

**Council****C/58/18****Fifty-Eighth Ordinary Session  
Geneva, October 25, 2024****Original:** English  
**Date:** September 27, 2024**EXAMINATION OF THE CONFORMITY OF THE LAW ON INTELLECTUAL PROPERTY OF THE  
LAO PEOPLE'S DEMOCRATIC REPUBLIC WITH THE 1991 ACT OF THE UPOV CONVENTION***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance***EXECUTIVE SUMMARY**

1. By letter, dated and received on September 23, 2024, addressed to the Secretary-General of UPOV, Mr. Saybandith Sayavongkhamdy, Deputy Director General, Department of Intellectual Property, Ministry of Industry and Commerce, requested the examination of the Law on Intellectual Property of the Lao People's Democratic Republic (hereinafter referred to as the "Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act"). The letter is reproduced in Annex I to this document. Annex II contains a copy of the Law in English.
2. The Council is invited to:
  - (a) note the analysis in this document;
  - (b) take a positive decision on the conformity of the Law with the provisions of the 1991 Act, which allows the Lao People's Democratic Republic to deposit its instrument of accession to the 1991 Act; and
  - (c) authorize the Secretary-General to inform the Government of the Lao People's Democratic Republic of the above decision.

**BACKGROUND**

3. 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 Draft Laws with the provisions of this Convention. If the decision embodying the advice is positive, the instrument of accession may be deposited."
4. Since 2008, the Office of the Union has provided assistance to the Government of the Lao People's Democratic Republic in the development of legislation in accordance with the 1991 Act. Delegations of Lao People's Democratic Republic participated at the Workshops on drafting legislation in accordance with the 1991 Act of the UPOV Convention" (Workshops for Laws) in 2011, 2017, and 2022 and also participated at the "National Workshop on Plant Variety Protection under the UPOV Convention" held in Vientiane in 2008 and 2018. From 2016 to 2024, the Office of the Union provided comments on different versions of the Draft Law.
5. On November 20, 2023, the National Assembly of the Lao People's Democratic Republic adopted the revised version of the Law on Intellectual Property.
6. By letter, dated September 23, 2024, addressed to the Secretary-General of UPOV, Mr. Saybandith Sayavongkhamdy, Deputy Director General, Department of Intellectual Property, Ministry of Industry and Commerce, requested the examination of the Law, for conformity with the 1991 Act. The letter is reproduced in Annex I to this document. Annex II contains a copy of the translation of the Law in English.

## BASIS FOR THE PROTECTION OF NEW PLANT VARIETIES IN LAO PEOPLE'S DEMOCRATIC REPUBLIC

7. The Law governs intellectual property rights in general. Part IV of the law implements the substantive provisions of the 1991 Act, whilst some general provisions, such as definitions and enforcement, are found in other Parts of the Law. An analysis of the Law follows in the order of the substantive provisions of the 1991 Act. Provisions in the Law that implement optional provisions of the 1991 Act are cited.

### Article 1 of the 1991 Act: Definitions

8. Article 3 of the Law contains definitions of breeder and variety corresponding to the definitions in Article 1(iv) and (vi) of the 1991 Act, respectively.

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

9. Chapters 2, 3 and 4 of Part IV of the Law provide provisions on the Registration of New Plant Varieties and their protection. Accordingly, the Law contains provisions 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 68 of the Law provides as follows:

“68. All genera and species of plant may be granted for new plant variety registration. Plant variety to be protected is the plant that has been registered for new plant variety as compliance to the requirement of this law.”

11. Article 68 of the Law contains provisions on the genera and species that correspond to the provisions under Article 3(2) of the 1991 Act.

### Article 4 of the 1991 Act: National Treatment

12. Articles 6 and 75.3 of the Law contain provisions on national treatment corresponding to the provisions 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 69 to 73 of the Law contain provisions on the conditions of protection corresponding to the provisions of Articles 5 to 9 of the 1991 Act.

14. Article 70 of the Law contains provisions concerning the optional provision of Article 6(2) “Varieties of recent creation” of the 1991 Act, as follows:

“[...]

Where a plant genus or species was not previously allowed to register prior to the enforcement of this Law, varieties belonging to such plant genus or species shall be considered to satisfy the condition of novelty defined in this Article even where the sale or disposal of to others took place in the in Lao PDR within four years before the filing date or, in the case of trees or of vines, within six years before the said date, in compliance with the requirements of paragraph one of this article. This shall only apply to applications for a breeder's right filed within two years in Lao PDR, at the latest, after the enforcement of this Law.”

### Article 10 of the 1991 Act: Filing of Applications

15. Article 77 of the Law contains provisions on the filing of applications. The 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

16. Article 76 of the 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

17. Articles 78 and 80 of the Law contain 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

18. Article 84 of the Law contains provisions on provisional protection corresponding to the provisions of Article 13 of the 1991 Act.

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

19. Article 82 of the Law contains provisions on the scope of the breeder's right corresponding to the provisions of Article 14 of the 1991 Act.

20. Article 82, paragraph 4, of the Law contains the optional provision of Article 14(3) "Acts in respect of certain products " of the 1991 Act, as follows:

"4. Subject to Articles 85 and 86, the acts as defined in items 1.1 to 1.7 of this Article in respect of products made directly from harvested material of the protected variety falling within the provisions of paragraph 2 of this Article through the unauthorized use of the said harvested material shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his or her right in relation to the said harvested material."

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

21. Article 85 of the Law contains provisions concerning the compulsory exceptions to the breeder's right corresponding to the provisions of Article 15(1) of the 1991 Act.

22. Article 85.5 of the Law contains provisions concerning the optional exception under Article 15(2) of the 1991 Act, as follows:

"[...]"

5. The breeder's right shall not extend to farmers who, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, use for propagating purposes, on their own holdings, the product of the harvest which the farmers have obtained by planting on their own holdings, the protected variety or a variety covered by number 1 or 2 in paragraph 5 of Article 82. The reasonable limits and the means of safeguarding the legitimate interests of the breeder shall be specified in the Regulations."

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

23. Article 86 of the 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

24. Article 90 of the Law contains provisions concerning the restrictions on the exercise of the breeder's right which correspond to the provisions of Article 17 of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

25. Article 87 of the Law contains provisions concerning measures regulating commerce which correspond to the provisions of Article 18 of the 1991 Act. The 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

26. Article 83 of the Law contains provisions concerning the duration of the breeder's right which correspond to the provisions of Article 19 of the 1991 Act.

Article 20 of the 1991 Act: Variety Denomination

27. Articles 74 and 81 of the 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

28. Article 88 of the 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

29. Article 89 of the 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

30. 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), Articles 118 to 140, and in particular Article 119 and Articles 138 to 140, of the Law contain provisions on the available measures for the enforcement of breeders' rights.

31. Articles 77 and 81 of the Law correspond to the obligation to grant breeders' rights by the Ministry of Industry and Commerce as required by Article 30(1)(ii) of the 1991 Act.

32. Article 79 of the 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

33. In the opinion of the Office of the Union, the Law incorporates the substantive provisions of the 1991 Act. On that basis, the Lao People's Democratic Republic is in a position "to give effect" to the provisions of the 1991 Act, as required by its Article 30(2).

34. *The Council is invited to:*

*(a) note the analysis in this document;*

*(b) take a positive decision on the conformity of the Law with the provisions of the 1991 Act, which allows the Lao People's Democratic Republic to deposit its instrument of accession to the 1991 Act; and*

*(c) authorize the Secretary-General to inform the Government of the Lao People's Democratic Republic of the above decision.*

[Annexes follow]



**Lao People's Democratic Republic**  
**Peace Independence Democracy Unity Prosperity**

Ministry of Industry and Commerce  
Department of Intellectual Property

Re.....<sup>925</sup>...../MOIC.DIP  
Vientiane Capital, 23. Sept 2024

Mr. Daren Tang  
Secretary-General  
International Union for the Protection of New Varieties of Plants (UPOV)  
34, chemin des Colombettes  
CH-1211 Geneva 20  
upov.mail@upov.int

Dear Secretary-General Tang,

I have the pleasure to inform you that on November 20, 2023, the National Assembly of the Lao People's Democratic Republic adopted the revised version of the Law on Intellectual Property.

The Lao People's Democratic Republic 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 Law on Intellectual Property, Part IV New Plant Variety of the Lao People's Democratic Republic with the provisions of the UPOV Convention.

Sincerely yours,

Mr. Saybandith SAYAVONGKHAMDY  
Deputy Director General,  
Department of Intellectual Property,  
Ministry of Industry and Commerce



LAO PEOPLE'S DEMOCRATIC REPUBLIC  
Peace Independence Democracy Unity Prosperity

National Assembly

No. 50/NA  
Vientiane Capital, Dated 20 November 2023

## Law on Intellectual Property (Amended)

### Part I General Provisions

#### Article 1(revised). Objectives

This law determines principles, regulations and measures relating to the management and protection of intellectual property rights in order to support and promote inventions, creativities, knowledge-based economy, development of science, technology, innovation and domestic and international technology transfer, to ensure legitimate interests of the owner of the intellectual property and the interests of state, society aiming to promote trade, investment and the competitiveness according to market based economy mechanism effectively and efficiently and ensure regional and international integration and contribute to the national socio-economic development, industrialization and modernization according to the green and sustainable direction.

#### Article 2. Intellectual Property

Intellectual property is work of the human mind through inventions and creations.

#### Article 3 (revised). Definitions

The terms as used in this law have the following meanings:

1. **Industrial property** means intellectual property in the industrial, handicrafts, agricultural, fisheries, commercial and service sectors;
2. **Industrial property rights** mean the rights of individuals, legal entities or organizations to their intellectual property;
3. **Patent** means the official certificate issued by the state organization to protect inventions that they are new, involve an inventive step and are capable of industrial application;
4. **Invention** means the technical solution to create new product or process of production to resolve a specific problem;
5. **Petty patent** means the official certificate issued by the state organization to protect utility innovation;
6. **Innovation** means the use of knowledge, abilities, process of production and experience in science and technology to research, invent, service, develop products and high quality of goods in the new forms for the society

7. **Utility innovation** means a new innovative work derived through technical improvements, which involve simpler steps than with inventions in order to improve products or new production method;

8. **Industrial design** means the form or shape of the product, which is to be created which includes the shape, pattern, line, color, etc;

9. **Mark** means any sign, or any combination of signs, capable of distinguishing the goods or services of one individual, legal entity, and organization from those of other individuals, legal entities and organizations;

10. **Trademark** means the mark provided for in Item 9 of this Article to use with goods or services as well as to distinguish between these goods or services and other goods or services;

11. **Collective trademark** means the trademark used by affiliated enterprises or members of an association, cooperative, state or private organization or a group of individuals;

12. **Certification mark** means the trademark, which the owner has permitted the use of by individuals, legal entities or organizations for use with their goods or services in order to certify the characteristic, which relates to the origin, raw materials and production methods of the goods or methods of services supply, type, quality, safety or other characteristics of the goods or services;

13. **Well-known mark** means a trademark, which is widely recognized by the relevant sector within the territory of the Lao PDR, including where such knowledge is a result of promotion of the trademark;

14. **Integrated circuit** means a product, in its final form or an intermediate form in which the elements of the product is an active element and some or all of the interconnections are integrally formed in and/or on piece of semiconductor material and the product is intended to perform an electronic function;

15. **Semiconductor** means a material with electrical conductivity intermediate in magnitude between that of a conductor and an insulator;

16. **Layout-design of integrated circuit** means a three-dimensional disposition however expressed, of an integrated circuit at least one element of which is an active element and some or all of the interconnections of an integrated circuit, or such a three dimensional disposition prepared for an integrated circuit intended for manufacture;

17. **Geographical indication** means a sign or symbol used to indicate a good as originating in the territory of a country or region or locality in that territory, where a given quality and reputation or other characteristic of the good is essentially attributable to its geographical origin;

18. **Variety** 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 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.

19. **Propagating material** means a plant or any part thereof such as shoots, rhizomes, seeds and branches which are capable of producing a new plant;

20. **Breeder** means the person who discovered and developed, a variety, or the person who is the employer of the aforementioned person or who has commissioned the latter's work, where the laws so provide, or the successor in title of the first or second aforementioned person, as the case may be;

21. **Copyright** means the right of individuals, legal entities or organizations to their creative works in the domains of art, literature, or science;

22. **Related right** means the right of individuals, legal entities or organizations to works of performances, phonograms, broadcasts of programs or broadcasts of satellite signal carrying encrypted or unencrypted programs;

23. **Work** means a creative work by an individual, legal entities or organization in the domains of art, literature and science shown in any form or method;

24. **Derivative copyrighted work** means a work based on one or more existing works which includes a translation, adaptation, arrangement of music, modification, transformation, interpretation, and other alteration of a copyrighted work;

25. **Copyrighted work publication** means, for purposes of copyright, making available to the public with the consent of a work's authors sufficient numbers of copies to satisfy the reasonable demands of the public, having regard to the nature of the work. The performance of a dramatic, ~~dramatico~~-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication;

26. **Publish** means, for purposes of related rights, the offering of copies of the fixation of a performance or a phonogram to the public, with the consent of the right holder to satisfy the reasonable demand of the public;

27. **Reproduction** for purposes of copyright and related rights means the copying of a work or phonogram or object of related rights by any method, including the permanent or temporary copying of the work or phonogram or object of related rights;

28. **Phonogram** means any exclusively aural fixation of sounds of a performance or of other sounds on recording instruments such as: audio disc, cassette, laser disc, CD-ROM or by any other means of sound recordings;

29. **Broadcasting** means making works available to the public through radio or television broadcasts or by other similar means, such as: the internet, or satellite transmissions, transmission of audio or picture and audio with wire or wireless system;

30. **Applied art** means adaptations of art to be used for other purposes;

31. **Priority** means a claim of an earlier effective filing date in the Lao PDR or in another country or office which based on an earlier filing of an application;

32. **Exploit** means to perform or offer to perform actions that are subject to the authorization of the right holder, with or without compensation or other benefits.

