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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

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Geneva, October 20, 1999

EXAMINATION OF THE CONFORMITY OF THE LAWS OF
THE ARAB REPUBLIC OF EGYPT
WITH THE 1991 ACT OF THE UPOV CONVENTION

Document prepared by the Office of the Union

Introduction

1. By letter dated October 17, 1999, Dr. Yossuf Wally, Deputy Prime Minister and Minister of Agriculture and Land Reclamation of Egypt, requested the advice of the Council of UPOV on the conformity with the 1991 Act of the UPOV Convention of a Draft Ministerial Decree on the Protection of Plant Varieties (hereinafter referred to as the "Draft Decree"). Annex I contains a copy of the letter; Annex II contains a translation into English of the Draft Decree provided by the Egyptian Government.
2. Egypt did not sign the 1991 Act. Under Article 34(2) of that Act it must deposit an instrument of accession in order to become a member State of UPOV on the basis of that Act. 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 1991 Act and if the decision of the Council embodying the advice is positive.

Basis for the Protection of New Plant Varieties in Egypt

3. The protection of new plant varieties will be governed in Egypt by the Draft Decree when this has been adopted by the Minister of Agriculture and Land Reclamation. The Minister will make the Decree under enabling provisions in the seed law of Egypt. An analysis of the Draft Decree follows in the order of the substantive law provisions of the 1991 Act.

Article 1 of the 1991 Act: Definitions

4. The Draft Decree reproduces the definition of “variety” found in Article 1(vi) of the 1991 Act. It also uses the definition of breeder contained in Article 1(vi), first indent, of the Act.

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

5. The Draft Decree makes comprehensive provision for the grant of “plant variety protection titles” and for the protection of such titles after grant, thus fully satisfying the requirement of Article 2 of the 1991 Act.

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

6. Article 3 of the Draft Decree provides that the Decree should be applied on the date of its coming into force to not less than fifteen genera and species to be specified by the Ministry of Agriculture and to all plant genera and species after ten years, thus fully satisfying Article 3 of the 1991 Act.

Article 4 of the 1991 Act: National Treatment

7. Article 7(a) provides that breeders of new plant varieties have the right to make an application for protection whether or not they are citizens or residents of Egypt and irrespective whether the breeder originated the variety outside Egypt, thus fully satisfying Article 4 of the 1991 Act.

Article 5 to 9 of the 1991 Act: Conditions of Protection; Novelty; Distinctness, Uniformity, Stability

8. The conditions for the grant of protection are set out in Article 4 of the Draft Decree and fully satisfy Articles 5 to 9 of the 1991 Act.

Article 10 of the 1991 Act: Filing of Applications

9. The Draft Decree contains no provisions which conflict with those of Article 10 of the 1991 Act.

Article 11 of the 1991 Act: Right of Priority

10. Article 13 of the Draft Decree makes provision for a right of priority which conforms with Article 11 of the 1991 Act. The additional period of two years which must be allowed for the breeder to furnish information, documents or material for the purpose of the examination is not referred to in the Draft Decree. This omission should be remedied when making implementing rules.

Article 12 of the 1991 Act: Examination of the Application

11. Article 5 of the Draft Decree makes provision for the examination of applications and of candidate varieties to ensure that they meet the conditions for a grant of protection, thus fully satisfying Article 12 of the 1991 Act.

Article 13 of the 1991 Act: Provisional Protection

12. The Draft Decree does not yet provide for provisional protection between the date of application and grant. An appropriate provision must be added to the Draft Decree if it is to conform with Article 13 of the 1991 Act.

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

13. Article 15 of the Draft Decree reproduces Article 14 of the 1991 Act almost *verbatim* and thus fully satisfies that Article.

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

14. Article 16 reproduces the text of Article 15(i) almost *verbatim*. Article 16(b) enables the Ministry of Agriculture to make regulations concerning farm-saved seed in terms which satisfy Article 15(2) of the 1991 Act.

