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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

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Geneva, October 21, 2010

EXAMINATION OF THE CONFORMITY OF THE DRAFT LAW
ON PLANT VARIETY PROTECTION OF THE REPUBLIC OF TAJIKISTAN
WITH THE 1991 ACT OF THE UPOV CONVENTION

Document prepared by the Office of the Union

Introduction

1. Article 34(3) of the 1991 Act provides that “[a]ny State which is not a member of the Union and any intergovernmental organization shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Convention. If the decision embodying the advice is positive, the instrument of accession may be deposited.”

2. By letter dated August 27, 2010, addressed to the Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV), His Excellency, Mr. Kasym Kasymov, Minister for Agriculture of the Republic of Tajikistan (Tajikistan), requested the examination of the Draft Law on Plant Variety Protection (Draft Law), for its conformity with the 1991 Act of the UPOV Convention (1991 Act). The letter is reproduced in Annex I to this document. Annex II contains the official verified translation in English of the Draft Law provided by the Government of Tajikistan on September 7, 2010.

Background

3. The Government of Tajikistan has previously submitted a law for consideration by the Council. On August 16, 1999, His Excellency, Mr. Sh. Kabirov, Minister for Agriculture of Tajikistan, requested the advice of the Council of UPOV, on the conformity with the 1991 Act, of the Law on the Selection Achievements of Agricultural Crops, which had been adopted by the Parliament of Tajikistan on November 4, 1995.

4. At its thirty-third ordinary session, on October 20, 1999, the Council decided:

“(a) to advise the Government of Tajikistan that the Law, after the adoption of suitable regulations, provides the basis for an Act conforming with the Convention, and that it may deposit an instrument of accession to the Convention after making such regulations;

“(b) to further advise the Government of Tajikistan that it may wish to correct the minor deviations and inconsistencies at the earliest opportunity;

“(c) to request the Office of the Union to offer its assistance to the Government of Tajikistan for the drafting of any regulations and the correction of the Law.” (see document C/33/18 “Report”, paragraph 13).

5. On May 9, 2005, the Office of the Union was notified that the Government of Tajikistan was drafting a new Law. Therefore, the above decision of the Council of October 20, 1999, is no longer relevant.

6. At the request of Government of Tajikistan, on April 9, 2010, the Office of the Union provided assistance in the preparation of the Draft Law on the basis of document UPOV/INF/6/1 “Guidance for the Preparation of Laws based on the 1991 Act of the UPOV Convention” and informed the relevant authorities that Draft Law would need to be submitted to the Council for examination of its conformity with the 1991 Act. As explained in paragraph 2, the Government of Tajikistan had requested the advice of the Council in respect of the conformity of the Draft Law with the 1991 Act.

Basis for the Protection of New Plant Varieties in Tajikistan

7. In Tajikistan, the protection of new plant varieties will be governed by the Draft Law, once adopted and in force, in accordance with its Article 2, which provides as follows:

“Article 2. Legislation on the legal protection of plant varieties

“Legislation of the Republic of Tajikistan on legal protection of plant varieties is based on the Constitution of the Republic of Tajikistan and consists of this Law, other regulatory legal acts of the Republic of Tajikistan as well as international regulatory legal acts, recognized by the Republic of Tajikistan.”

An analysis of the Draft Law follows in the order of the substantive provisions of the 1991 Act.

Article 1 of the 1991 Act: Definitions

8. Article 1 of the Draft Law contains definitions corresponding to the relevant definitions in Article 1 of the 1991 Act.

Article 2 of the 1991 Act: Basic Obligation of the Contracting Parties

9. The first sentence of the Draft Law provides that “[t]his law regulates the legal protection of plant varieties and defines legal basis for granting and protecting breeders’ rights” corresponding to the basic obligation provided by Article 2 of the 1991 Act.

Article 3 of the 1991 Act: Genera and Species to be Protected

10. Article 3 of the Draft Law provides as follows:

“Scope of the law

“This law shall be applied, on the date of its coming into force, to plant genera and species registered on the lists approved by authorized state body of the Republic of Tajikistan for agriculture management and to all plant genera and species at the latest by the expiration of a period of 10 years from the date of this law coming into force.”