33. **Source code** means command code or program language written by humans in a computer language that humans can read and understand to control the computer system or general use to the use of specific tasks;

34. **Object Code** refers to command code or program language which is translated from the source language by using a translation program to use a specific system in the computer.

#### **Article 4 (revised). State Policy Relating to Intellectual Property**

The state recognizes intellectual property and results of inventions, creativities of individuals, legal entities or organizations, facilitates the registration and protects interests of the owner of intellectual property which are not contrary to the laws, culture and fine traditions of the nation, national defense, public security, health and environment.

The state supports and promotes intellectual property activities by developing policies, strategies, laws, measures, provision of budget, development of infrastructure, contribution and development of human resources, means and equipment.

The state supports and encourages domestic and foreign individuals, legal entities or organizations to invest in intellectual property activities including dissemination of such activities nationwide.

#### **Article 5 (revised). Principles Underlying Intellectual Property**

In implementing the intellectual property activities, the following principles shall apply:

1. ensure compliance with the direction, policies, the Constitution, laws, strategies and national socio-economic development plan;

2. recognize, respect, protect and ensure fairness of owner of the intellectual property;
3. protect industrial property and new plant variety registered in accordance with the law;
4. protect copyrights and related rights immediately provided in this law;
5. ensure permission is granted by the right owners before exploitation of intellectual property;
6. comply with international treaties to which the Lao PDR is a party and related international agreement.

**Article 6. Scope of Application of the Law**

This law is applicable to domestic and foreign individuals, legal entities and organizations who are implementing and involving in intellectual property activities in the Lao PDR.

**Article 7 (revised). International Cooperation**

The state promotes foreign, regional and international cooperation in relation to intellectual property activities based on respect of each other's independence, sovereignty, mutual benefits for the development and management of intellectual property activities, the exchange of scientific lessons, technology, information, development of human resources and implementation of international treaties and agreements to which the Lao PDR is a party and related international agreement.

**Part II**  
**Intellectual Property Rights Requirement**

**Article 8. Intellectual Property Framework**

Intellectual property is composed of:

1. industrial property;
2. new plant variety;
3. copyrights and related rights.

**Article 9. Industrial Property**

Industrial property is composed of:

1. patents;
2. petty patents;
3. industrial designs;
4. trademarks;
5. trade names;
6. layout-design of integrated circuits;
7. geographical indications;
8. trade secrets.

**Article 10. New Plant Variety**

New plant variety is composed of:

1. Plant variety that exists generally and is derived from improvements to become a new plant variety;
2. Plant variety that is discovered in the nature and then is developed to become a new plant variety.

**Article 11. Copyright and Related Rights**

Copyright and related rights include:

1. copyrights to the works in artistic domain, literary domain or scientific domain;
2. related rights to the works of performers, producers of phonograms and

broadcasting organization.

**Part III**  
**Industrial Property**  
**Chapter 1**  
**Industrial Property Requirements**

**Article 12. Industrial Property Eligible for Registration**

Industrial Property eligible for registration certificates are as follows:

1. patent;
2. petty patent;
3. industrial design;
4. trade mark;
5. integrated circuit layout-design;
6. geographical indication.

Trade names and trade secrets are not required to be registered but shall be protected under this law.

**Article 13 (revised). Patent Eligibility Requirements**

An invention eligible for a patent shall meet the following requirements:

1. shall be new in the sense that such invention has not been existed, not been disclosed to the public through printed publications, electronic means, actual use or in any other means in the Lao PDR or any place in the world prior to the date of filing the application for registration or prior to application for priority date for such patent;
2. shall involve increased inventive steps, methods compared to previous invention;
3. shall be industrially applicable in industry, handicraft, agriculture, fishery, trade, services, etc.

**Article 14 (revised). Petty Patent Eligibility Requirements**

A utility innovation eligible for a petty patent shall meet the following requirements:

1. shall be new in the sense that such utility innovation has not been existed, not been disclosed to the public through printed publications, electronic means, actual use or in any other means in the Lao PDR within one year prior to the date of submitting petty patent application;
2. shall have new technical improvement that involves an inventive step which has easier inventive steps than required for a patent;
3. shall be applicable in industry, handicraft, agriculture, fishery, commerce, services, etc.

**Article 15 (revised). Eligibility Requirements for Industrial Design Certificate**

A design eligible for industrial design certificate shall meet the following requirements:

1. shall be new in a sense that it has not been disclosed to the public through printed publications, electronic means, actual use or displayed, or in any other means in the Lao PDR or any place in the world prior to the date of filing the application for registration or prior to the priority date of the application for registration;
2. shall be ornamental in a sense that it gives a special appearance to the object to which the design is applied or in which it is embodied.

**Article 16 (revised). Eligibility Requirements for Trademark Certificate**

A mark eligible for trademark certificate shall meet the following requirements:

1. the mark may be any sign, or any combination of signs, capable of distinguishing the goods or services of individual, legal entity or organization from those of other individuals, legal entities or organizations. Such signs may include words, personal names, letters, numerals, figurative elements, shape, three dimension picture, motion picture or package of products and combinations of colors as well as any combination of such signs;
2. the mark is not identical to a previously registered mark, well-known mark, or geographical indication for the same goods or services;
3. the mark is not similar to a previously registered mark or well-known mark for the same, similar, or related goods and services, where the use of the later mark would tend to cause confusion as to the source of the goods or services or create a false impression that they are connected or associated with another party;
4. the mark does not contain characteristics prohibited under Article 23 of this law.

Any trademark shall be deemed well-known when it meets all the following requirements:

1. the trademark is a mark, as defined in paragraph 1 of this Article, which is widely recognized by the relevant sector, including the mark which is well recognized resulting from its promotion, within the territory of the Lao PDR, as indicating the goods or services of the proprietor of the mark that is claimed to be a well-known mark;

2. the trademark is not contrary to the requirements for registrability in the Lao PDR;

3. In considering whether a mark is a well-known mark, shall have evidence of such facts as are mentioned below:

- 3.1 the relevant sectors of the public recognize the mark by way of advertisement, trade, use of the trademark on or in connection with goods or services or through advertising;

- 3.2 the products, goods, services are widely circulated bearing the trademark within the territory;

- 3.3 the volume of goods sold or services provided;

- 3.4 regular and continuous period of use of the trademark;

- 3.5 goodwill associated with use of the trademark with the goods or services based on such factors as good quality, service, or their popularity;

- 3.6 domestic consumers recognize the reputation of the trademark;

- 3.7 high value of investment in the trademark such as investment in advertisement or creation of image of such trademark.

A well-known trademark shall be protected in accordance with laws.

**Article 17 (revised). Eligibility Requirements for Layout-Design of Integrated Circuits Certificate**

A layout-design of integrated circuit eligible for layout design of integrated circuit certificate shall meet all the following requirements:

1. the layout-design is original which is not similar to the layout-design of others which is created from an idea of a creator and is not commonplace among creators of layout- designs and manufacturers of integrated circuit at the time of its creation;

2. the layout-design consists of an integration of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, fulfills

the conditions of item 1 of this Article;

3. the application for registration is submitted before the layout-design circuit is commercially exploited anywhere in the world by the right holder or within two years from date of commercial exploitation.

#### **Article 18 (revised). Eligibility Requirements for Geographical Indication Certificate**

A product eligible for a geographical indication certificate shall meet all the following requirements:

1. the indication or sign identifies a good as originating in a particular geographical country or territory, or a region or locality in that territory;

2. a given quality and reputation or other characteristic of the good is essentially attributable to its geographical origin. Such quality, reputation, or characteristic may be based on natural factors including conditions of the soil, air, water, ecological system, natural conditions and on human factors including skill and the experience of the manufacturers and traditional production methods of that locality.

#### **Article 19 (revised). Trade Name**

A trade name is a name of an enterprise which is used for business operations.

The trade name, whether or not it forms part of a trademark, shall be protected without the obligation of filing or registration once the trademark of the enterprise is registered.

#### **Article 20. Trade Secrets**

A trade secret is a secret information which cannot be disclosed regarding to formula, production process or any information which has commercial value in the sense that it is not known among or readily accessible to persons within the circles that normally deal with the kind of information in question.

### **Chapter 2 Industrial Property Ineligible for Registration**

#### **Article 21 (revised). Inventions or Utility Innovations Ineligible for Patents or Petty Patents**

Inventions or utility innovations ineligible for patents or petty patents shall be as follows:

1. inventions or utility innovations that are not novel, if they are discovered exists, including living organisms or parts of living organisms that exist in nature;

2. subject matter that is not an invention does not constitute a technical solution because it is merely a scientific principle or theory, a mathematical algorithm, or a set of rules for doing business or playing games, provided however, that such subject matter may constitute an element of an invention or utility innovation;

3. diagnostic, therapeutic and surgical methods or steps for the treatment of humans or animals;

4. plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals provided however, that such subject matter may constitute an element of an invention or utility innovation.

A patent or petty patent shall be refused, in any case, if:

1. It is contrary to culture and fine traditions of the nation, social orders and morale, damage human, animal or plant life or health or cause serious prejudice to the environment;

2. It is contrary to security and peace of the Lao PDR.

**Article 22. Designs Ineligible for Industrial Design Registration**

Designs ineligible for industrial design registration shall be as follows:

1. A design the appearance of which is dictated by technical features of the object to which the design is applied or in which it is embodied;
2. A designs that is contrary to social order and the fine traditions of the nation.

**Article 23 (revised). Marks Ineligible for Trademark Registration**

Marks ineligible for trademark registration shall be as follows:

1. the mark that causes any confusion or does not distinguish the goods or services of the applicant from those of another individual, legal entity or organization;
2. the mark that lacks distinctiveness or consists exclusively of signs or indications which is served, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or of signs that have become customary in the current language or in the good faith and established practices of the trade in the Lao PDR;
3. the mark that is of such a nature as to deceive or mislead the public or trade circles in which the mark is used or is of a fake or fraudulent nature;
4. the mark that consists of or comprises sign that mislead the public as to the origin, nature, the manufacturing process, quantity of goods and services, the suitability for their purpose, or the quantity, of the goods or services;
5. the mark that consists of or contains, without authorization from the relevant governmental entity, armorial bearings, flags, or other national emblems, and official signs, hallmarks, abbreviations or full names of towns, municipalities, provinces or capital of the Lao PDR or foreign countries;
6. the mark that consists of or contains, without authorization from the relevant state or international organization, an emblem of an international organization or symbols created by international conventions, official seals or symbols of state or international organizations;
7. the mark that consists of or contains, without authorization, the name, image, or likeness of a living person;
8. the mark that consists of or contains, without authorization images of cultural symbols or historical monuments, or the name, image, or likeness of a national hero or a leader, or the mark would be offensive or contrary to the fine traditions of the nation;
9. the mark that is identical or similar to trademarks already registered for the same, similar, or related goods or services;
10. the mark that is identical, or similar to a well-known mark for the same, similar or related goods or services;
11. the mark that is identical, or similar to a trade name for a business that provides the same, similar, or related goods and services;
12. the above-mentioned mark in this article that would lead to a likelihood of confusion as to the source of the goods or services or falsely suggest an association with the registered mark or well-known mark or trade name, as appropriate;
13. the mark that consists of or bears a geographical indication which identifies a place other than the true origin of the products;
14. the mark that consists of or bears a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory;
15. the mark consists of or contains matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or contempt, or disrepute;
16. the mark is of such a nature as to create confusion with the establishment, the goods, or the industrial or commercial activities, of a competitor;

17. the mark is of such a nature that its use in the course of trade would discredit production place of goods, or the industrial or commercial activities, of a competitor;

18. the mark is contrary to national security, social order, culture and the fine traditions of the nation.

The nature of the goods or services is not the case for denying of the registration of the mark.

#### **Article 24. Objects Ineligible for Layout-designs of Integrated Circuits Registration**

Objects ineligible for registration of an integrated circuit layout-design shall be as follows:

1. principles, processes, systems or methods operated by integrated circuits;
2. information or software contained in the integrated circuits.