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

15. Article 17 of the Draft Decree reproduces the substance, and satisfies, Article 16 of the 1991 Act.

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

16. Article 14 of the Draft Decree makes provision for the grant of compulsory licenses in terms which satisfy Article 17 of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

17. The Draft Decree contains no provisions which conflict with Article 18 of the 1991 Act.

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

18. Article 12 of the Draft Decree provides that the period of protection shall be 25 years for trees and vines and 20 years for other plants, fully satisfying Article 19 of the 1991 Act.

Article 20 of the 1991 Act: Variety Denomination

19. Article 6 of the Draft Decree contains provisions that fully satisfy Article 20 of the 1991 Act.

Articles 21 and 22 of the 1991 Act: Nullity and Cancellation of the Breeder's Right

20. Article 18 contains provisions concerning nullity and Article 19 contains provisions concerning cancellation which fully satisfy the requirements of Articles 21 and 22 of the 1991 Act, respectively.

Article 30 of the 1991 Act: Implementation of the Convention

21. The Draft Decree makes provision for the implementation of the 1991 Act in Egypt, thus

a) Article 20 makes provision for "the court" to have jurisdiction with respect to matters arising under the Draft Decree in respect to which court actions or proceedings can be instituted. Apart from this provision, there is no provision in the Draft Decree for appeals so that it would seem that all appeals, even all administrative matters, would need to be taken to the courts. Consideration should be given to more detailed provisions concerning the jurisdiction of the courts, the remedies available, and the establishment of an internal appeal system in the plant variety protection office (Article 30(1)(I) of the 1991 Act).

b) Article 1(a) provides for the establishment of a "Plant Variety Protection Office" which shall be responsible for the Administrative of Plant Breeder's Right (Article 30(1)(ii) of the 1991 Act).

c) Article 2 makes provision for the establishment of a Register of Protected Plant Varieties and for the entry therein of grants and cancellations. Article 10(b) provides for the publication of grants, but not for the publication of applications or of other procedural steps in the granting process. Provision should be made for the publishing of additional information concerning the progress of plant variety protection applications (Article 30(1)(iii) of the 1991 Act).

General Conclusions

22. The Draft Decree implements the main substance of the 1991 Act. However, it will not fully satisfy the 1991 Act unless

a) it is supplemented by provisions creating a system of provisional protection (See paragraph 12 above);

b) it provides for the regular publication of details concerning applications for protection and approval of variety denominations (See paragraph 22 above).

23. The Office of the Union suggests that the Council may wish

a) to advise the Government of Egypt that the Draft Decree when supplemented by provisions designed to satisfy the matters referred to in paragraphs 12 and 22 above provides a basis for a law conforming with the 1991 Act;

b) to request the Office of the Union to offer its assistance to the Government of Egypt in respect of the minor additional provisions that are necessary to achieve conformity;

c) to further advise the Government of Egypt that after the making of a Decree based upon the Draft Decree and incorporating the suggestions set out in paragraphs 12 and 22 above, it may deposit an instrument of accession to the 1991 Act.

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

[Two Annexes follow]

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ANNEXES I

= letter dated October 17, 1999, Dr. Yossuf Wally, Deputy Prime Minister and Minister of
Agriculture and Land Reclamation of Egypt

ANNEX II

MINISTERIAL DECREE

ON

**The Protection of Plant Varieties
(No. ___ of 199)**

Article 1:

In this Decree, unless the contrary intention appears:

One) – “Plant Variety Protection Office” means: the authority responsible for plant breeders’ rights established under Law 53 of 1966 and its amendments. The Office shall be represented by its (Head) who shall be appointed to the Office by the Minister. Description of the Office shall be taken by or under the authority of the (Head) of the Office.

Two) – “Breeder” means the person who has bred or discovered and developed a variety, and in relation to a new plant variety, means:

- (1) In the case of a variety originated by one person only – that person;
- (2) In the case of a variety originated by two or more persons (whether jointly, independently at the same time or at different times or otherwise) – each of those person; or
- (3) In the case of a variety originated by a person or persons in the Course of performing duties or functions as members or employees of a body (whether incorporated or not) – the body of which those persons are members or employees, as the case may be.

c) – “Applicant” in relation to an application for a “plant variety protection title”, means the person for the time being shown in the application as the person making the application.

d) – “ Plant Variety” for the purpose of this decree means 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 plant variety protection title are fully met can be:

- (1) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
- (2) distinguished from any other plant grouping by the expression of at least one of the said characteristics and
- (3) considered as a unit with regard to its suitability for being propagated unchanged;

e) – “Propagating Material” in relation to a plant, means:

- (1) a seed of that plant
- (2) a cutting from that plant
- (3) any other part of that plant which enables that plant to be reproduced.

f) – “ARE” means the Arab Republic of Egypt.

g) – “MALR” means the Ministry of Agriculture and Land Reclamation.

