<i>vicia. faba</i> var <i>minor</i>)	1 September	
(3) Fodder crops		
Fodder beet (<i>Beta vulgaris</i>)	1 August	1 kg of basic seed each year during the examination period
Maize (<i>Zea mays</i> L.)	1 January	- 1000 viable seeds from each parent - 3 kgs seed of the commercial hybrid each year during the examination period
Fodder sorghum (<i>Sorghum bicolor</i>)	1 January	1 kg basic seed and 50 panicles if necessary
Sudan grass (<i>Sorghum Sudanese</i>)	1 January	Each year during the examination period
Italian ryegrass (<i>Lolium multiflorum</i>)	1 September	1.5 kg of basic seed Each year during the examination period
Perennial ryegrass (<i>Lolium perenne</i>)		
Phalaris ssp		
Coxfoot (<i>Dactylis glomerata</i>)		
Tall fescue (<i>Festuca arundinacea</i> Schreb)		
Couchgrass (<i>Agropyrum</i>)		

C/34/14
Annex II, page 24

Genera/species (Latin names)	Final dates for application filing	Quantity of production or propagation material to be supplied
Fodder pea (<i>Pisum arvense</i> L.)	15 August	1 kg of basic seed each year during the examination period
Common vetch (<i>Vicia Sativa</i>)	15 August	
Perennial Luzerne (<i>Medicago sativa</i> L.)	1 September	
Annual Luzerne (<i>Medicago</i> ssp)	1 September	1 kg of basic seed each year during the examination period
Clover (<i>Trifolium</i> ssp)	1 September	
Hedysarum (<i>Hedysarum coronarium</i>)	1 September	
Lathyrus (<i>Lathyrus</i> ssp)	1 Septembrer	
(4) INDUSTRIAL CROPS		
Peanut (<i>Arachis hypogaea</i> L.)	15 January	2 kgs of basic seed each year during the examination period
Sunflower (<i>Helianthus annuus</i> L.)	1 January	1 kg of basic seed each year during the examination period for hybrids and free fertilization varieties
Colza (<i>Brassica napus</i>)	15 September	
Sugar beet (<i>Beta vulgaris</i>)	1 August	- 2 kgs of basic seed
		- 1 Unit
		Each year during the examination period
(5) VEGETABLE CROPS		
Tomato (<i>lycopersicum lycopersicum</i>)		
- autumn growing	15 June	10 g of standard seed for hybrids
- indoor growing	20 August	25 g of standard seed for varieties
- culture de saison	- 30 novembre	Chaque année durant la période d'examen
- seasonal growing	30 November	
Carott (<i>daucus carota</i> L-)		
- autumn/winterr	30 June	50 g of standard seed each year during the examination period
- spring/wummer growing	31 December	
Aubergine (<i>solanum melongena</i> L.)	15 June	15 g of standard seed
		each year during the examination period
Melon (<i>cucumis melo</i> L.)	15 December	30 g of standard seed for fixed varieties
		20 g of standard seed for hybrids each year during the examination period
Water melon (<i>citrullus vulgaris</i>)	31 December	100 g of standard seed for fixed varieties
		50 g of standard seed for hybrid varieties each year during the examination period
Sweet pepper (<i>capsicum lycopersicum</i>)		10 g of standard seed each year
Autumn growing	15 June	during the examination period
Indoor	20 August	
Seasonal	30 November	
Cabbage, cauliflower (<i>brassica oleracea</i>)		50 g of standard seed for fixed varieties
Autumn/winter growing	30 June	
Spring/summer growing	31 December	50 g of standard seed for hybrid varieties
		each year during the examination period
Beetroot (<i>beta vulgaris</i> L.)	30 June	200 g dof standard seed
		each year during the examination period
Cucumber (<i>cucumis sativus</i> L.)~	31 July	20 g of standard seed each year
Gherking		during the examination period
Vegetable Marrow, Squash (<i>Cucurbita pepo</i> L.)	15 September	20 g of standard seed for hybrid varieties each year during the examination period

Genra/species (Latin names)	Final dates for application filing	Quantity of production or propagation material to be supplied
Lettuce (<i>lactuca sativa</i> L.)	31 August	30 g of standard seed each year during the examination period
Turnip (<i>brassica rapa</i> L.)	31 July	50 g of standard seed each year during the examination period
Onion (<i>allium cepa</i> L.) - short days - long days	30 June 31 Decembere	100 g of standard seed each year during the examination period
Radish (<i>raphanus sativus</i> L.)	30 August	50 g of standard seed each year during the examination period
Potato (<i>solanum. tuberosum</i> L.) - early growing - seasonal growing	15 November 15 January	150 certified category seed potatoes each year during the examination period
Strawberry (<i>fragaria</i> L.)	15 December	100 seedlings each year
6) FLORAL AND ORNAMENTAL SPECIES		
Rose (<i>rosa</i> ssp)	30 Januaryr	6 one-year grafts with at least 3 shoots not resulting from micropropagation
Carnation (<i>dianthus</i> ssp)	30 January	50 rooted cuttings
Gladiolus (<i>gladiolus</i> ssp)	30 January“	30 horns
Geranium (<i>pelarganium</i> ssp)	30 January	15 young plants
Chrysanthemum (<i>chrysanthemum. ssp</i>)	30 January	50 cuttings of all season varieties and 25 cuttings for perennial varieties
Strelitzia	30 January	15 rooted fragments
Iris	30 January	30 bulbs
Hibiscus <i>trionum.</i>	30 January	15 young plants
Laurier (<i>nerium oleander</i>)	30 January	25 young plantss
(7) TREE AND VINE SPECIES		
Citrus ssp	31 March	5 certified one-year grafted seedlings
Peach (<i>prunus persica</i> L.)	31 December	“
Plum (<i>prunus domestica</i> L.)	31 December	“
Apricot (<i>prunus armeniaca</i> L.)	31 December	“
Almond (<i>prunus amygdalus</i>)	31 December	“
Cherry (<i>prunus cerasus, avium</i>)	31 December	“
Apple (<i>malus pumila</i> mill)	31 December	“
Pear (<i>pyrus communis</i> L.)	31 December	“
Vine (<i>vitis vinifera</i> L.)	31 December	“
Fig (<i>figus carica</i>)	31 December	5 rooted cuttings
Pomegranate (<i>punica granatum</i>)		“
Olive (<i>oléa europaea</i> L.)	31 December	5 rooted seedlings
Date palm (<i>poenix dactylifera</i>)	31 March	5 young plants
Loquat (<i>eriobotrya Japonica</i>)	31 March	“
Walnut (<i>juglans regia</i>)	31 March	
Hazelnut (<i>corylus avellana</i>)	31 March	“
Nopal (<i>oluntia - ficus - indica</i>)	31 December	5 rooted cuttings
Pistachio (<i>pistacia vera</i>)	31 December	“

N.B : * Seed should comply with the norms applicable to the category requested.

* The provision of seed or seedlings required each year is limited to the examination period.

* Additional quantities of seeds and seedlings may be requested for the reference collections.

[End of Annex II and of document]