#### **Article 25. Geographical Indications Ineligible for Registration**

Geographical indications ineligible for registration shall be as follows:

1. geographical indications which are likely to mislead or confuse consumers as to the true source origin of goods;
2. names of geographical indications which have become customary names of such goods in the Lao PDR;
3. geographical indication with respect to products of rice, coffee, tea and wine for which the relevant indication is identical with the customary name of varieties of rice, coffee, tea and grape existing in the Lao PDR;
4. geographical indication of another country where such geographical indications are not or cease to be protected in their country of origin, or which have fallen into disuse in that country;
5. geographical indications which are identical with or similar to protected trademarks where use of the indications will lead to misunderstanding or confusion as to the origin of the said goods;
6. a geographical indication that is homonymous with a protected geographical indication for rice, coffee, tea and wine.

### **Chapter 3**

#### **Protection and Request for Registration of Industrial Property**

#### **Article 26. Persons Eligible for Protection of Industrial Property**

Persons eligible for protection of industrial property shall be as follows:

1. a Lao citizen or resident in the Lao PDR, or a legal entity or organization established under the laws of the Lao PDR;
2. an individual that is a national of any country which is a member of the Paris Convention or other international agreement relating to the protection of industrial property and of which the Lao PDR is also a member;
3. an individual who is a resident of the Lao PDR or of the territory of any member of the Paris Convention or other international agreement relating to the protection of industrial property and of which the Lao PDR is also a member;
4. an individual, legal entity or organization with a real and effective industrial or commercial establishment in the territory of any member of the Paris Convention or of any other international agreement that relates to the protection of industrial property and of which the Lao PDR is also a member.

Foreign individuals, legal entities or organizations are eligible for protection of industrial property no less favorable than Lao citizens.

**Article 27 (revised). Filing of Applications**

Domestic or foreign individuals, legal entities or organizations may apply for registration of their industrial property with the Ministry of industry and commerce or with any foreign or international intellectual property registration organization to which the Lao PDR is a party.

Any individual, legal entity or organization residing in a foreign country wishing to apply for industrial property registration shall have a business premise or an authorized representative in the Lao PDR.

The applicant without a business premise or residence in the Lao PDR shall appoint an authorized representative in the Lao PDR to carry out transactions related to intellectual property in the Lao PDR.

The application shall include the documents set forth from Articles 31 to Article 35 of this law.

**Article 28 (revised). Principles for Consideration of Applications**

In case there are more than one applications are filed for the same subject matter, registration of industrial property shall be awarded on the basis of the application with the earliest filing date, taking into account the priority date (if applicable), where such application satisfies the requirements for the protection requested.

**Article 29 (revised). Priority Date**

An applicant requesting for a patent or petty patent, registration of an industrial design or trademark may claim priority date based on one or more earlier applications submitted to the Ministry of Industry and Commerce or with another or international intellectual property registration organization to which the Lao PDR is a party and other related treaty.

The applicant who was first granted priority date in the Lao PDR or in another country or an office for registration of other an industrial property in accordance with international treaties or agreements to which the Lao PDR and other related treaty is a party is deemed as the priority date of the applicant for patent, petty patent, registration of an industrial design or trademark submitted in the Lao PDR by indicating the priority date in the application for registration.

Once a priority date is granted, all document related to patent, petty patent, registration of an industrial design or trademark that subsequently filed before the expiration of the priority periods shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing, the publication or exploitation of the invention, the putting on sale of copies of the design, or the use of the mark, and such acts cannot give rise to any third-party right or any right of personal use.

After a priority date claim is submitted, the applicant shall submit a copy of the application on which the priority claim is based in the Lao PDR, a certificate of priority date must be certified by the authority which received such application and showing the date of filing. Such documents shall not require any authentication, and may be filed, without fee, at any time within three months of the filing of the application in the Lao PDR.

If an applicant claiming priority does not satisfy the requirements to establish priority, the effective filing date shall be the actual filing date of the complete application in the Lao PDR.

For patents and petty patents the priority period is twelve months from the priority date and thirty months for the application under the agreement for patent cooperation. For industrial designs and trademarks the priority period is six months from the priority date.

**Article 30 (revised). Temporary Protection of Inventions, Utility Innovations, Industrial Designs and Trademarks at Certain Exhibitions**

Inventions, utility innovations, industrial designs and trademarks in respect of products or goods or services officially exhibited or at international recognized exhibitions shall be granted a temporary protection upon request of owners of the products or goods or services, the request for such protection is filed within six months from the date on which they are exhibited at such exhibition.

The temporary protection shall be deemed to have been filed on the date on which the product or goods or services were first exhibited.

The temporary protection shall not be applied so as to extend any other claim of priority.

**Article 31 (revised). Application for a Patent or Petty Patent**

An application for a patent or petty patent shall include the following documents:

1. a prescribed application form for a patent or petty patent;
2. if the applicant is represented, a power of attorney and the name and address of the applicant's representative in the Lao PDR;
3. description that discloses the invention or utility innovation in such clear and complete terms. The description shall indicate relevant sources, local communities or tribes if the invention or utility innovation is derived directly or substantially from genetic resource, traditional knowledge.
4. description for claims that clearly specify the subject matter to be protected;
5. drawings where necessary;
6. abstract;
7. receipt for payment of fees and service charges.

An application for a patent or petty patent shall relate to one invention or utility innovation only or a group of related inventions or utility innovations so linked as to form a single inventive concept as per the international classifications.

The sectors of Industry and Commerce shall accept the application and assign a filing date to an application that contains at least documents as provided in items 1, 3 and 7 of the paragraph 1 of this article:

Any individual, legal entity or organization wishes to obtain a patent or petty patent, shall satisfy all requirements within specified time stipulated in this law.

**Article 32 (revised). Application for Registration of Industrial Design**

An application for registration of industrial design shall include the following documents:

1. a prescribed application form for registration of the industrial design;
2. if the applicant is represented, a power of attorney and the name and address of the applicant's representative in the Lao PDR;
3. one or more drawings or photographs that clearly disclose the industrial design as needed to illustrate its appearance;
4. a brief statement of the type of goods to which the industrial design relates.

The description shall disclose or indicate relevant sources, local communities or tribes if

the industrial design is derived directly or substantially from genetic resource, traditional knowledge.

5. receipt of payment of fees and service charges.

Each application for industrial design registration shall apply up to one hundred industrial designs for the same class as per the international classifications.

The sectors of industry and commerce shall accept the application and assign a filing date that contains, at least documents as provided in items 1, 3 and 5 of the paragraph 1 of this article.

Any individual, legal entity or organization wishes to apply for registration of industrial design, shall satisfy all requirements within the specified time period stipulated in this law.

### **Article 33 (revised). Application for Registration of Trademark**

An application for registration of trademark shall include the following documents:

1. a prescribed application form for registration of trademark;
2. if the applicant is represented, a power of attorney and the name and address of applicant's representative in the Lao PDR
3. a clear drawing or other image or specimen of the mark;
4. description of the goods to which the trademark shall be applied or the services in connection with which it will be used; if the application relates to a collective trademark or certification mark, the application shall so indicate and shall include a description of the way the mark is to be used;
5. receipt for payment of fees and service charges.

One registration application is valid for only one trademark but may apply to more than one class of goods or services as per the international classifications, subject to the payment of a fee for each class of goods or services.

The sectors of industry and commerce shall accept the application and assign a filing date that contains, at least documents as provided in items 1, 3 and 5 of the paragraph 1 of this article.

Any individual, legal entity or organization wishes to apply for registration of trademark, shall satisfy all requirements within the specified time period stipulated in this law.

### **Article 34 (revised). Application for Registration of Layout-designs of Integrated Circuit**

An application for registration of layout-design of integrated circuit shall include the following documents:

1. a prescribed application form for registration of layout-design of integrated circuit;
2. If the application is represented, a power of attorney and address of applicant's representative in the Lao PDR;
3. description of the first commercial use of the layout-design or integrated circuit in which it is embodied;
4. drawings of the layout-design integrated circuit sufficient to identify the layout-design;
5. If the integrated circuit has been commercially exploited, a description of the electronic function that the integrated circuit perform or is intended to perform;
6. receipt for the payment of fees and service charges.

One registration application is valid for only one integrated circuit layout- design.

The Ministry of Industry and Commerce shall accept the application and assign a filing date that contains, at least documents as provided in items 1, 3 and 6 of the paragraph 1 of this article.

Any individual, legal entity or organization wishes to apply for registration of integrated circuit layout-design, shall satisfy all requirements within the times stipulated in this law.

**Article 35 (revised). Application for Registration of Geographical Indications**

An application for registration of geographical indications shall include the following documents:

1. a prescribed application form for registration of the geographical indication;
2. if the applicant is represented, a power of attorney and the name and address of applicant's representative in the Lao PDR;
3. a clear image of the geographical indication;
4. statement of the geographical region to which the proposed geographical indication applies;
5. products to which the proposed geographical indication applies and applicable methods of control;
6. statement of the basis on which the proposed geographical indication is claimed to be a geographical indication, and evidence in support of such statement;
7. where the geographical application is based on protection in a foreign country, evidence that the geographical indication is protected in its country of origin;
8. receipt for payment of fees and service charges.

One registration application is valid for only one geographical indication.

The Ministry of Industry and Commerce shall accept the application and assign a filing date that contains, at least documents as provided in items 1, 3, 5 and 8 of the paragraph 1 of this article.

Any individual, legal entity or organization wishes to apply for registration of geographical indication, shall satisfy all requirements within the times stipulated in this law.

**Article 36. Provision of Additional Information**

Where an application has previously been filed abroad and such application contains some or all of the same subject matter as the application filed in the Lao PDR, the applicant shall disclose such prior filings. The sectors of Industry and Commerce may require the applicant to submit, or the applicant may on its own initiative submit copies of relevant documents, in particular, a search or examination report or copy of the patent or petty patent or industrial property registration certificate obtained abroad.

**Article 37 (revised). Language Used for Filing an Application**

An industrial property application shall be filed in Lao language. Any accompanying material may be filed in either the Lao language or in the English language. Provided however, that for any document filed or submitted in English, the applicant must, within ninety days of such filing, supply a translation into the Lao language. Such translation must be certified to be a correct translation.

**Article 38 (revised). Formality Examination of Industrial Property Registration**

**Application**

The Ministry of Industry and Commerce will conduct a formality examination of each industrial property application to ensure that the application is complete, in correct form, and that fees and service charges have been paid.

The Ministry of Industry and Commerce will notify the applicant, if the

application is insufficient or in incorrect form, to submit additional information or to rectify within sixty days of notification.

The formality examination is not required by the Ministry of Industry and Commerce if such application is previously formally examined by the another or international industrial property organization.

**Article 39 (revised). Publication of Industrial Property Application**

After the Ministry of Industry and Commerce has completed its formality examination of the application for an invention or utility invention, the application would be published in the official industrial property gazette in the nineteenth month after filing date of the application.

With regard to applications for industrial designs, trademarks, layout-design of integrated circuits and geographical indications shall be published after the completion of the formality examination on the official industrial property gazette.

The third party who is the owner of industrial property may lodge a refusal claim against such application within ninety days for patent and petty patent [and] sixty days for industrial designs, trademarks, layout-design of integrated circuits and geographical indications from the date of publication on the official industrial property gazette.

**Article 40 (revised). Substantive Examination of Industrial Property Applications**

After completion of formality examination of the application, the Ministry of Industry and Commerce will examine as to substance the invention, utility invention, industrial design, trademark and geographical indication applications for registration.

The layout-design of integrated circuit registration application is not examined as to substance.

**Article 41 (revised). Claim to Carry out Substantive Examination of Industrial Property Applications**

An application for a patent or petty patent is subject to a substantive examination, upon a request of applicant, to determine whether it meets the requirements for patentability or for obtaining a petty patent as described in this law. The substantive examination shall be based on a search of existing technical knowledge. Where the application has previously been subject to a search or examination by another authority the applicant shall submit a copy of the report of such authority and request the Ministry of Industry and Commerce to consider issuing patent and petty patent without conducting any further search.

If the applicant is unable to provide substantive examination reports for the invention or utility innovation which is the subject of the application, the applicant may submit a request to the Ministry of Industry and Commerce to examine as to substance the application. The Ministry of Industry and Commerce will undertake the examination within the following time frames thirty-two months for an invention and twelve months for a utility innovation from the date of filing the application or the priority date. However, all expenses incurred in the request for the examination of the invention or utility innovation registration application shall be the burden of the requestor. The expenses for the substantive examination depend on determination of each patent office of another country or of international organization dealing with examination of patent which shall conduct such substantive examination periodically.

The registration applications for industrial design, integrated circuit layout-design, trademark and geographical indication will not be requested to examine as to substance.

**Article 42 (revised). Amendment and Division of Application**

At any time, an application is pending before the Ministry and Industry and Commerce but before it is in order for grant, an applicant may amend or divide the application based on correct form and the charges and service fees are paid.