Article 2:

- One) – There shall be a Registrar of Plant Variety Protection.
- Two) – The office of the Registrar of Plant Variety Protection shall be an office in the MALR.
- Three) – The Registrar has such functions and powers as are conferred on the Registrar by this Decree.
- Four) – The Registrar shall keep at a place approved by MALR a register to be known as the Register of Protected Plant Varieties, in which shall be entered particulars required by this Decree.

Article 3:

This Decree shall be applied on the date of its coming into force to not less than 15 plant genera and species as specified by the MALR and by the expiration of a period of ten years from the said date at latest, to all plants genera and species.

Article 4:

One) – For a variety to be eligible under this Decree it has to satisfy the following conditions:

- (1) - Be new. The variety is new if, at the date of filing of the application or, where relevant, at the priority date, 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 or his successor in title, for purposes of exploitation of the variety:
 - (a) in the territory of the ARE for longer than one year and,
 - (b) in a territory other than that of the ARE for longer than four years or, in the case of trees and grapevines, for longer than six years.
 - (c) The MALR may consider a variety existing at the date of extension of protection to the relevant plant genus to satisfy the condition of novelty defined above even where the sale or disposal to others described took place earlier than the defined time limits.
- (2) –Be distinct. The variety is distinct if it is clearly distinguished by one or more morphological, physiological or other characteristics, susceptible of precise description and recognition, from all other plant varieties whose existence was a matter of common knowledge at the time when the application in respect of the variety was made. The filing of an application for the granting of a plant variety protection title or for the entering of another 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 plant variety protection title or to the entering of the said other variety in the official register of varieties.
- (3) – Be uniform. A variety shall be deemed to be sufficiently 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.

- (4) Be stable. 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.
- (5) Be the subject of a denomination established pursuant to the provisions of Article 6.

b) – Where the production of a variety requires the repeated use of one or more other varieties, the sale or transfer to third parties of propagation material or the harvested material of the first mentioned variety shall be regarded as a disposal to others of the propagating material or harvested material of the other variety or varieties.

Article 5:

The application for protection and the candidate variety shall be examined to verify that they meet the conditions for a grant of protection. The examination shall constitute ‘the preliminary examination.’

The MALR shall establish rules for the conduct of the examination for each species or group of species. Such rules may require the carrying out of a growing test or other tests by or on behalf of the Plant Variety Protection Office and may permit the Plant Variety Protection Office to use for the purposes of the examination the results of tests that have already been carried out inside or outside the ARE and whether by official bodies or on behalf of the applicant.

Article 6:

One) A new plant variety shall be given a single denomination, which permits its identification. Such denomination shall be considered the generic designation of the variety. The denomination of the new variety shall consist of one to three words which shall be easy to pronounce and memorize, and from one to a maximum of four figures or letters not constituting a word may be included if the figures or letters have some meaning in relation to the word they accompany. The denomination shall be different from every other denomination that designates other existing varieties belonging to species included in the same class. The denomination must be the same as submitted to other members of the International Union for the Protection of New Varieties of Plants, unless such a denomination is unacceptable for reasons mentioned under (b) of this article.