11. The provisions of Article 3 of the Draft Law correspond to the obligations under Article 3(2) of the 1991 Act. It should be noted that in accordance with Article 36(1)(ii) of the 1991 Act, when depositing its instrument of accession, the Government of Tajikistan must notify in its declaration the applicable list of plant genera and species (the minimum requirement is 15 plant genera or species).

Article 4 of the 1991 Act: National Treatment

12. The provisions in Article 27 of the Draft Law correspond to the requirements of Article 4 of the 1991 Act.

Articles 5 to 9 of the 1991 Act: Conditions of Protection, Novelty, Distinctness, Uniformity and Stability

13. Articles 7 to 11 of the Draft Law contain provisions of the conditions of protection corresponding to the provisions of Articles 5 to 9 of the 1991 Act.

Article 10 of the 1991 Act: Filing of Applications

14. Article 12 of the Draft Law contains provisions on the filing of applications. The Draft Law does not seem to contain provisions which conflict with Article 10 of the 1991 Act.

Article 11 of the 1991 Act: Right of Priority

15. Article 13 of the Draft Law contains provisions on the right of priority corresponding to the provisions of Article 11 of the 1991 Act.

Article 12 of the 1991 Act: Examination of the Application

16. Article 14 of the Draft Law contains provisions concerning the examination of the application corresponding to the provisions of Article 12 of the 1991 Act.

Article 13 of the 1991 Act: Provisional Protection

17. Article 15 of the Draft Law contains provisions on provisional protection corresponding to the provisions in Article 13 of the 1991 Act.

Article 14 of the 1991 Act: Scope of the Breeder's Right

18. Article 16 of the Draft Law contains provisions on the scope of the breeder's right corresponding to the provisions of Article 14 of the 1991 Act.

Article 15 of the 1991 Act: Exceptions to the Breeder's Right

19. Article 17 of the Draft Law contains provisions concerning the compulsory exceptions to the breeder's right which correspond to the provisions of Article 15(1) of the 1991 Act.

Article 16 of the 1991 Act: Exhaustion of the Breeder's Right

20. Article 18 of the Draft Law contains provisions concerning the exhaustion of the breeder's right which correspond to the provisions of Article 16 of the 1991 Act.

Article 17 of the 1991 Act: Restrictions on the Exercise of the Breeder's Right

21. Article 19 of the Draft Law contains provisions on the restrictions on the exercise of the breeder's right which correspond to the provisions in Article 17 of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

22. The Draft Law does not seem to contain provisions which conflict with Article 18 of the 1991 Act.

Article 19 of the 1991 Act: Duration of the Breeder's Right

23. Article 20 of the Draft Law contains provisions concerning the duration of the breeder's right which correspond with the provisions of Article 19 of the 1991 Act.

Article 20 of the 1991 Act: Variety Denomination

24. Articles 22 and 23 of the Draft Law contain provisions on variety denominations corresponding to the provisions of Article 20 of the 1991 Act.

Article 21 of the 1991 Act: Nullity of the Breeder's Right

25. Article 24 of the Draft Law contains provisions on the nullity of the breeder's right corresponding to the provisions of Article 21 of the 1991 Act.

Article 22 of the 1991 Act: Cancellation of the Breeder's Right

26. Article 25 of the Draft Law contains provisions on the cancellation of the breeder's right corresponding to the provisions of Article 22 of the 1991 Act.

Article 30 of the 1991 Act: Implementation of the Convention

27. In relation to the obligation to "provide for appropriate legal remedies for the effective enforcement of breeders' rights" (Article 30(1)(i) of the 1991 Act), Article 28 of the Draft Law provides the following:

"Article 28. Protection of breeder's rights

"Breeder's rights are protected by the provisional, civil, customs and criminal measures stipulated in the legislation of the Republic of Tajikistan."

28. In relation to the obligation under Article 30(1)(ii) of the 1991 Act, Article 4(2) provides as follows:

"2. The authorised state body grants breeder's rights to the breeder of a plant variety and in accordance with the prescribed procedure issues a certificate of the breeder's right that certifies the breeder's right for protection of plant variety."

29. Article 29 of the Draft Law corresponds to the obligation to publish information concerning applications for and grant of breeders' rights, and proposed and approved denominations as required in Article 30(1)(iii) of the 1991 Act.

General Conclusion

30. In the opinion of the Office of the Union, the Draft Law incorporates the substantive provisions of the 1991 Act. On that basis, once the Draft Law is adopted, with no changes, and the Law in force, Tajikistan would be in a position “to give effect” to the provisions of the 1991 Act, as required by its Article 30(2).