An amendment as provided in item 1 of paragraph 1 of this Article shall not:

1. introduce new technical information not supported by the original application into an application for a patent, petty patent, or registration of an integrated circuit layout-design;

2. change the essential appearance of an industrial design or the essential nature of a mark or geographical indication.

**Article 43 (revised). Abandonment of Industrial Property Application**

Industrial property application shall be deemed abandoned under the following conditions:

1. the application is incomplete;

2. the industrial property does not meet the requirements for protection;

3. the applicant is not entitled to apply for registration;

4. the applicant fails to pay the required fees and service charges for the application or to maintain the protection in force;

5. the applicant did not request substantive examination of the invention or utility registration application within the period provided for in Article 41 of this law;

6. the applicant does not correct the above items 1, 3, 4 and 5 of this Article within the specified time period set by the Ministry of Industry and Commerce.

**Article 44 (revised). Registration**

After consideration and examination of the industrial property registration application which is considered to fulfill the requirements provided for in this law, the Ministry of Industry and Commerce will issue a patent, petty patent or industrial property registration certificate, enter the registration in the registrar and publish the registration on the official industrial property gazette.

Where the registration for industrial design, trademark or geographical indication has been done, the third party may request a cancellation or elimination of such registration within period of five years from the date of publication in the official industrial property gazette.

The Ministry of Industry and Commerce may cancel or invalid the registration if it is falsely registered or in bad faith.

**Article 45 (revised). Termination of Industrial Property Rights**

Rights in industrial property shall terminate as follow:

1. the term of protection is expired;

2. the industrial property owner fails to renew the registration and pay the applicable fees and service charges, in which case, rights shall terminate as of the end of the term for which protection was granted and the fees and service charges were paid;

3. the patent, petty patent, or registration is invalidated based on a finding that one or more requirements for protection have not been satisfied; where such finding applies to only a portion of the industrial property, the termination shall apply only to such portion as is invalidated.

4. right holder or authorised person of industrial property will no longer have

rights to control the supply, import, offer for sale, sell, authorise or assign for others, where the right holder or authorised person has supplied to the market their products.

5. The Ministry of Industry and Commerce may cancel or invalid the registration of trademark based on provisions stipulated in paragraph 3 of Article 44 and paragraph 2 of Article 65 of this law.

#### **Chapter 4** **Rights and obligations of Industrial Property Rights Owner**

##### **Article 46. Industrial Property Rights Owner**

After obtaining lawful patent, petty patent, or registration, the applicant shall become the owner of the industrial property.

In the case that the industrial property creation or design is hired out, the industrial property owner shall be the hirer, except where agreed otherwise by the parties.

##### **Article 47 (revised). Rights of the Industrial Property Right Owner**

The industrial property right owner has the following rights:

1. to enjoy the benefits derived from the exploitation of the industrial property;
2. to transfer all or part of the owner's rights to another person by sale, exchange, rent or assignment;
3. to permit another person to exploit all or part of the owner's rights to the industrial property;
4. to inherit industrial property and to pass ownership of the industrial property by inheritance;
5. to take legal action to protect its industrial property from violation by other parties.

##### **Article 48 (revised). Rights of the Patent and Petty Patent Right Owner**

A patent and petty patent owner has the following rights:

1. In case the patent is for a product:
  - 1.1. the right to prevent others, without the owner's authorization, from making, importing, offering for sale, selling, or using the patented products;
  - 1.2. the right to prevent others, without the owner's authorization, from keeping such products for the purposes of offering for sale, sale or use;
2. In case the patent is for a process:
  - 2.1. the right to prevent others without the owner's authorization, from using that process;
  - 2.2. the right to prevent others, without the owner's authorization, from actions defined in item 1, for a product obtained directly from the patented process.
3. authorize individual, legal entity or organization other than the patent and petty patent owner to undertake any of the acts described in items 1 and 2 of this Article in Lao PDR;
4. to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] right to compensation from damages caused by others;
5. to prevent others from exploiting the patented invention and utility innovation from the time that the patent is issued. The owner may bring a suit for acts of infringement occurring during the pendency of the application only after the patent

and petty patent is granted and only for acts occurring after publication during pendency or if the infringer had notice of the patent and petty patent application.

For petty patent owners, rights shall be applied likewise as to those of patent owner, *mutatis mutandis*.

#### **Article 49. Rights of the Industrial Design Right Owner**

An industrial design owner has the right to prevent third parties not having the owner's consent from making, selling or importing articles bearing or embodying an industrial design which is a copy or imitation of the protected design, when such acts are undertaken for commercial purposes.

The provisions of items 3, 4 and 5 of Article 48 of this law shall apply *mutatis mutandis*, provided however, that where publication is delayed, no suit shall be brought except where the relevant information is first notified to the person being sued.

#### **Article 50. Rights of the Trademark Right Owner**

A trademark owner has the following rights:

1. to prevent all third parties from using in the course of trade identical or similar signs for goods or services which are identical, similar, or related to those in respect of which the trademark is registered where such use would result in a likelihood of confusion;

2. to prevent the sale or advertising of goods bearing the mark or the use of the mark in connection with services, and the importation or export of goods bearing such a mark;

3. to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] right to compensation from damages caused by others.

The rights described in items 1 and 2 of this Article shall not prejudice any existing prior rights.

The rights described in paragraph 1 of this Article shall apply *mutatis mutandis* to well-known marks and to trade names.

#### **Article 51. Rights of Integrated Circuit Layout-Design Owner**

An integrated circuit layout-design owner has the right to prevent others without the owner's authorization from:

1. Reproducing a layout-design circuit in its entirety, whether by incorporating it into an integrated circuit or otherwise;

2. Reproducing any part of the integrated circuit, whether by incorporating it into an integrated circuit or otherwise, except where the act of reproducing any part that does not require with the requirement of originality referred to item 1 of Article 17 of this law;

3. importing, selling, or otherwise distributing for commercial purposes a protected layout-design or an integrated circuit in which a protected layout-design is incorporated;

4. importing, selling, or otherwise distributing for commercial purposes an article incorporating or an integrated circuit in which a protected layout-design has been incorporated, but only to the extent that it continues to contain an unlawfully reproduced layout-design.

It shall not be unlawful to perform any of the acts in respect of an *integrated* circuit incorporating an unlawfully reproduced layout-design or any article incorporating such an integrated circuit where the person performing or ordering such acts did not know and had no reasonable ground to know, when acquiring the integrated circuit

or article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design, provided however that after the time such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the acts with respect to stock on hand or ordered before such time but shall be liable to pay the right holder a sum equivalent to a reasonable royalty such as would be payable under a negotiated license in respect of such layout-design.

It shall not be unlawful for a private party to reproduce an integrated circuit layout-design for the sole purpose of evaluation, analysis, research, or teaching.

The holder of the right shall not exercise his right in respect of an identical original layout-design that was independently created by a third party.

#### **Article 52. Rights of Geographical Indication Registration Right Owner**

The owner of the registration of a geographical indication shall have the following rights:

1. to prevent others from applying the geographical indication to goods or including the geographical indication in a trademark, and to prevent the sale, advertising, importation, or export of goods bearing such indication or including the geographical indication in such trademark;

2. to object to the use of a geographical indication in item 1 of this Article where related to wines or spirits, even in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like;;

3. to protect a geographical indication against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory;

4. to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] right to compensation from damages caused by others.

Only producers who carry out business undertakings within the geographical region specified for the geographical indication may use the registered geographical indication on or in connection with the goods to which the geographical indication relates.

Any act which is an infringement as described in item 1 or 2 of this Article shall be an act of unfair competition, including the use of any means in the designation or presentation of a good that indicates or suggests that the good originates in a geographical area other than its true place of origin and in a manner that misleads the public as to the geographical origin of the good.

The rights provided in items 1 and 2 of this Article shall be applicable to an indication of goods that is confusingly similar to the protected geographical indication or that are homonymous with it.

#### **Article 53. Rights of Proprietor of Trade Secret**

The proprietor of a trade secret has the following rights:

1. to prevent trade secret information lawfully in his control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices, except:

- 1.1. discovery of the information by reverse engineering, laboratory testing or analysis, or similar means;

- 1.2. acquiring the information without an obligation of confidentiality or trust.

2. to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] right to compensation from damages caused by others;

3. to prevent individual, legal entity or organization from misappropriating the trade secret;

4. to disclose, withdraw or utilize trade secret or transfer to other person for disclosure, withdrawal or utilization of trade secret, by defining contents and requirements of keeping secret;

5. to control any person who is lawfully in control of the trade secret from employment or a contract or other agreement, where such obligation of confidentiality shall remain in effect so long as the information remains secret even where the employment, contract or other agreement terminates sooner;

No registration is required for trade secret.

#### **Article 54 (revised). Protection of Test or Other Data**

Where marketing approval of pharmaceutical or of agricultural chemical products that utilize a new chemical entity is conditioned on the submission of undisclosed test or other data, the origination of which involves a considerable effort, such data shall be protected against unfair commercial use and against disclosure without the consent of the person that originated such data, provided however that such data may be disclosed to the extent necessary to protect the public. No person other than the person that submitted the data may, without the latter's permission, rely on such data in support of an application for product approval during a period of five years after the date on which the Lao PDR granted approval to market the product to the person that produced the data.

Any act in violation of this Article shall be an act of unfair competition. The owner of data described in this Article shall have the right to take measures to enforce rights under this Article and shall have the right, subject to any exceptions provided in this law, to institute court action against an individual, legal entity or organization who performs such acts of unfair competition or who performs acts that make it likely that such acts of unfair competition will occur.

#### **Article 55 (revised). Obligations of the Industrial Property Owner**

An industrial property owner has following obligations:

1. to be responsible for the protection and management of its rights through monitoring and inspection of the use of the industrial property as provided for in this law;

2. to be responsible to encourage and promote the use of its industrial property by society based on mutual benefit;

3. to be responsible for providing information about violations of its industrial property to the state organizations responsible for such activities;

4. to make financial obligations to the state pursuant to laws and regulations derived from the exploitation, leasing, transfer or inheritance of the industrial property or arising from other benefits;

5. to be responsible for coordinating the remedy of violations of its industrial property.

### **Chapter 5**

#### **Term of Protection of Industrial Property**

#### **Article 56 (Revised). Term of Protection of Patents**

The term of protection of patents shall be twenty years from the date of filing the patent application for registration or priority date.

In order to maintain the term of protection, the patent owner shall pay annual fees and service charges in advance.

#### **Article 57 (revised). Term of Protection of Petty Patents**

The term of protection of petty patents shall be ten years from the date of filing the petty patent application for registration or priority date.

In order to maintain the term of protection, the petty patent owner shall pay

annual fees and service charges in advance.

**Article 58 (revised). Term of Protection of Industrial Designs**

The term of protection of industrial designs shall be fifteen years from the date of filing the application for registration or priority date.

In order to maintain the term of protection, the industrial design owner shall pay fees and service charges every five years in advance.

**Article 59. Term of Protection of Trademarks**

The term of protection of trademarks shall be ten years from the date of filing application for registration. Upon expiry the term of protection may be indefinitely renewed and each period of renewal will be for ten years.

In order to maintain the term of protection the owner of the trademark shall pay fees and service charges every ten years in advance.

**Article 60. Term of Protection of Layout-designs of Integrated Circuits**

The term of protection of layout-designs of integrated circuits shall be twelve years from the date of filing the application for registration.

In order to maintain the term of protection the layout-design of integrated circuit owner shall pay annual fees and service charges in advance.

**Article 61 (revised). Term of Protection of Geographical indications**

The term of protection of geographical indications is unlimited and commences from the date of receipt of the registration certificate and payment of a one-time fee and service charge.

**Article 62 (revised). Term of Protection of Trade Names**

The term of protection of trade names is unlimited until the owner of such trade names stops using it.

**Article 63 (revised). Term of Protection of Trade Secrets**

Trade secrets are protected for an unlimited period or until their secrecy is lost.

**Chapter 6  
Limitation of Rights on Industrial Property**

**Article 64 (revised). Authorization to Exploit without Permission of Patent or Petty Patent Owner**

By the Order of the Prime Minister, the Ministry of Industry and Commerce may authorize an individual, legal entity or organization to produce, use, or importation of a patented invention or utility innovation without authorization from the patent or petty patent owner subject to the provisions of this article.