Two) – A new plant variety name shall not have:

- (1) A name which would be likely to deceive or cause confusion, including a name that is the same as, or is likely to be mistaken for, the name of another plant variety;
- (2) A name which would be contrary to the law;
- (3) A name that comprises or contains scandalous or offensive matter;
- (4) A name, or a kind of name, that is, at the time when the application is made, prohibited by the regulations;
- (5) The denomination may not in any case be the botanical or common name of a genus or species, neither may it include that name if a risk of error or confusion would thereby be created; or

- (6) The denomination may not consist of any element which, at the end of the period of protection of the variety, would prevent or hamper the free use or prevent the free marketing of the variety.

c) – When offering a protected variety for sale or when marketing propagating material of a protected variety, it is obligatory to use the denomination of the variety, even after the expiration of the plant variety protection title for that variety, except where prior rights prevent such use.

Article 7:

- One) Subject to this Decree, a breeder of a new plant variety has the right to make an application for a plant variety protection title for that variety whether or not the breeder is a citizen of ARE, whether or not the breeder is resident in ARE and whether the breeder originated the variety in ARE or in another country. If the breeder or the owner of the variety is not an Egyptian citizen or is not an Egyptian resident or is not a corporate body with its main center in the ARE, it must appoint an Egyptian resident as its authorized representative.
- Two) The right of a breeder of a new plant variety to make an application for a plant variety protection title is a personal property that is eligible for assignment or of transmission by will or by operation of law whether before or after the application has been made.
- Three) An assignment of a right to make an application for a plant variety protection title does not have effect unless it is in writing, signed by or on behalf of the assignor.
- Four) Where two or more persons are entitled to make an application for a plant variety protection title for a new plant variety, whether by reason that they originated the variety jointly or independently or otherwise, those persons or some of those persons may make a joint application for those rights.
- Five) Whether two or more persons referred to as the breeders, originated a new plant variety jointly, one of those breeders or successors of one of those breeders shall not make an application for a plant variety protection title for that variety otherwise than jointly with, or with a written consent of the other person, or each other person, entitled to make an application for protection. However, when the application is made by a successor in title, it shall be accompanied by sufficient proof of the successor's title.

Article 8:

An application for a plant variety protection title of a new plant variety shall be in writing in a form approved by the MALR and shall be submitted to the Plant Variety Protection Office. It shall include:

- One) – The name of the person making the application;
- Two) – Where the applicant is the breeder of the variety, a statement that the applicant is the breeder of the variety;
- Three) – Where the applicant is not the breeder of the variety, the name and address of the breeder from whom the applicant derived the right to make the application and particulars of all relevant assignments and transmissions of the right to make the relevant application;
- Four) – A description, or a description and photograph, of a plant of the variety sufficient to identify plants of the variety;
- Five) – Particulars of the characteristics that distinguish the variety from other varieties;

- Six) – Particulars of the manner in which the variety was originated;
- Seven) – The name of the variety;
- Eight) -- Particulars of any application for rights or any approval of any kind for the variety in any other country;
- Nine)– Particulars of any test carried out to establish distinctness, homogeneity, or stability and of any particular cycles of reproduction or multiplication;
- Ten) – For varieties originated outside of the ARE, particulars of test growing of that variety and any particular characteristics the variety will have;
- Eleven) – The address in the ARE of the breeder or / and the applicant; and
- Twelve) – Any other particulars as prescribed.

Article 9:

One) – The holder of a plant variety protection title may, after notification to the Register of Plant Variety Protection, grant a license for the use of the variety covered by the said title to any person who applies for one, subject to compliance with the conditions specified by the said holder and with any provisions of this Decree on Protection of Plant Varieties and any additional provision that may be enacted.

Two) – In all matters relating to licenses for use, the following shall be taken into account:

- (1) – The contract by which the license for the use of a variety covered by a plant variety protection title is granted shall be drawn up in writing and shall bear the signature of the contracting parties.
- (2) – Licenses for use may be exclusive or non-exclusive.
 - (a) Unless the license contract provides otherwise, the grant shall not preclude the possibility of the holder granting licenses to other persons undertaking the use of the new plant variety himself, in which case the license shall be considered non exclusive;
 - (b) The grant of an exclusive license for use shall preclude the holder of the plant variety protection title from granting licenses to other persons and, unless the license contract provides otherwise, from using the plant variety himself,
- (3) – Unless expressly provided otherwise, the license shall have the same duration as the plant variety protection title and shall cover the entire national territory, its maximum duration being limited to the time of expiration of the rights;
- (4) – Unless expressly provided otherwise, the licenses may not assign their licenses to third parties or grant sub licenses;
- (5) – When a plant variety protection title belongs to more than one person, they may only jointly grant licenses to third parties for the use of the variety covered by the said title.
- (6) – The license shall not be valid for third parties unless it has been registered with the MALR.
- (7)–A plant variety protection title is transferable by any means admitted in the law, without prejudice to the limitations established by this Decree, such transfer shall only be effective in relation to third parties when they have been recorded in the Register of Protected Plant Varieties in the MALR.