31. *The Council is invited to:*

(a) note the analysis in this document;

(b) take a positive decision on the conformity of the Draft Law on Plant Variety Protection of the Republic of Tajikistan with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows the Republic of Tajikistan, once the Draft Law is adopted, with no changes, and the Law in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of the Republic of Tajikistan of that decision.

[Annexes follow]

ANNEX I

Letter from the Minister for Agriculture of the Republic of Tajikistan
of August 27, 2010, to the Secretary-General of UPOV



ВАЗОРАТИ КИШОВАРЗИИ ҶУМҲУРИИ ТОҶИКИСТОН

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№ 115-1790

Аз «31 август» соли 2010

Ба № _____

Mr. Francis Gurry
Secretary-General, International Union
for the Protection of New Varieties of
Plants (UPOV)
34, chemin des Colombettes
1211 Geneva 20, Switzerland

27 August, 2010

Dear Secretary-General Gurry,

I have the pleasure to inform you that the Draft Law "On plant variety protection" is approved by the Government of the Republic of Tajikistan at its meeting on 30 June, 2010 and is submitted to the Parliament of the Republic of Tajikistan to be reviewed and adopted.

The Republic of Tajikistan intends to adhere to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, revised at Geneva on November 10, 1972, on October 23, 1978 and on March 19, 1991 (UPOV Convention).

Pursuant to the provisions of Article 34(3) of the UPOV Convention, I would appreciate it if the Council of UPOV could examine the conformity of the Draft Law of the Republic of Tajikistan "On plant variety protection" with the provisions of the UPOV Convention.

Sincerely yours,

Kasym Kasymov,

Minister of Agriculture,
Republic of Tajikistan

Enclosure: Official translation of the Draft Law of the Republic of Tajikistan "On plant variety protection" into English.

[Annex II follows]

ANNEX II / ANNEXE II / ANLAGE II / ANEXO II

[In English only / En anglais seulement /
Nur auf Englisch / En Inglés solamente]

DRAFT LAW ON PLANT VARIETY PROTECTION
OF THE REPUBLIC OF TAJIKISTAN

This law regulates the legal protection of plant varieties and defines legal basis for granting and protecting breeders' rights.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Main definitions

The following main definitions are used in this law:

- variety – a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one of the said characteristics and, considered as a unit with regard to its suitability for being propagated unchanged.
- plant breeder - the person who bred, or discovered and developed, a variety or the person who is the employer of the aforementioned person or who has commissioned the latter's work or the successor in title of the first or second aforementioned person, as the case may be;
- certificate of breeder's right – a document, which certifies the breeder's right on the protection of his plant variety;
- Register of protected varieties (hereinafter – Register) – a source of public information about protected plant varieties, which is maintained by the state authorised body;
- breeder's right – the right of the breeder provided for in this Law;
- protected plant variety - a selection achievement of the breeder that is acknowledged as a subject matter of an intellectual property right by the grant of the breeder's right when the variety complies with the conditions of protection stipulated in Article 7 of this Law;
- UPOV - the International Union for the Protection of New Varieties of Plants founded by the International Convention for the Protection of New Varieties of Plants (the UPOV Convention);
- member of UPOV - a State party or a Contracting Party to the Convention for the protection of new varieties of plants (UPOV Convention).

Article 2. Legislation on the legal protection of plant varieties

Legislation of the Republic of Tajikistan on legal protection of plant varieties is based on the Constitution of the Republic of Tajikistan and consists of this Law, other regulatory legal acts of the Republic of Tajikistan as well as international regulatory legal acts, recognized by the Republic of Tajikistan.

Article 3. Scope of the law

This law shall be applied, on the date of its coming into force, to plant genera and species registered on the lists approved by authorized state body of the Republic of Tajikistan for agriculture management and to all plant genera and species at the latest by the expiration of a period of 10 years from the date of this law coming into force.

Article 4. Authorized state body for testing, registration and protection of plant varieties

1. The authorised state body responsible for testing, registration and protection of plant varieties (hereinafter - the authorised state body) provides for the maintenance of a single policy in plant varieties protection on the territory of the Republic of Tajikistan. The authorised state body is assigned by the Government of the Republic of Tajikistan.