1. Such authorization shall be permitted only in the following cases:

1.1. in situations of national emergency or circumstances of critical and extreme urgency such as a disaster, epidemic, or war;

1.2. for non-commercial use by the Government to meet the needs for public benefits, especially relating to national defence and public order, food, or public health, or for other urgent needs;

1.3. to remedy a practice determined after judicial process to be anti-competitive and where the court is satisfied that the exploitation of the protected invention is necessary to correct the anti-competitive practice;

1.4. For failure to work the invention or utility innovation so as to satisfy its reasonable demand in the Lao PDR.

2. Each authorization of such use shall be considered on its individual merits, and the scope and duration of such use shall be limited to the purpose for which it was authorized. The right holder shall have the right to present evidence opposing the grant of such authorization, and to propose alternative terms to satisfy domestic demand for the invention or utility innovation;

3. Such use shall be non-exclusive and non-transferrable, even in the form of the grant of a sub-license, except with that part of the enterprise or goodwill which enjoys such use;

4. The authorization shall provide that the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization. The order granting the authorization shall specify the amount of compensation, or how it shall be determined, and any terms for payment thereof. The right holder shall have the right to propose terms for compensation, how it shall be determined, and terms for payment thereof. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in cases under item 1.3 of this Article;

5. the right holder may request the Ministry of Industry and Commerce to reconsider on the appropriate value of the compensation or unreasonable circumstances within sixty days from the date of receiving the notice;

6. the Ministry of Industry and Commerce shall immediately notify of any decision to grant such authorization to the right holder and of any decision on the compensation to be paid to the right holder;

7. for authorizations under items 1.1, 1.2 or 1.4 of this Article:

7.1. any such use shall be authorized predominantly for the supply of the domestic market of the Lao PDR;

7.2. such use shall only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the patent or petty patent owner on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time;

7.3. the requirement of item 7.2 of this Article may be waived in case of a national emergency or circumstances of critical and extreme urgency, in which case the right holder shall, nevertheless, be notified as soon as reasonably practicable;

7.4. The requirement of item 7.2 of this Article may be waived in cases of public non-commercial use. Where the Government or contractor, without making a patent or petty patent search, knows or has demonstrable grounds to know that a valid patent or petty patent is or will be used by or for the Government, the right holder shall be informed promptly.

8. the legal validity of any decision relating to the authorization of such use, and any decision relating to the remuneration provided in respect of such use, shall be subject to judicial review. Any such appeal as to the grant of the authorization shall be filed within sixty days of the notice;

9. where authorization is requested by a third party pursuant to item 1.4 of this Article, such request must satisfy the following requirements:

9.1. the request shall not be submitted earlier than four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last;

9.2. the party making such request shall present evidence that the demand for the

patented invention or utility innovation is unmet in the Lao PDR, whether by local manufacture or importation, and that the party making the request has the ability to supply the invention or utility innovation on reasonable terms if the requested authorization is granted. Such evidence shall take into account the need to pay remuneration to the patent or petty patent owner;

9.3. the Ministry of Industry and Commerce shall notify the patent or petty patent owner of the request within ninety days and shall provide the patent or petty patent owner with an opportunity to present evidence (if applicable), to justify the failure to satisfy demand for the invention or utility innovation by legitimate reasons;

9.4. such authorization shall be refused if the patent or petty patent owner justifies his failure to work or to satisfy demand in the Lao PDR by legitimate reasons.

10. in no case shall such authorization operate to deprive the patent or petty patent owner of the right to continue to exploit the invention or utility innovation as the case may be;

11. an authorization granted herein may be amended as to its terms, taking into account the continued existence of an emergency or of a new emergency, subject to the provisions and protections provided herein;

12. authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur, or where the authorized party fails to fulfill the requirements contained in the order authorizing such party's use of the invention or utility innovation:

12.1. the Ministry of Industry and Commerce shall have the authority to review, upon request of the right holder or other concerned party, the continued existence of the circumstances that were the basis for such authorization;

12.2. if it appears that the circumstances that were the basis for the authorization have ceased to exist and are likely to reoccur, the Ministry of Industry and Commerce may make reasonable provision to provide adequate protection of the legitimate interests of persons receiving such authorization;

12.3. the Ministry of Industry and Commerce shall have the authority to refuse termination of authorization if and when the conditions which led to such authorization are likely to recur.

#### **Article 65. Non-Use of Trademarks**

A non-use of trademark is the following cases:

1. the trademark has not been used for a consecutive period of five years;
2. the trademark has been used merely token use or such use not been in good faith by the owner.

Any individual, legal entity or organization may request to the Ministry of Industry and Commerce to cancel or revoke the registration of the non-use of the trademark. In any cancellation or revoke proceeding, the owner shall be entitled to present reasons justifying the non-use of the trademark. Force major to such use arising independently of the will of the owner shall be recognized as valid reasons for non-use.

A trademark is used if it is used on or in connection with the goods or services of the trademark for which it is registered, by the owner or by another with authorization of the owner and subject to the owner's control.

#### **Article 66. Conditions on Layout-designs of Integrated Circuits**

In the case that a layout-design integrated circuit is exploited for commercial benefits, whether within or outside the country, the application for registration of the layout-design integrated circuit must be filed within two years of the first commercial exploitation of the layout-design of integrated circuit, in any event, the term shall not

exceed 15 years from the date of creation.

**Article 67 (revised). Exploitation of Geographical indications**

Where the registrant fails to perform under the requirements of the registration of the geographical indications, individual, legal entity or organization may bring an action to the Ministry of Industry and Commerce to suspend the exploitation of a registered geographical indication. The Ministry of Industry and Commerce shall notify the registrant to comply with the requirements and within the time-period provided. If the registrant fails to do so, the exploitation of such geographical indications shall be suspended.

**Part IV**  
**New Plant Variety**  
**Chapter 1**  
**New Plant Variety Registration Requirements**

**Article 68 . Genera and Species Eligible for Protection**

All genera and species of plant may be granted for new plant variety registration.

Plant variety to be protected is the plant that has been registered for new plant variety as compliance to the requirement of this law.

**Article 69 (revised). Requirements for Registration of New Plant Varieties**

A plant variety to be registered as a new plant variety shall meet all the following requirements:

1. new;
2. distinct;
3. uniform;
4. stable.

In addition to the above-mentioned requirements, a denomination of the new plant variety provided in Article 74 of this law shall be taken into account.

**Article 70 (revised). Novelty**

A variety shall be deemed to be new if, on the date of filing the application for a breeder's right, the propagating 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 within the time period:

1. Earlier than one year before the date of filing in the territory of Lao PDR;
2. Earlier than four years or, in the case of trees or vines, earlier than six years in any other territory before the said date.

Where a plant genus or species was not previously allowed to register prior to the enforcement of this Law, varieties belonging to such plant genus or species shall be considered to satisfy the condition of novelty defined in this Article even where the sale or disposal of to others took place in the in Lao PDR within four years before the filing date or, in the case of trees or of vines, within six years before the said date, in compliance with the requirements of paragraph one of this article. This shall only apply to applications for a breeder's right filed within two years in Lao PDR, at the latest, after the enforcement of this Law.

**Article 71 (revised). Distinctness**

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.

A variety shall be deemed to be a variety of common knowledge, from the date of the application, if the application leads to the granting of a breeder's right in any country or to the entering of the said other variety in the official register of varieties in any country.

#### **Article 72. Uniformity**

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 73. Stability**

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 74 (revised). Variety Denomination**

The variety denomination shall comply with the followings:

1. Each variety shall be designated by a denomination which will be its generic designation. 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. A proposed 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. The proposed denomination must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or identity of the breeder. It must be different from every denomination which designates, in the territory of the Lao PDR or in the territory of any Contracting Party to an international treaty on plant variety protection to which Lao PDR is party to, an existing variety of the same plant species or of a closely related species;

3. The breeder shall submit the same denomination of the variety to the Ministry of Industry and Commerce as the denomination submitted to other Contracting Parties to an international treaty on plant variety protection. The Ministry of Industry and Commerce shall register the denomination so submitted, unless prior rights of third persons have been affected in accordance with the obligation to use the denomination under paragraph 4. If the said denomination is unsuitable or it is found that the denomination does not satisfy the requirements of this paragraph and paragraph 2 of this Article, the Ministry of Industry and Commerce shall require the breeder to propose another denomination within sixty days of the date of notification. The Ministry of Industry and Commerce shall register the denomination at the same time as the breeder's right is granted.

4. Ministry of Industry and Commerce shall register the submitted denomination, unless the priority rights of third persons is not affected by the denomination as provided in item 5 of this article, or the denomination does not satisfy the requirements of items 2 and 3 of this Article. The Ministry of Industry and Commerce shall inform the breeder to propose another denomination within 60 days. The Ministry of Industry and Commerce shall register the denomination at the same time as the breeder's right is granted.

5. Any individual, legal entity or organization who, within the territory of the Lao PDR, offers for sale or markets propagating material of a variety protected within the said territory shall be obliged to use the denomination of the variety, even after the expiration

of the breeder's right in that variety, except where, the use of the denomination is prohibited by a prior right of the third person to the person who is obligated to use the denomination of variety.

6. When a variety is offered for sale or marketed, it shall be 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 2** **Registration of New Plant Varieties**

### **Article 75 (revised). Eligibility to Submit an Application**

Any individual, legal entity or organization eligible to submit a application is as follows:

1. A breeder may file an application for breeder's rights of a variety resulting from breeding;
2. Where two or more persons have jointly bred a new variety, such persons may jointly apply for plant breeder's rights. In the absence of any special declaration of the apportionment of ownership, they are presumed to be owners of equal part of the concerned variety;
3. Any foreign individual, legal entity or organization shall enjoy within the territory of the Lao PDR the same treatment as is accorded to Lao nationals, subject to the requirements that a party that does not have a residence or business premises in the Lao PDR shall appoint a representative with such premises in the Lao PDR.

### **Article 76 (revised). Priority Date of New Plant Variety Application for Registration**

Any individual, legal entity or organization shall be entitled to request for a claim for priority date as follows:

1. The breeder who filed an application for registration of a new plant variety in any Contracting Party to international treaties regarding the new plant variety protection that Lao PDR is a party shall enjoy a right of priority date for the purpose of filing an application for the grant of the breeder's right for the same plant variety in the Lao PDR for a period of twelve months from the date of filing the first application.
2. An applicant wishing to benefit from the right of priority date shall, in the subsequent application, claim the priority date of the first application and shall furnish within a period of three months from the filing date of the Lao application, a copy of the documents that constitute the first application, certified to be a true copy by the authority with which that application was filed, together with 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 to be stipulated in the regulations, in which to furnish, to the Ministry of Industry and Commerce, any necessary information, document or material required for the purpose of the examination under Article 80 of this Law.
4. Events occurring within the period provided for in paragraph 1 of this Article, 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 77 (revised). Application for Registration**

Any individual, legal entity or organization eligible to apply for a plant breeder's rights may file an application for a plant variety registration to the Ministry of Industry and Commerce. An application for a new plant variety protection and any accompanying documents may be filed either in Lao or in English. If any application or document is submitted in English, the applicant shall provide a certified Lao translation within ninety days from the filing date.

Such application shall include the following elements:

1. Request for a plant breeder's right; it shall relate to a single plant variety;
2. The name of the breeder, and if applicant is not the person who bred or discovered and developed the variety, a statement of the basis of applicant's ownership;
3. If there is a representative, a power of attorney and the name and address of the representative;
4. A denomination or breeder's reference;
5. Relevant information to be provided in the technical questionnaire including a description of the variety setting forth its distinctiveness, uniformity, and stability;
6. Receipt for payment of the applicable fees and service charges.

An application may include a claim for priority date as stipulated in Article 76 of this Law.

The Ministry of Industry and Commerce shall accept the application and assign a filing date which shall consist of at least the documents as stipulated in items 1, 5 and 9 of the above paragraph.

Any individual, legal entity or organization wishes to register a new plant variety shall fulfill all the requirements within the time period as stipulated in this law.

**Article 78 (revised). Examination of Application for New Plant Variety Registration**

The Ministry of Industry and Commerce shall conduct a preliminary examination of an application for plant variety registration that shall fulfill requirements as provided under Article 77 of this Law. If such application is accurate and complete, the Ministry of Industry and Commerce shall assign a filing date for the applicant.

In the event that the application is incorrect or incomplete, the Ministry of Industry and Commerce shall notify the applicant to correct or complete within sixty days of the date of notification.

**Article 79 (revised). Publication of New Plant Variety Registration**

Upon the completion of preliminary examination, the Ministry of Industry and Commerce shall publish the application, proposed denominations and a summary note on the official gazette regarding to the intellectual property.

The third party may lodge a request to reject such registration application within ninety-days from the date of publication.

**Article 80 (revised). Substantive Examination of Application for New Plant Variety Registration**

An application for a new plant variety registration is subject to substantive examination to determine whether it meets the conditions as defined under Articles 69 - 73 of this Law.

In the course of the examination, the Ministry of Industry and Commerce may coordinate with relevant plant variety testing bodies that provide plant variety growing test services or other necessary tests, which the applicant shall be responsible for the expenses of growing test of the variety, or take into account results of growing tests or

other trials which have already been carried out.

The Ministry of Industry and Commerce may require the breeder to provide information, documents or material of the variety.

Where an application for the same variety has been filed in another country or intergovernmental organization, the Ministry of Industry and Commerce may ask for the examination report and take the information into account for examination purposes.

#### **Article 81 (revised). Registration**

After substantive examination, if it is found that the new plant variety registration application complies with the requirements as provided under this Law, the Ministry of Industry and Commerce shall register and issue a registration certificate of a new plant variety for the applicant, record the registration and publish results of the registration including registered denomination on the official gazette regarding the intellectual property.