Article 10:

a) When the application for a plant variety protection title has been accepted for processing and preliminary examination carried out as prescribed the title shall be granted. The plant

variety protection title shall be issued according to a recommendation from the concerned Office in the MALR and shall contain the following particulars:

- (1) Name of the applicant;
- (2) Name of the breeder;
- (3) Denomination of the varieties and description of the variety according to the prescribed descriptive form approved by the MALR;
- (4) Date and time of filing the application, and date corresponding to the grant of the title by the MALR;
- (5) All particulars concerning priorities, where priorities have been claimed;
- (6) Other denominations in other countries with which a collaboration agreement has been signed;
- (7) Date of expiration.

b) The grant and/or cancellation of the title shall be published in the official gazette within a period of three months from the grant or cancellation of the title by the MALR.

Three) The Office of Plant Variety Protection shall publish a Bulletin every six months. The Bulletin shall record the following:

- (1) Applications for the grant of plant variety protection titles;
- (2) Applications for variety denominations;
- (3) Registrations of new denominations for protected varieties;
- (4) Withdrawals of applications for the grant of plant variety protection titles;
- (5) Rejections of applications for the grant of plant variety protection titles;
- (6) Grants of plant variety protection titles;
- (7) Official announcements.

Article 11:

- a) - The grant of a plant variety protection title shall immediately give rise to an entry in the Register of Protected Plant Varieties which is maintained by the Plant Variety Protection Office in the MALR, and to the inclusion of the variety in the list of protected varieties which is maintained by the same office.
- b) - A Register shall be kept of plant variety protection titles which shall be ordered according to the date on which they are granted.

Three) The following entries shall, in addition, be included in the said Register:

- (1) Serial number of the grant of the title;
- (2) Genus and species to which the variety belongs;
- (3) Approved denomination in the ARE, together with others under which the variety appears in a country or countries with which a collaboration agreement has been signed;
- (4) Summary of the variety description;
- (5) Name and address of the owner of the title, and name and address of the variety breeder(s);
- (6) Where applicable, claim of priority;
- (7) Dates on which protection begins and ends, and date on which, for any reason, it ends prior to the established term.

Article 12:

- a)- The rights conferred on the breeder of a new plant variety shall be granted for a limited period, which is 25 years for trees and vines and 20 years for other plants. This period shall run from the date of the grant of the plant variety protection title.
- b)- The maximum period of Protection for any species or group of species may not exceed 25 years.
- c)- When detailed provisions are enacted by the MALR for the entry into force of protection for each genus, species or group of species, the maximum period of protection shall be indicated in each case when include in list of “Protected Varieties”
- d)- The title holder shall be entitled to equitable remuneration from any person who, in the period between the date of the application and the date of the grant of the plant variety protection title, has carried out acts which, once the right has been granted, require the holder’s authorization as provided in Article 15.

Article 13:

- a)- When applying for the plant variety protection title, an applicant may claim a right of priority based on any application previously filed for the same variety in any country with which the ARE has an agreement in this respect, on condition that filing the application in the ARE shall take place within a period of 12 months from filing the first application in such foreign country.
- b)- The effect of priority shall be that, with respect to the conditions of protection attaching to the variety, the application shall be deemed to have been filed at the date of filing of the first application.
- c)- According to the provisions of this Decree the right of priority for a variety may only be claimed if:
 - (1) during that period of 12 months the person makes an application to the MALR for protection under this Decree for that variety accompanied by a claim for a right of priority; and
 - (2) during that period but within 3 months of making that application, the person lodges with the Plant Variety Protection Office in the MALR a copy of the documents that constituted the foreign application certified to be a true copy of those documents by the authority that received the foreign application.
- d)- An applicant who claims a right of priority shall moreover be entitled to request that the examination of the variety be deferred by up to two years from the date of expiry of the priority period in order to allow additional data collection and tests to support the application.