2. The authorised state body grants breeder's rights to the breeder of a plant variety and in accordance with the prescribed procedure issues a certificate of the breeder's right that certifies the breeder's right for protection of plant variety.

3. The authorized state body is responsible for the following functions in protecting plant varieties:

- Maintains the Register and provides for its public accessibility;
- Deals with issues related to application examination;
- Where the variety meets the criteria under articles 8 to 11 of this Law, issues a certificate for the breeder's right;
- Other responsibilities in accordance with the legislation of the Republic of Tajikistan.

4. The authorised state body establishes rules and guidelines in the manner prescribed by the legislation of the Republic of Tajikistan on issues of plant variety protection, including the procedure of application review, for the grant of the breeder's rights, the denomination of the plant variety, application examinations, the regular publication of information, the appeal procedure, the date of the registration of the plant variety in the Register to be approved by the authorised state body for agriculture management of the Republic of Tajikistan.

Article 5. Provision of charged services

The authorised state body has the right to charge the interested parties for the services in line with the legislation of the Republic of Tajikistan and to make use of the income in accordance with the legislation.

CHAPTER 2. CONDITIONS FOR THE GRANT OF THE BREEDER'S RIGHT FOR PLANT VARIETIES

Article 6. Right to apply for protection of plant variety

In accordance with this Law a plant breeder shall be entitled to apply for breeder's right.

Article 7. Criteria for protection of a plant variety

1. A right to be known as a breeder's right shall be granted where the variety meets the criteria for plant variety protection.
2. The criteria are:
 - novelty;
 - distinctness;
 - uniformity;
 - stability.
3. The grant of the breeder's right shall not be subject to any further or different conditions, other than listed in paragraph 2 of this article, provided that the variety is designated by a denomination in accordance with the provisions of Article 22 of this Law, that the applicant complies with the formalities provided for in this Law.

Article 8. Novelty of the plant variety

1. A plant variety shall be considered new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the plant 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 plant variety in the territory of Tajikistan earlier than one year before the date of filing of the application to the authorised state body.
2. A plant variety shall be considered new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the plant 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 plant variety in a territory other than that of Tajikistan earlier than four years before the date of filing of the application to the authorised state body or, in the case of trees or of vines, earlier than six years before the said date.

Article 9. Distinctness of plant variety

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 breeder's right or for the entering of a variety in an official register 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 the said other variety in the official register of varieties, as the case may be.

Article 10. Uniformity of plant variety

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.

Article 11. Stability of plant variety

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.

CHAPTER 3. APPLICATION FOR THE GRANT OF THE BREEDER'S RIGHT

Article 12. Filing of Applications

1. An applicant for the protection of a variety shall file an application in the prescribed form with the authorized state body.
2. The application form for the grant of the breeder's right, the amount of fees for services, information and the material as well as the filing date are set forth by the authorised state body of the Republic of Tajikistan responsible for Agriculture management.
3. The authorized state body shall accord the filing date of the application, the date of receipt of the application duly filed.
4. The right for filing of application for the grant of the breeder's right can be transferred to third parties.
5. The authorised state body shall not refuse to grant a breeder's right or limit its duration on the ground that protection for the same variety has not been applied for, has been refused or has expired in any other State or intergovernmental organization.

Article 13. Right of Priority

1. Any breeder who has duly filed an application for the protection of a variety in one of the members of UPOV (the "first application") shall, for the purpose of filing an application for the grant of a breeder's right for the same variety with the authorised state body, enjoy a right of priority for a period of 12 months. This period shall be computed from the date of filing of the first application. The day of filing shall not be included in the latter period.
2. In order to benefit from the right of priority, the breeder shall, in the application filed with the authorised state body, claim the priority of the first application. The authorised state body shall require the breeder to furnish, within a period of three months from the filing date of the application, a copy of the documents which constitute the first application, certified to be a true copy by the authority with which that first application was filed, and samples or other evidence that the variety which is the subject matter of both applications is the same.
3. The breeder shall be allowed a period of two years after the expiration of the period of priority or, where the first application is rejected or withdrawn, an appropriate time, after such

rejection or withdrawal, in which to furnish, to the authorised state body, any necessary information, document or material required for the purpose of the examination under Article 14.