### **Chapter 3 Rights of Breeder**

#### **Article 82 (revised). Rights of the New Plant Variety Owner**

The breeder has the following rights:

1. To authorise individuals, legal entities or organization eligible to act in respect of the propagating materials of protected variety:
  - 1.1. Production, reproduction (multiplication);
  - 1.2. Conditioning for the purpose of propagation;
  - 1.3. Offering for sale;
  - 1.4. Selling or distribution;
  - 1.5. Exporting;
  - 1.6. Importing;
  - 1.7. Stocking for any of the purposes mentioned in items 1.1 to 1.6 above.
2. To make his or her authorization subject to conditions and limitations;
3. To invoke his or her rights under the law against infringements by other such as legal remedies, include having rights to proceed litigation, and rights to receive compensation for damages caused by others.
4. To utilize other rights under other relevant laws.

Subject to Articles 85 and 86, the acts as defined in items 1.1 to 1.7 of this Article in respect of the propagating material of the protected variety shall require the authorization of the breeder.

Subject to Articles 85 and 86, the acts as defined in items 1.1 to 1.7 of this Article in respect of harvested material, including entire plants and parts of the plants, obtained through unauthorized use of propagating material of the protected variety shall obtain authorization from the breeder, unless the breeder has had reasonable opportunity to exercise his or her right in relation to the said propagating material.

Subject to Articles 85 and 86, the acts as defined in items 1.1 to 1.7 of this Article in respect of products made directly from harvested material of the protected variety falling within the provisions of paragraph 2 of this Article through the unauthorized use of the said harvested material shall require the authorization of the breeder, unless the breeder has had reasonable opportunity to exercise his or her right in relation to the said harvested material.

The provisions of paragraphs 1 to 4 of this Article shall also apply in relation to:

1. Varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety;
2. Varieties which are not clearly distinguishable in accordance with Article 71 of this Law from the protected variety;
3. Varieties whose production requires the repeated use of the protected variety.

For the purposes of paragraph 5, a variety shall be deemed to be essentially derived from another variety ("the initial variety") when:

1. 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;
2. It is clearly distinguishable from the initial variety;
3. 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.

Essentially derived varieties may be obtained, for example by the selection of a natural, induced mutant, a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

#### **Article 83 (revised). Term of Protection of the New Plant Varieties**

The term of protection of new plant variety shall be, for trees and vines, a fixed period of twenty five years from the date of granting breeder's right and for other varieties of plants, twenty years from the date of granting breeder's right.

In order to maintain the term of protection, the new plant variety owner shall pay annual fees in advance.

#### **Article 84 (revised). Provisional Protection**

During the period between the publication of the application for the grant of a breeder's right and the grant of that right, the holder of a breeder's right shall be entitled to equitable remuneration from any person who, during the said period, has carried out acts which, once the right is granted, require the breeder's authorization as provided in Article 82 of this Law.

### **Chapter 4**

#### **Exceptions and Limitations Relating to New Plant Variety Owner's Rights**

#### **Article 85 (revised). Exceptions to the Breeder's Rights**

The breeder's rights are excluded when:

1. The acts are done privately and for non-commercial purposes;
2. The acts are done for experimental purposes;
3. The acts are done for the purpose of breeding other varieties, and acts referred to in paragraphs 1 to 4 of Article 82 of this Law in respect of such other varieties;
4. The acts are done for the purpose of breeding other varieties referred to in paragraph 5 of Article 82 of this Law; however, the acts referred to in paragraphs 1 to 4 of Article 82 of this Law in respect of such other varieties shall require the authorization of the holder of the breeder's right;
5. The breeder's right shall not extend to farmers who, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, use for propagating purposes, on their own holdings, the product of the harvest which the farmers have obtained by planting on their own holdings, the protected variety or a variety

covered by number 1 or 2 in paragraph 5 of Article 82. The reasonable limits and the means of safeguarding the legitimate interests of the breeder shall be specified in the Regulations.

**Article 86 (revised). Exhaustion of the Breeder's Right**

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 paragraph 5 of Article 82 of this Law, which has been sold or otherwise marketed by the breeder or with his consent in the territory of the Lao PDR, or any material derived from the said material, unless such acts as follows:

1. Involve further propagation of the variety in question;
2. 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.

For the purposes of paragraph (1) of this Article, "material" means, in relation to a variety:

1. Propagating material of any kind;
2. Harvested material, including entire plants or parts of plants;
3. Any product made directly from the harvested material.

**Article 87 (revised). Measures Regulating Commerce**

Any measures regulating commerce enforced in Lao PDR such as the production, certification, marketing, importing, or exporting of material of varieties shall not affect the rights of breeders under this Law.

**Article 88 (revised). Nullity of the Breeder's Rights**

A breeder's right shall be nullified in the following cases:

1. That the conditions laid down in Articles 70 or 71 of this Law, were not complied with at the time of granting the breeders' right;
2. That, when the grant of the breeder's right has been essentially based on upon information and documents furnished by the breeder to Ministry of Industry and Commerce the conditions laid down in Articles 72 or 73 of this Law were not complied with at the time of granting the breeder's right; or
3. 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;

No breeder's right shall be declared null and void for reasons other than those referred to in this Article.

**Article 89 (revised). Cancellation of the Breeder's Right**

A breeder's right may be canceled as following cases:

1. The variety no longer complies with the conditions as laid down in Articles 72 or 73 of this Law;
2. The breeder failed to provide the authority with the information, documents or material deemed necessary for verifying the maintenance of the variety;
3. The breeder failed to pay fees and service charges as may be payable to keep his or her right in force;
4. The breeder failed to propose another suitable denomination, where the denomination of the variety is cancelled after the grant of the right.

No breeder's rights shall be cancelled for reasons other than those referred to in paragraphs 1 to 4 of this Article.

**Article 90 (revised). Restrictions Based on Public Interests**

Where it is necessary for reasons of public interest, the government may issue a notification allowing the exploitation of a protected variety without an authorization from the right owner, but the right owner shall receive equitable remuneration.

**Part V**  
**Copyright and Related Rights**  
**Chapter 1**  
**Protection of Copyright**

**Article 91. Works Eligible for Protection**

Copyright shall be available to every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, provided it is the original creation of its author. In particular, copyright shall be available for:

1. Artistic works include such works as:
  - 1.1. drawings, paintings, carvings, lithography, tapestry or embroidery and other works of fine art;
  - 1.2. sculptures, engravings and other works of sculpture;
  - 1.3. designs of buildings or construction, internal or external decorations designs and other architectural works;
  - 1.4. photographs using technical methods and works expressed by an analogous process;
  - 1.5. illustrations, maps, plans, sketches and three dimensional works related to geography, topography, architecture or science;
  - 1.6. dramatico-musical works, pantomimes or drama, choreographic works and other works created for performance;
  - 1.7. musical compositions with or without lyrics including edited notes or tunes;
  - 1.8. phonogram;
  - 1.9. works of applied art;
  - 1.10. film or other cinematographic works or works expressed by an analogous process, and including an audiovisual work which consist of sequence of images which can be continuously projected as moving pictures and can be recorded upon other materials so as to be also continuously projected as moving pictures including the sound tracks of such work.
  - 1.11. other artistic works.
2. Works of literature and scientific as the case may be as following:
  - 2.1. books, thesis, brochures, magazines, printed matters and other writings works;
  - 2.2. lectures, speeches, addresses, discourses, sermons and other oral works recorded;
  - 2.3. dramas, stories, poems;
  - 2.4. computer programs and data compilations, whether in source and object codes;
  - 2.5. other works of literature and scientific contents, such collections or compilations constitute intellectual creations;For purposes of copyright, a work is created when it is fixed in a tangible object or electronic form.
3. Collections of literary or artistic works, such as encyclopedias, anthologies or compilations of data by reason of the selection and arrangement of their

#### **Article 92. Derivative Works**

Derivative works shall be protected as original works without prejudice to the rights of the author of the original work on which the derivative work is based.

#### **Article 93. Items Ineligible for Copyright Protection**

The following are ineligible for copyright protection:

1. news of the day or miscellaneous facts having the character of mere items of press information;
2. ideas, procedures, methods of operation or mathematical concepts as such;
3. official texts of a legislative, administrative and legal nature, and official translations of such texts.

### **Chapter 2 Protection of Related Rights**

#### **Article 94. Persons Entitled to Benefits from Protection of Related Rights**

Persons entitled to benefits from protection of related rights are as follows:

1. Performers, including actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works or expressions of folklore;
2. Producers of phonograms who take the first fixation of the sounds of a performance or other sounds, or the representations of sounds;
3. Broadcasters and broadcasting organizations that initiated and made the radio broadcast or sound-image broadcast with wire or wireless system to the public.

#### **Article 95. Eligibility for Protection of Related Rights**

The following shall be eligible for the protection of related rights:

1. Performances:
  - 1.1. performances in the country or abroad by Lao citizens, aliens or stateless persons residing in Lao PDR;
  - 1.2. performances by foreign nationals in the Lao PDR;
  - 1.3. performances which are protected under international conventions to which the Lao PDR is a party and other relevant treaty.
2. Production of phonograms:
  - 2.1. production of phonograms in the country or abroad by Lao citizens, aliens or stateless persons residing in the Lao PDR;
  - 2.2. production of phonograms by foreign nationals in the Lao PDR;
  - 2.3. production of phonograms which are protected under international conventions to which the Lao PDR is a party and other relevant treaty.
3. broadcasting:
  - 3.1. broadcasting in the country or abroad by Lao citizens, aliens or stateless persons residing in the Lao PDR or broadcasting organization which has a headquarter in the Lao PDR;
  - 3.2. broadcasting which broadcasts by transmitter [and receivers] located in the Lao PDR;
  - 3.3. broadcasting which are protected under international conventions to which the Lao PDR is a party and other relevant treaty.
4. Broadcasting of a satellite signal carrying encrypted or unencrypted programs:
  - 4.1. Broadcasting of a satellite signal carrying encrypted or unencrypted programs in the country or abroad by Lao citizens, aliens or stateless persons residing in

the Lao PDR;

4.2. Broadcasting of a satellite signal carrying encrypted or unencrypted program by foreign nationals in the Lao PDR;

4.3. Broadcasting of a satellite signal carrying encrypted or unencrypted programs which are protected under international conventions to which the Lao PDR is a party and other relevant treaty.

Performances, phonograms and broadcasts satellite signal carrying encrypted or unencrypted programs shall be protected as stipulated in items 1, 2, 3 and 4 of this Article without prejudice to copyright in the works.

### **Chapter 3** **Notification of Copyright or Related Rights**

#### **Article 96 (revised). Notification of Copyright or Related Rights**

Copyright or related rights are the rights which arise immediately when the work is created without registration requirement, but a notification of rights can be recorded with the Ministry of Industry and Commerce for evidence or for record especially in case of violation or dispute.

#### **Article 97 (revised). Recording the Copyright or Related Rights Notification**

Upon copyright or related right notification application, the sectors of Industry and Commerce shall enter the notification into the records and issue a receipt for evidence, provided the application satisfies the specified requirements. The copyright or related rights notification shall indicate the name of the author, title of the work including date of creation but shall not determine the rights of the applicant.

### **Chapter 4** **Copyright Owners**

#### **Article 98 (revised). Copyright Owners**

The owner of copyright in a work of authorship, artistic and scientific shall be the author who has the ownership of moral rights and economic rights. Where a work is made jointly ownership shall belong jointly to the authors unless otherwise agreed.

Where a work is made in the course of employment, the owner shall be the employer unless otherwise agreed.

Copyright ownership is any person who acquires or holds any economic rights by buying or selling, assignment by contract or transfer by inheritance.

Any copyright ownership acquiring or holding any economic rights by virtue of a contract, including employment contracts under which a work or sound recording is created, shall be able to exercise those rights in its own name and enjoy fully the benefits derived from those rights.

#### **Article 99 (revised). Creative Contributors to Performances or Cinematographic Works**

Persons who make creative contributions to a performance or cinematographic work, including the director, screenwriters, composers, editors, camera operators, stage managers, composers, scenarists, sound technicians, lighting technicians, studio artists, studio-instrument managers, technical managers and others who made contributions of a like nature, shall be considered joint authors of the cinematographic work.

Such contributing authors shall be entitled to be named for their contribution unless it is not feasible under the circumstances.

Notwithstanding paragraph 1, unless otherwise agreed in writing, such authors shall not have the right to object to the reproduction, distribution, public performance,

communication to the public by wire, broadcasting or any other communication to the public, or to the subtitling or dubbing of texts, of the work, except authors of scenarios, dialogues and musical works created for the making of the cinematographic work, or to the principal director thereof.

#### **Article 100 (revised). Moral Rights**

An author has the following moral rights:

1. first disclosure and first publication of the work, unless such rights is assigned to others by the author after his/her death;
2. to claim authorship of the work, to have his or her name shown and used in connection with publicity concerning the work, to use a pseudonym or pen name or to publish the work anonymously;
3. to object to any misattribution of the work to another;
4. to object to the use of his or her name in connection with a work that he or she did not in fact author or that has been modified by another;
5. to object to any distortion, mutilation or other modification of the work, or other action in relation to the work, where such action would be prejudicial to the author's honor or integrity.