Article 14:

- a)- The MALR shall be entitled to order that a plant variety for which a plant variety protection title has been granted shall be subject to compulsory licensing, either because of:
 - (1) Unjustified failure to use:
Upon the expiry of a period of four years from the date on which a title was granted in respect of a given variety when:

- (a) The supplies of propagating material of the protected variety do not cover adequately the needs of the national market, thereby prejudicing the national interest;
- (b) Use of the variety in the ARE is considerably hampered by the fact that it is imported, thereby prejudicing the national interest;
- (c) The holder of the plant variety protection title refuses to grant licenses for use on reasonable conditions, unfairly and substantially limiting the satisfaction of such demand as may exist for the variety covered by this title, thereby prejudicing the national interest.

(2) National Interest:

The MALR may decree in view of the vital importance of a variety to the defense, national economy or public health of the country, its use as being in the national interest and the MALR shall order the variety concerned be made subject to compulsory licensing.

The holder of the plant variety protection title shall nevertheless be allowed a period of six months from the application of the said decree in which to provide for the adequate use of the variety, on expiration of which the variety shall be finally subject to compulsory licensing.

b)- Any person providing legal, technical and professional guarantees may apply to the Registrar of Plant Variety Protection for the grant of a compulsory license for use of a variety that is ordered to be subject to compulsory licensing which, once granted, shall have the following:

- (1) A compulsory license may in no case be exclusive, so the holder of the title shall retain the right to use the variety and to grant non-compulsory licenses; further compulsory licenses for use may likewise be granted;
- (2) The license agreement may contain obligations and restrictions on both the titleholder and the licensee;
- (3) The rights deriving from the compulsory license may not be transferred or assigned, nor may sub licenses be granted;
- (4) Their duration shall be not longer than that of the plant variety protection title and they may be canceled at any time when the reasons that caused the variety to be subject to compulsory licensing are no longer applicable.
- (5) The duration of the compulsory license shall be fixed by the Plant Variety Protection Office. Only under exceptional circumstances shall the compulsory license be granted for less than [two] years or more than [four] years. The term of the license may be extended where the Office is satisfied, on the basis of a new examination, that the conditions for the grant of the license continue to exist on the expiry of the first term.

Article 15:

a) Subject to Article 16 and 17, the following acts in respect of the propagating material of the protected variety shall require the authorization of the titleholder:

- (1)- Production or reproduction (multiplication),
- (2)- Conditioning for the purpose of propagation,

- (3)- Offering for sale,
 - (4)- Selling or other marketing, except as defined in Article 22,
 - (5)- Exporting,
 - (6)- Importing,
 - (7)- Stocking for any of the purposes in (1) to (6) above.
- b) The breeder may make his authorization subject to conditions and limitations.
- Four) Subject to Articles 16 and 17, the acts referred to in items (1) to (7) of paragraph (a) 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.
- Five) (1) The provisions of paragraphs (a), (b), and (c) shall also apply in relation to:
- (a) varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,
 - (b) varieties which are not clearly distinguishable in accordance with Article 4(a)(2) from the protected variety and
 - (c) varieties whose production requires the repeated use of the protected variety.
- (2) For the purposes of subparagraph (d)(1)(i), a variety shall be deemed to be essentially derived from another variety (“the initial variety”) when
- (a) 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,
 - (b) it is clearly distinguishable from the initial variety and
 - (c) 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.
- (3) 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 16:

Exceptions to Plant Variety Protection:

- One) Plant Variety Protection shall not extend to:
- (1) Acts done privately and for non-commercial purposes,
 - (2) Acts done for experimental purposes, and
 - (3) Acts done for the purpose of breeding other varieties, except where the provisions of Article 15(d) apply, acts referred to in Article 15 (a) and (c) in respect of such other varieties.
- b) Notwithstanding Article 15, the MALR may, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, make regulations restricting the plant variety protection title in relation to any variety in order to permit farmers to use for propagating purposes, on their own holdings, a protected variety or a variety covered by Article 15(d)(1)(i) or (ii).