4. Events occurring within the period provided for in paragraph 1, such as the filing of another application or the publication or use of the variety that is the subject of the first application, shall not constitute a ground for rejecting the subsequent application. Such events shall also not give rise to any third-party right.

Article 14. Examination of the Application

1. Any decision to grant a breeder's right shall require an examination for compliance with the conditions under Articles 8 to 11. In the course of the examination, the authorised state body may grow the variety or carry out other necessary tests, cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out.

2. For the purposes of examination, the authorised state body may require the breeder to furnish all the necessary information, documents or material as specified by the authorised state body for agriculture management of the Republic of Tajikistan.

Article 15. Provisional Protection

1. Provisional protection is provided to safeguard the interests of the breeder during the period between the publication of the application for the grant of a breeder's right and the grant of that right. During this period the authorised state body takes measures to safeguard the interests of the breeder.

2. The holder of a breeder's right shall at least be entitled to equitable remuneration from any person who, during the period provided in paragraph (1), has carried out acts which, once the right is granted, require the breeder's authorization as provided in Article 16. Legal action in respect of provisional protection can only be initiated after the right is granted.

CHAPTER 4. THE RIGHTS OF THE BREEDER AND DURATION OF THE BREEDER'S RIGHT

Article 16. The breeder's right

1. The following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:

- production or reproduction (multiplication);
- conditioning for the purpose of propagation;
- offering for sale;
- selling or other marketing;
- exporting;
- importing;
- stocking for any of the purposes mentioned above.

2. The breeder may make his authorization subject to conditions and limitations.
3. The acts referred to in paragraph 1 in respect of harvested material, including entire plants and parts of plants, obtained through the unauthorized use of propagating material of the protected variety shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his right in relation to the said propagating material.
4. The provisions of paragraphs 1 to 3 shall also apply in relation to:
 - varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,
 - varieties which are not clearly distinguishable in accordance with Article 9 of this Law from the protected variety
 - varieties whose production requires the repeated use of the protected variety.
5. A variety shall be deemed to be essentially derived from another variety (“the initial variety”) when:
 - it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;
 - it is clearly distinguishable from the initial variety and
 - except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.
6. Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

Article 17. Exceptions to the breeder’s right

1. The breeder’s right shall not extend to:
 - acts done privately and for non-commercial purposes;
 - acts done for experimental purposes; and
 - acts done for the purpose of breeding other varieties, and, except where the provisions of Article 16(4) to (6) of this Law apply, acts referred to in Article 16 (1) to (3) in respect of such other varieties.

Article 18. Exhaustion of the breeder’s right

1. The breeder’s right shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of Article 16 (4) to (6) which has been sold

or otherwise marketed by the breeder or with his consent in the territory of the Republic of Tajikistan, or any material derived from the said material, unless such acts:

- involve further propagation of the variety in question or;
- involve an export of material of the variety, which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption purposes.

2. For the purposes of paragraph 1, “material” means, in relation to a variety:

- propagating material of any kind,
- harvested material, including entire plants and parts of plants, and
- any product made directly from the harvested material.

Article 19. Restrictions on the Exercise of the breeder’s right

Free exercise of a breeder’s right can be restricted only in cases of public interest foreseen by the legislation of the Republic of Tajikistan.

When any such restriction has the effect of the authorised state body authorizing a third party to perform any act for which the breeder’s authorization is required, the breeder shall receive equitable remuneration.

Article 20. Measures Regulating Commerce

The breeder’s right is independent of any measure to regulate the production, certification and marketing of material of varieties or the importing or exporting of such material. In any case, such measures shall not affect the application of the provisions of the legislation of the Republic of Tajikistan on plant variety protection.

Article 21. Duration of the breeder’s right

The breeder’s right shall be granted for a period of 20 years from the date of the grant of the breeder’s right. For trees and vines, the said period shall be 25 years from the said date.

CHAPTER 5. VARIETY DENOMINATION

Article 22. Variety Denomination

1. The variety shall be designated by a denomination which will be its generic designation as suggested by the breeder to the authorised state body and which is entered in the Register at the time of the grant of the breeder’s right. Subject to paragraph (4), no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the breeder’s right.

2. The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the

variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in the territory of any member of UPOV, an existing variety of the same plant species or of a closely related species.

3. If it is found that the denomination does not satisfy the requirements of paragraph 2, the authorised state body shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period.