A person who is not the author of a work for which his or her name is used or the economic rights owner to the works shall have the same right as provided in item 5 of this Article.

Moral rights shall not be assigned to others although the author is no longer own the economic rights to the works. However, rights under items 2 and 5 of this Article shall last until the end of the term of the economic rights of the author and become available in public domain. Rights under items 3 and 4 and second paragraph of this Article shall be exercisable by any interested party without limitation in time.

#### **Article 101 (revised). Economic Rights**

The copyright owner of literary or artistic works shall have the exclusive right to carry out or authorize the following acts in relation to his or her works:

1. making a collection of such works;
2. reproducing such work in any manner or form including distribution of copies of such works;
3. making the translation of such works;
4. broadcasting such works;
5. communicating or making available such works to the public by any wire or wireless diffusion or by rebroadcasting;
6. communicating or making available the broadcast of the work to the public by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images.

In the absence of any contrary stipulation, permission granted in accordance with item 4 of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast.

For literary works, the author or other copyright owner of literary or artistic works shall have the exclusive right to carry out or authorize the following acts in relation to his or her works:

1. recitation their works to the public by any means or process;
2. communicating or making available to the public of the recitation of their works.

3. translating the recitation of their works.

For dramatic, dramatico-musical and musical works, the author or other copyright owner of literary or artistic works shall have the exclusive right to carry out or authorize the following acts in relation to his or her works:

1. performing or making available their works to the public, including such public performance by any means or process;
2. communicating or making available to the public of the performance of their works.
3. translating such performance of works.

The author or other copyright owner shall have the exclusive right to carry out or authorize the adaptation, arrangement, or other alteration of their works as follows:

1. making cinematographic adaptation and reproduction of literary or artistic works, and the distribution of the works thus adapted or reproduced;
2. making the public performance and communication the copyrighted works to the public by wire or otherwise of the works thus adapted or reproduced.

The author or other copyright owner shall have the exclusive right to carry out or authorize or prohibit:

1. the direct or indirect reproduction, in whole or in part, of a copyrighted sound recording, computer programs or compilation of data or other materials;
2. the importation into the Lao PDR of copies of a sound recording, regardless of whether such copies have been placed on the market by the relevant right holder;
3. export the original or reproduction of its own works;
4. the first public distribution of the original and each copy of the sound recording by sale, rental or otherwise;
5. the rental, lease or lending of the original or a copy of an audiovisual work, a sound recording, or a musical work in the form of notation, for the purposes of direct or indirect commercial advantage.

6. for a computer program or a data base, the rights provided in item 5 of this paragraph except where the copy of a computer program is not itself an essential object of the rental. Putting the original or a copy of a computer program on the market with the right holder's consent shall not exhaust the rental right.

The author or other copyright owner shall not prevent the subsequent importation or exportation of an original or copy that was legally acquired with the authorization of the owner of copyright or related rights.

The author or other copyright owner of literary or artistic works shall have the exclusive right to carry out or authorize:

1. the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;
2. the public performance and communication to the public by wire or wireless of the works thus adapted or reproduced.

The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original works. The author or other copyright owner of literary, dramatic, dramatico-musical works, musical works, choreographic works, pantomimes, and motion pictures and other audiovisual works, including the individual images of a motion picture or other audiovisual work shall have the exclusive right to authorize:

1. the public performance of their works, including such public performance by any means or process; and in particular, in the case of sound recordings, to perform the

copyrighted work publicly by means of a digital audio transmission;

2. any communication and making available to the public of the performance of their works;
3. translations of the performance of their works.

#### **Article 102 (revised). Infringement of Moral and Economic Rights**

No individual, legal entity or organization other than the author shall undertake any of the acts described in Article 100 of this law without authorization by the author, and except as otherwise provided in this law, any such acts without authorization shall be considered to be an act of infringement of the author's moral rights.

No individual, legal entity or organization other than the author shall undertake any of the acts described in Article 102 of this law without authorization by the author, and except as otherwise provided in this law, any such acts without authorization shall be considered to be an act of infringement of the author's economic rights.

The author or copyright owner has the right to protect their rights under the law and regulations against infringements of their moral or economic rights by others such as right to institute court action, [and] right to compensation from damages caused by others.

#### **Article 103 (revised). Copyright on Computer Programs and Data Compilations**

Computer program is a set of instructions or any other thing used by a computer to make it work or to generate certain results no matter what the computer language is. Computer programs shall be protected as literary works, whether in source or object code.

Compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitutes intellectual creations, shall be protected as literary works. Protection of such works shall not extend to the data or material itself, or prejudice any copyright subsisting in that data or material.

#### **Article 104 (revised). Traditional Literary and Artistic Works**

A work based on a traditional literary or artistic work shall be protected under copyright without prejudice to the rights of others to make original works based on the same traditional literary or artistic work and to continue to exploit the traditional literary and artistic works.

A collection of traditional literary or artistic works shall be protected under copyright without prejudice to the rights of others to make a similar collection or to continue to tell the stories or otherwise reproduce, modify, or sell the traditional works included in such collection.

### **Chapter 5 Related Rights Owners**

#### **Article 105. Related Rights Owners**

Related rights owners are as follows:

1. performers;
2. phonogram producers;
3. broadcasters and broadcasting organizations.

#### **Article 106 (revised). Moral Rights of Performers**

Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the

performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his honor and reputation.

The rights granted to a performer in accordance with this paragraph shall, after his death, be maintained until the expiry of the economic rights and shall be exercisable by the performer's heirs unless the performer has provided for the exercise of such rights by another.

#### **Article 107 (revised). Economic Rights of Performers**

Performers shall enjoy the exclusive right to the following acts:

1. As regards their unfixed performances:
  - 1.1. the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance and made available to the public the related right works;
  - 1.2. the fixation of their unfixed performances.
2. The direct or indirect reproduction of their performances fixed in phonograms, in any manner or form;
3. The making available to the public of the original and copies of their performances fixed in phonograms through sale or other transfer of ownership, provided that such right shall not extend to subsequent sales or other transfers of ownership of the original and of the same copy of the fixed performance that has been lawfully sold or otherwise transferred with authorization of the performer;
4. The commercial rental to the public of the original and copies of their performances fixed in phonograms, even after such phonograms have been distributed by, or pursuant to, authorization by the performer;
5. The making available to the public of their performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;
6. The transferring to own performances work freely with contract or inheritance.

#### **Article 108 (revised). Rights of Producers of Phonograms**

Producers of phonograms shall enjoy the exclusive right to the following acts:

1. The direct or indirect reproduction of their phonograms, in any manner or form;
2. The making available to the public of the original and copies of their phonograms through sale or other transfer of ownership, provided that such right shall not extend to subsequent sales or other transfers of the original and of the same copy that has been lawfully sold or otherwise transferred with authorization of the producer of the phonogram;
3. The commercial rental to the public of the original and copies of their phonograms, even after distribution of them by or pursuant to authorization by the producer;
4. The making available the related right works to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;
5. The transferring to own phonograms work freely with contract or inheritance.

#### **Article 109 (revised). Rights of Performers and Producers of Phonograms to Remuneration**

Performers and producers of phonograms shall enjoy the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication related right works to

the public. Phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they had been published for commercial purposes.

The remuneration shall be as provided by agreement between performers and producers of phonograms.

#### **Article 110 (Revised). Rights of Broadcasters and Broadcasting Organizations**

Broadcasters and broadcasting organizations shall enjoy the exclusive right of authorizing the following acts:

1. The fixation of their broadcasts;
2. The reproduction of fixations of their broadcasts;
3. The rebroadcasting by wireless means of their broadcasts;
4. The communication to the public of television broadcasts of their broadcasts;
5. The making available to the public related right work;
6. The transferring to own broadcasts work freely with contract or inheritance.

### **Chapter 6**

#### **Term of Protection of Copyright and Related Rights**

#### **Article 111 (revised). Term of Copyright Protection**

The term of copyright shall begin on the date the work is created and shall continue to the end of the calendar year of the dates described below:

1. Except as otherwise provided in this article, fifty years after the date of death of the author, or for a work of joint authorship, fifty years after the date of death of the last surviving author;

2. For anonymous or pseudonymous works, fifty years from the date the work was lawfully made available to the public, provided, however, that the term shall be as provided in item 1 of this Article where:

2.1. the anonymous or pseudonym adopted by the author leaves no doubt as to his identity;

2.2. the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period.

3. For a cinematographic work, fifty years from the date the work was made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years from the making;

4. For applied art and photograph, thirty years from the date of creation.

In the case that there is an international convention, which the Lao PDR is a party or an international agreement to which the Lao PDR is a signatory, the term of protection shall be as, determined in such convention or agreement.

#### **Article 112 (revised). Term of Related Rights Protection**

The term of related rights protection is as follows:

1. for performers, the term of protection shall begin with the date of the performance and last until the end of a period of 50 years from the end of the calendar year in which the performance was fixed in a phonogram;

2. for producers of phonograms, the term of protection shall begin with the date the phonogram is first fixed and last until the end of a period of 50 years from the end of the calendar year in which the phonogram was published, or failing such publication within 50 years from fixation of the phonogram, the term of protection of the phonogram shall last until 50 years from the end of the calendar year in which the fixation was made; [and]

3. for broadcasters and broadcasting organizations, the term of protection

shall begin with the date of the broadcast and shall last until the end of a period of fifty years from the end of the calendar year in which the program was first broadcast.

## **Chapter 7** **Reasonable Use and Obligations of Copyright and Related Rights**

### **Article 113 (revised). Acts Consistent with Fair Use**

The following acts shall be permissible without consent of the owner of copyright and related rights, and without remuneration:

1. making quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair use, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries;

2. utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching or scientific research, provided such utilization is compatible with fair practice;

3. reproducing, by photography or cinematography, images of works of fine art, photographs, and other artistic works, and works of applied art, provided such works have already been published, publicly displayed, or communicated to the public, where such reproduction is incidental to the photographic or cinematographic work and is not the object of the photographic or cinematographic work;

4. Translating literary works into Braille or other characters for visually-impaired persons;

5. Reproducing a computer program where such reproduction occurs in the ordinary operation of the computer program, providing the use of the computer program is consistent with terms of authorization of the copyright owner;

6. Reproducing a work embodied in electronic media for backup or archival storage, or for replacement of a legally acquired work that is lost, destroyed or fails to work.

Where use is made of works in accordance with items 1 and 2 of this Article, mention shall be made of the source and of the name of the author if it appears thereon.

The following acts shall be permissible without consent of the author, and without remuneration, provided such acts are consistent with fair use, provided the source is clearly indicated reproduction by the press, the broadcasting or the communication to the public by wire of articles published in newspapers or periodicals on current economic, political or religious topics.

For the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire or wireless means, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

The acts provided paragraph 1 to 4 of this Article shall not conflict with a normal exploitation of the work and shall not unreasonably prejudice the legitimate interests of the author.

A determination of whether a use as above constitutes a fair use shall take into account the circumstances as a whole as further described in a specific regulation.

The provisions of this article will not apply to:

1. reproduction of architectural works, including by construction of the work;

2. reproduction that requires circumvention of technological measures to protect copyright or related rights, or the unauthorized removal or alteration of electronic rights management information.

**Article 114. Obligations of the Copyright and Related Rights Owner**

The obligations of the copyright and related rights owner shall be implemented pursuant to Article 55 of this law.

**Chapter 8  
Collective Management Organizations**

**Article 115 (revised). Collective Management Organizations**

Collective management organizations are organizations managing copyright and related rights, a legal entity established on the basis of agreement among authors, copyrights owners, related rights owners, to operate in accordance with the law in order to protect copyrights and related rights and under the management of the Ministry of Industry and Commerce.

**Article 116 (revised). Role of Collective Management Organizations**

The Collective Management Organizations shall perform the following roles:

1. To manage copyright and related rights on behalf of authors;
2. To negotiate on licensing, the collection of remuneration on behalf of such persons, and to divide and distribute royalties, remuneration and other material benefits there from the allowance of exploiting the authorized rights;
3. To protect member's rights and legal benefits, and to reconcile any dispute on their behalf.

**Article 117 (revised). Rights and Obligations of Collective Management Organizations**

The Collective Management Organizations shall have the rights and obligations as follows:

1. to establish encouraging creation activities and other social activities;
2. to cooperate with correlative national and international organizations on the protection of copyright and related rights;
3. to make report on collective management to the Ministry of Industry and Commerce;
4. to perform other rights and obligations according to the provisions of this law.

**Part VI  
Violations of Intellectual Property and Unfair Competition  
Chapter 1  
Violations of Intellectual Property**

**Article 118. Violations of Industrial Property Rights**

Violations of industrial property are any acts as provided in Article 47 to 53 of this law without authorization from industrial property owner.