Article 17:

One) Plant variety protection shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of Article 15(d), which has been sold or otherwise marketed by the breeder or with his consent in ARE, or any material derived from the said material, unless such acts:

- (1) Involve further propagation of the variety in question or
- (2) Involve an export of material of the variety, which enables the propagation of the variety, into a country that 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.

Two) For the purposes of paragraph (a), “material” means, in relation to a variety,

- (1) Propagating material of any kind, and
- (2) Harvested material, including entire plants and parts of plants.

Article 18:

One) The MALR shall declare a plant variety protection title null and void when it is established:

- (1) That the variety was not new (Article 4 (a)(1)) or distinct (Article 4(a)(2)) at the date of filing of the application or, where relevant, at the date of priority, or
- (2) That, where the grant of the plant variety protection title has been essentially based upon information and documents submitted by the applicant, the variety was not uniform (Article 4(a)(3)) or stable (Article 4(a)(4)) at the said date.

Two) Subject to any provisions to the contrary in this Decree, the plant variety protection title that has been declared null and void shall be deemed never to have been granted.

Three) Any person having a legitimate interest may file a request for annulment with the MALR.

Article 19:

One) The MALR shall cancel a plant variety protection title when it is established that the holder has failed to meet his obligation under Article 21(a) and/or that the variety is no longer uniform or stable.

Two) Furthermore, the MALR shall cancel a plant variety protection title when

- (1) The holder does not meet a request made by the MALR under Article 21(b) for the purpose of verifying the maintenance of the variety, or
- (2) The MALR proposes to cancel the existing denomination of the variety and the breeder does not propose a suitable denomination as prescribed by the MALR (Article 6).

Three) A plant variety protection title may only be canceled after the holder has been given notice of his obligation and allowed a reasonable period, specified in the notice, to comply therewith.

Four) The cancellation shall take effect on the date of its entry in the Registry of Protected Plant Varieties.

Article 20:

One) The applicant may appeal any decision taken by the Plant Variety Protection Office regarding this policy by:

- (1) Submitting a written petition to the Head of the Office within 90 days of the decision;
- (2) If a satisfactory response is not received within 60 days of the first petition, submitting a second petition to the Minister of Agriculture;
- (3) If a satisfactory response to the second petition is not received within sixty days, bringing the matter before the competent court.

Two) Any person who:

- (1) without being entitled to do so performs acts that require the authorization of the holder, under Article 15,
- (2) uses a designation whose use is prohibited by Article 6, and/or
- (3) fails to use a variety denomination whose use is obligatory under Article 6,

may be sued by the holder of the relevant Plant Variety Protection Title or the holder of a relevant exclusive license and all such relief shall be made available as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

Article 21:

One) The holder shall be under an obligation to maintain the protected variety or, where relevant, its hereditary components for the whole duration of the plant variety protection title.

Two) At the request of the MALR, the holder shall provide the MALR or an authority designated by it, within the prescribed period, with the information, documents or material deemed necessary for verifying the maintenance of the variety.

Three) The MALR may declare a specified place that, is suitable for storage and maintenance of germ plasm material to be genetic resources center to maintain the viability of the reproductive material of plants stored at that center for the purpose of this Decree.

Article 22:

The following activities shall not be regarded as marketing:

- (1)- Presentation at contests, collections or exhibitions in so far as no commercial transactions take place at them and / or
- (2)- Production and distribution on an experimental scale.

Article 23:

The MALR shall prescribe fees including (in Egyptian pounds):

Application fees	1500	
Application of the approval of a substituted name for a plant variety	500	
Transfer of a plant variety protection title	250	
Renewal fees	250	
Objection to grant of a plant variety protection title	250	
Application of revocation of a plant variety protection title	250	

Article 24:

This Decree shall come into operation on the next day of publishing on the Egyptian Official Gazette.

Date / / 1999

Minister of Agriculture
And Land Reclamation

Signed /

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