4. Prior rights of third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph 1 of Article 23 of this Law, is obliged to use it, the authorised state body shall require the breeder to submit another denomination for the variety.

5. A variety must be submitted to all members of UPOV under the same denomination. The authorised state body shall register the denomination so submitted, unless it considers the denomination unsuitable. In the latter case, it shall require the breeder to submit another denomination.

6. The authorised state body ensures that the authorities of the members of UPOV are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any authority may address its observations, if any, on the registration of a denomination to the authorised state body.

Article 23. Use of plant variety denomination

1. Any person who offers for sale or markets propagating material of a variety protected within the territory of the Republic of Tajikistan is obliged to use the denomination of that variety, even after the expiration of the breeder's right in that variety, except where, in accordance with the provisions of paragraph 4 of Article 22 of this Law, prior rights prevent such use.

2. When a variety is offered for sale or marketed, it is permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

CHAPTER 6. NULLITY AND CANCELLATION OF THE BREEDER'S RIGHT

Article 24. Nullity of the breeder's right

1. The breeder's right shall be declared null and void by the authorised state body when it is established:

- that the conditions laid down in Articles 8 or 9 were not complied with at the time of the grant of the breeder's right;
- that, where the grant of the breeder's right has been essentially based upon information and documents furnished by the breeder, the conditions laid down in Articles 10 or 11 were not complied with at the time of the grant of the breeder's right;

- that the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled.
2. No breeder's right shall be declared null and void for reasons other than those referred to in paragraph 1 of this article.

Article 25. Cancellation of the breeder's right

1. The authorized state body may cancel the breeder's right if it is established that the conditions laid down in Articles 10 or 11 are no longer fulfilled.
2. Furthermore, the breeder's right may be cancelled if, after being requested to do so and within the prescribed period:
- the breeder does not provide the authorised state body with the information, documents or material deemed necessary for verifying the maintenance of the variety;
 - the breeder fails to pay such fees as may be payable to keep his right in force;
 - the breeder does not propose, where the denomination of the variety is cancelled after the grant of the right, another suitable denomination.
-
3. No breeder's right shall be cancelled for reasons other than those referred to in paragraph 1 and 2 of this article.

Article 26. Early termination of the breeder's right

1. If the holder of the breeder's right files an application to the authorised state body wishing to terminate the breeder's right, then the breeder's right is terminated before the prescribed deadline.
2. If the date of termination of the breeder's right is not indicated in the application, then the date of filing of the application requesting the termination to the authorised state body is deemed to be the date of termination of the breeder's right.

CHAPTER 7. FINAL PROVISIONS

Article 27. Rights of foreign nationals and legal persons

1. Without prejudice to the rights specified in this law, nationals of a member of UPOV as well as natural persons resident and legal entities having their registered offices within the territory of a member of UPOV shall, insofar as the grant and protection of breeders' rights are concerned, enjoy within the territory of the Republic of Tajikistan the same treatment as is accorded by this law to the nationals of the Republic of Tajikistan.

2. For the purposes of paragraph 1, “nationals” means, where the member of UPOV is a State, the nationals of that State and, where the member of UPOV is an intergovernmental organization, the nationals of the States which are members of that organization.

Article 28. Protection of breeder’s rights

Breeder’s rights are protected by the provisional, civil, customs and criminal measures stipulated in the legislation of the Republic of Tajikistan.

Article 29. Publication of information

The authorised state body must provide the public with information by means of periodical publication of information regarding:

- Applications for the grant of breeders rights and rights granted;
- Proposed and approved denominations.

Article 30. Liability for infringement of the breeder’s right

Physical or legal persons infringing this law are liable in accordance with the legislation of the Republic of Tajikistan.

Article 31. The declaration of repealing of the law of the Republic of Tajikistan «On breeding achievements of agricultural crops»

The law of the Republic of Tajikistan «On breeding achievements of agricultural crops» of 4 November, 1995 (Vedomosti Majlisi Oli of the Republic of Tajikistan, 1995, №22, article 257, Akhbori Majlisi Oli of the Republic of Tajikistan, 2002. №11, article 732) is hereby repealed.

Article 32. The procedure of entering into force of this law

This law shall enter into force after it is officially published.

President
Republic of Tajikistan

[End of Annex II and of document/
Fin de l’annexe II et du document/
Ende der Anlage II und des Dokuments/
Fin del Anexo II y del documento]