The acts set forth in paragraph 1 above of this Article shall not constitute a violation of industrial property where:

1. the claimed right is invalid because the conditions for protection have not been satisfied;
2. the term of protection has expired or the right is no longer in effect;
3. the owner has granted such authorization or, for patents or petty patents, authorization has been granted pursuant to an order under Article 64 of this law;

4. the use on board vessels of other countries of devices forming the subject of a patent in the body of the vessel, in the machinery, tackle, gear and other accessories, when such vessels temporarily or accidentally enter the waters of the Lao PDR, provided that such devices are used in this country exclusively for the needs of the vessel;

5. the use of devices forming the subject of the patent in the construction or operation of aircraft or land vehicles of other countries, or of accessories of such aircraft or land vehicles, when those aircraft or land vehicles temporarily or accidentally enter the Lao PDR;

6. exceptions or limitations set forth in Article 64 to 67 of this law.

#### **Article 119 (revised). Violation of New Plant Variety Rights**

Violations of new plant variety rights are as follows:

1. carrying out any of the acts prohibited under Article 82 of this law without the authorization of the owner of the rights with regard to a plant variety that is still under the term of protection;

2. carrying out any of the acts mentioned in item 1 of this paragraph with the authorization of the owner of the rights without remunerating the breeder of the rights as provided in the terms on which such authorization is provided, or otherwise violating the terms of such authorization;

3. using a plant variety denomination for a different variety where the variety used is the same as or similar to the denomination of a new plant variety in the same group which is already protected;

4. using an approved denomination in connection with a different plant variety.

It shall not be a violation to carry out any of the acts specified in Article 82 of this law where:

1. the acts are subject to an order authorizing such acts pursuant to Article 90 of this law;

2. the breeder's rights with respect to the material have been exhausted pursuant to Article 86 of this law;

3. the acts are subject to restrictions based on the public interest as set forth in Article 90 of this law;

4. the breeder's right has been declared void by a court pursuant to Article 88 of this law and the time for appeal has expired;

5. the right has been cancelled pursuant to Article 89 of this law.

#### **Article 120 (revised). Violation of Copyright and Related Rights**

Violations of copyright and related rights are as follows:

1. committing an act of infringement as described in Article 102 or an act contrary to 106, 107, 108, 109 and 110 of this law;

2. circumventing effective technological measures used by performers or producers of phonograms in connection with the exercise of their rights and that restrict acts, in respect of their performances or phonograms, which are not authorized by the performers or the producers of phonograms concerned or permitted by law;

3. performing any of the following acts, knowingly or having reasonable grounds to know that it will lead to an infringement of copyright or related rights:

3.1. Removing or altering any electronic rights management information without authority;

3.2. distributing, importing for distribution, broadcasting, communicating or

making available to the public, without authority, performances, copies of fixed performances or phonograms knowing that electronic rights management information has been removed or altered without authority;

4. recording or disseminating of satellite signal carrying encrypted or unencrypted programs for commercial purposes without the authorization of the lawful distributors.

## **Chapter 2 Unfair Competition**

### **Article 121 (revised). Unfair Competition**

Any act of competition contrary to honest practices in industrial or commercial matters constitute an act of unfair competition.

The following acts shall constitute acts of unfair competition and shall be prohibited:

1. direct or indirect use of a false indication of the source of a good or the identity of the producer, manufacturer, or merchant;
2. all acts of such a nature as to create confusion by any mean whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;
3. false allegations of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;
4. use of indications or allegations where such use is liable to mislead the public as to the source, nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.

### **Article 122 (revised). Trademark Counterfeiting**

Counterfeit trademark goods shall mean any goods including packaging, bearing without authorization a trademark which is identical to the trademark validly registered or packaging in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under this law.

It shall be a violation of this law to create, sell, offer for sale, advertise or otherwise market, or to import or export counterfeit trademark goods.

### **Article 123 (revised). Copyright Piracy**

Pirated copyright goods shall mean any good which is a copy of a work of authorship or object of related rights, where such copy is:

1. made without the consent of the right holder or person duly authorized by the right holder in the country of production;
2. made directly or indirectly from an article including the use of any instruments for recording cinematographic works in the movie theaters.

It shall be a violation of this law to produce pirated copyright goods, or to, sell, offer for sale, advertise or otherwise market, or to export or import such goods.

## **Part VII Intellectual Property Fund**

### **Intellectual Property Fund**

#### **Article 124 (new). Establishment of Fund**

Intellectual property fund is the state fund established to accumulate and mobilize fund for implementing intellectual property activities particularly for consistent, sustainable and effective promotion of innovation and creativity in the society, extensively raising awareness on intellectual property and the use of it, adding product value of local business, strengthening the competitiveness of micro, small and medium-sized enterprises throughout the nation under the management and inspection by the Ministry of Industry and Commerce and the Ministry of Finance.

The Intellectual Property Fund is thereby abbreviated as “IPF”.

#### **Article 125 (new). Source of Fund**

The intellectual property fund is sourced from:

1. contribution of state fund
2. domestic or foreign grants;
3. voluntary contribution from individuals, legal entities or organization;
4. other sources that not contrary to the laws.

#### **Article 126 (new) Management and Utilization of Fund**

The management and the utilization of intellectual property fund shall ensure transparency and auditability pursuant to the Law on State Budget and other relevant laws.

The operation and the use of fund is stipulated in separate regulation.

### **Part VIII Prohibition**

#### **Article 127 (new). General Prohibition**

Individuals, legal entity and organization are prohibited from:

1. creating difficulty, obstruct the promotion and protection of intellectual property;
2. disguise, alter and use intellectual property of other persons for commercial benefit without authorization from the owner;
3. misappropriate intellectual property of other persons;
4. falsify and submit fake documents to request for intellectual property certification;
5. having other behaviors violating laws.

#### **Article 128 (revised). Prohibitions on Government Officers who are Responsible for Intellectual Property Activities**

Government officers and relevant staff and who are responsible for intellectual property activities are prohibited from:

1. abusing one’s power, duties, position to force, threat and conspire others for personal interest, or relative interests;
2. lacking of responsibility and neglecting one’s duties;
3. asking for and taking bribes or other benefits;
4. carrying out duties unfairly or showing partiality towards an individual or legal entity organization;
5. disclosing intellectual property information without authorization from the owner;
6. delaying consideration processes;
7. having other behavior violating laws.

**Part IX**  
**Management and Inspection**  
**Chapter 1**  
**Management**

**Article 129. Intellectual Property Administration Authority**

The government manages intellectual property in a centralized and unified principle throughout the country assigning the Ministry of Industry and Commerce as the central coordinator with the relevant sectors and relevant local administrations.

The intellectual property administration authority includes:

1. Ministry of Industry and Commerce;
2. the Provincial, Vientiane Capital Departments of Industry and Commerce;
3. District, municipal Offices of Industry and Commerce.

**Article 130 (revised). Rights and Duties of the Ministry of Industry and Commerce**

In the management of intellectual property, the Ministry of Industry and Commerce has rights and duties in accordance with its responsibilities as follows:

1. to study policies, laws, strategies, and regulations on intellectual property activities for proposing to the government for consideration;
2. execute policies, law, strategies relating to intellectual property by formulating them into plans, programs, and detailed projects for implementation;
3. to issue regulations, decisions, order, instructions and notices involving intellectual property activities;
4. to propagate, disseminate policies, laws, strategies, and regulations on intellectual property activities;
5. to guide, monitor and evaluate the implementation of intellectual property activities throughout the country;
6. to register intellectual property and provide intellectual property services;
7. to issue or cancel intellectual property registration certificates and issue licenses to any individual or entity or organization which provides intellectual property services or cancel the license;
8. to receive, consider and resolve the request for intellectual property rights of individuals, legal or organization;
9. to build, train, upgrade, manage and use personnel in the intellectual property areas;
10. to coordinate with Ministry concerned and relevant local administrative authorities to manage, monitor and promote intellectual property activities;
11. to participate and cooperate with foreign countries in intellectual property activities;
12. to summarize, report on the implementation of intellectual property activities to the government regularly;
13. to perform other rights and duties as stipulated in laws.

**Article 131 (revised). Rights and Duties of the Provincial, Vientiane Capital Departments of Science and Technology**

In the management of intellectual property, the Provincial, Vientiane Capital Departments of Industry and Commerce have rights and duties in accordance with their responsibilities as follows:

1. to execute and implement policies, laws, strategic plans and regulations involving intellectual property activities;
2. to disseminate, advocate policies, policies, laws, strategic plans and regulations involving intellectual property activities;
3. to provide intellectual property activity services assigned by the Ministry of Industry and Commerce;
4. to monitor and evaluate implementation results of intellectual property activities;
5. to receive, consider and resolve the request for intellectual property rights of individuals, legal or organization;
6. to propose building, training, upgrading, managing and using personnel in the intellectual property areas;
7. to coordinate with sectors concerned, organizations and district administrative authorities in the management, monitoring and promotion of intellectual property activities;
8. to participate and cooperate with foreign countries as assigned by high level authority;
9. to summarize, report on the implementation of intellectual property activities to the Ministry of Industry and Commerce and provincial administrative authorities regularly;
10. to perform other rights and duties as stipulated in laws.

**Article 132 (revised). Rights and Duties of District, Municipal Offices of Science and Technology**

In the management of intellectual property, districts, municipal offices of Industry and Commerce have rights and duties in accordance with their responsibilities as follows:

1. to implement policies, laws, strategic plans and regulations involving intellectual property activities;
2. to disseminate, advocate policies, policies, laws, strategic plans and regulations involving intellectual property activities;
3. to provide intellectual property activity services assigned by the provincial and Vientiane capital department of Industry and Commerce;
4. to monitor and evaluate implementation results of intellectual property activities;
5. to receive, consider and resolve the request for intellectual property rights of individuals, legal or organization;
6. to propose building, training, upgrading, managing and using personnel in the intellectual property areas;
7. to coordinate with sectors concerned, organizations and village administrative authorities in the management, monitoring and promotion of intellectual property activities;
8. to summarize, report on the implementation of intellectual property activities to the provincial department of Industry and Commerce and district administrative authorities regularly;
9. to perform other rights and duties as stipulated in laws.

**Article 133 (revised). Rights and Duties of Relevant Sectors or Local Administrative Authorities**

Other relevant sectors and local administrative authorities have rights and duties in coordination and cooperation with intellectual property sectors in management and development of intellectual property activities within their roles.

**Chapter 2  
Inspection**

**Article 134 (revised). Intellectual Property Inspection Authorities**

Intellectual property inspection authorities include:

1. The internal inspection authority, which is the same authority as the intellectual property administration authority stipulated in Article 129 of this law;
2. The external inspection authorities, comprising the National Assembly, Provincial People Assembly, State Inspection Authority, State Audit Organizations, Lao Front National Development, Lao Veterans Federation, Mass Organization and Media.

**Article 135 (new). Content of Inspection**

The content of the inspection of intellectual property shall consist of the following:

1. The implementation of policy, law, strategy plan and regulations related to intellectual property;
2. The operation of organization in charge of managing intellectual property;
3. The management and utilization of intellectual property fund
4. Other contents as necessary.

**Article 136. Forms of Intellectual Property Inspections**

Inspection of intellectual property is carried out in the following three forms:

1. routine inspections;
2. irregular inspections by advance notice;
3. dawn raids inspections.

Routine inspections refer to inspections carried out according to plans and with specific times.

Irregular inspections by advance notice refer to ad hoc inspection deemed as necessary and shall notify the suspects in advance.

Dawn raids inspections refer to urgent inspections whereby the suspects are not notified.

**Article 137 (revised). Inspection of Intellectual Property at Border Checkpoints**

In order to intercept intellectual property violations, customs officers assigned to border checkpoints have the rights by ex-officio to inspect exported and imported goods, seize and impound goods which violate trademark, copyright and related right of the law.

**Part X  
Awards and Sanctions**

**Article 138. Policies for Inventors and Creators**

Individuals, legal entities or organizations that have remarkable accomplishment in invention and creation shall be awarded merits and other forms according to regulations.

**Article 139 (revised). Measures against Violators**

Individuals, legal entities or organizations that violate this law shall be subject to education or warning, disciplinary action, fines, civil compensation, and/or criminal punishment as the case may be.

**Article 140. Fines**

Individuals, legal entities or organizations which intentionally violate the Law on Intellectual Property or who unintentionally violate the law which is not criminal offences shall be fined 1% of the damages value occurred.

Individuals, legal entities or organizations that intentionally violates for a second time or repeatedly shall be fined 5% of the damages value occurred for each violation.

**Part XI  
Final Provisions**

**Article 141. Implementation**

The government of the Lao People's Democratic Republic shall implement this law.

This law shall be effective since January 24, 2024 upon the issuance of the President of the Lao People's Democratic Republic the promulgating decree and publishing on the official gazette.

This law replaces the Law on Intellectual Property No. 38/NA, dated 15 November 2017.

President of the National Assembly

*[seal and signature]*

Saysomphone Phomvihane

[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]