

BRAZIL  
DECREE No. 2,366  
OF NOVEMBER 5, 1997

Enacts regulations under Law No. 9,456 of April 25, 1997, on plant variety protection and rules on the National Plant Varieties Protection Service (SNPC), and introduces other measures.

THE PRESIDENT OF THE REPUBLIC, exercising the prerogatives vested in him by Article 84 (iv) of the Constitution, and having due regard to the provisions of Law No. 9,456 of April 25, 1997,

DECREES AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

SECTION I

*Preliminary Provisions*

Article 1

The protection of plant varieties under Law No. 9,456 of April 25, 1997, shall take place in accordance with the rules laid down in this Decree.

Article 2

The protection of the intellectual property rights in plant varieties shall be effected by the grant of a plant variety protection certificate, which is considered a commodity for all legal purposes and the sole form of plant variety protection and the legal form that may be invoked against the free use within the country of plants or of such parts thereof as may be used for reproduction or vegetative multiplication.

SECTION II

*The Plant Variety Protection Agency*

Article 3

The National Plant Varieties Protection Service (SNPC), created by Law No. 9,456 of 1997 under the authority of the Ministry of Agriculture and Supply, is the agency responsible for the protection of plant varieties within the country, and shall in particular be responsible for:

- (i) protecting new plant varieties and essentially derived plant varieties, and granting the appropriate protection certificates for them;

- (ii) progressively disclosing plant species and the relevant minimum descriptors necessary for the filing of applications for protection, and also the time limit under paragraph (1)(a) of this Decree for such filing;
- (iii) drafting, and submitting to the State Minister of Agriculture and Supply for approval, such additional rules as are within its competence concerning the protection of new plant varieties and essentially derived plant varieties, and also that of plant varieties eligible for protection under paragraph (1) of Article 4 of Law No. 9,456 of 1997 belonging to any plant genus or species, and introducing the forms necessary for the processing of the applications for protection;
- (iv) receiving, recording, allowing and disallowing applications for protection filed in the form of a request signed by the natural or legal person who has bred a plant variety, or by his duly authorized agent;
- (v) receiving, recording, ruling on, allowing and disallowing oppositions filed by third parties or by the applicant for protection rights;
- (vi) receiving, recording and examining, and forwarding to the State Minister of Agriculture and Supply, appeals filed by third parties or by the applicant for protection rights;
- (vii) disclosing, by publication in the Official Gazette of the Union and in a specialized periodical, extracts from applications for protection, the protection granted, transfers of ownership, declarations of compulsory licenses or licenses for restricted public use, temporary suspension, the lapse of protection and the nullity or the cancellation of certificates of protection and other acts, rulings and administrative decisions relating to the protection of plant varieties;
- (viii) granting, maintaining, transferring, cancelling and invalidating provisional protection certificates and plant variety protection certificates;
- (ix) creating or authorizing depositaries for the conservation of live samples which shall constitute the germ plasm collection of protected plant varieties;
- (x) ordering the conduct of field and laboratory tests to determine the distinctness of the plant variety when considered necessary;
- (xi) overseeing compliance with the pertinent legal provisions regarding protection and the right to protection;
- (xii) issuing certificates relating to subject matter provided for in Law No. 9,456 of 1977;
- (xiii) establishing models for protection certificates;
- (xiv) issuing final technical opinions in request procedures for the compulsory licensing of protected plant varieties, and also adopting related measures including notice to interested parties and the monitoring of license implementation after grant;
- (xv) issuing final technical opinions in support of declarations of restricted public use of protected plant varieties;

- (xvi) creating working groups of experts to render assistance in connection with specific matters;
- (xvii) pronouncing on the appropriateness of signing, ratifying or denouncing conventions, treaties, agreements and other arrangements concerning the protection of plant varieties;
- (xviii) recording, in the Protected Plant Variety Register, decisions arising from proceedings concerning compulsory licenses and declarations of restricted public use;
- (xix) designating officials to participate in technical meetings, committees and working groups of both national and of international scope concerning plant variety protection;
- (xx) engaging in relations with national, international and foreign institutions, public and private, with a view to maintaining a database of plant variety denominations and descriptors and also conducting technical and scientific exchanges in field of plant variety protection;
- (xxi) establishing and updating the National Registry of Plant Varieties (CNCP);

Sole paragraph. The technical services provided for in items (ix) and (x) of this Article may be rendered by public or private agencies under agreements or contracts or the licensing system.

#### Article 4

Whenever necessary, the SNPC shall consult with the National Institute of Industrial Property (INPI), in order to determine whether the denomination proposed for the plant variety is already on record as a trademark or service mark connected with the plant field or corresponds to that of a plant variety applied for or already registered at the said Institute.

Sole paragraph. The SNPC shall coordinate with INPI in the exchange of information on the protection of plant varieties by means of trademarks filed and registered at the said Institute.

### SECTION III

#### *Plant Variety Protection in General*

#### Article 5

For the purposes of this Decree:

- (i) “ breeder” means the individual who breeds a plant variety and establishes descriptors that differentiate it from others;
- (ii) “descriptor” means the morphological, physiological, biochemical or molecular characteristic that is genetically inherited and is used to identify the plant variety;

- (iii) “minimum margin” means the minimum set of descriptors, in the judgement of the SNPC, sufficient to distinguish a new plant variety or an essentially derived plant variety from other known plant varieties;
- (iv) “plant variety” means a variety of any higher plant genus or species that is clearly distinguishable from other known plant varieties by a minimum margin of descriptors and by its own denomination, is homogenous and stable in its descriptors throughout successive generations and belongs to a species useful in farming and forestry, being described in a publicly available and accessible specialized publication, including the component lines of hybrids;
- (v) “new plant variety” means a variety that has not been offered for sale in Brazil for more than 12 months prior to the date of the application for protection and has not, due regard being had to the period for commercialization in Brazil, been offered for sale in other countries, with the breeder’s permission for more than six years for tree and vine species and for more than four years for the remaining species;
- (vi) “distinct plant variety” means a plant variety that is clearly distinguishable from any other whose existence is acknowledged on the date of the application for protection;
- (vii) “homogenous plant variety” means a plant variety that, when used in planting on a commercial scale, shows a minimum degree of variance as to the descriptors which identify the same, in accordance with criteria having been established by the SNPC;
- (viii) “stable plant variety” means a plant variety that, when reproduced on a commercial scale, retains its homogeneity throughout successive generations;
- (ix) “essentially derived plant variety” means one derived from another plant variety, provided that, cumulatively:
  - (a) it is predominantly derived from the initial plant variety or from another essentially derived plant variety, without ceasing to display the essential characteristics resulting from the genotype or of the combination of genotypes of the plant variety from which it derives, subject to differences resulting from the derivation;
  - (b) it is clearly distinct from the plant variety from which it derives by a minimum margin of descriptors, according to criteria established by the SNPC;
  - (c) it has not been offered for sale in Brazil for more than 12 months prior to the date of the application for protection and, due regard being had to the period for commercialization in Brazil, it has not been offered for sale in other countries, with the authorization of the breeder, for over six years for tree and vine species and for over four years for the remaining species;
- (x) “strains” means the homogenous genetic material obtained by means of a certain continuous process of self-fertilization;
- (xi) “hybrid” means the direct product of the crossing of genetically different strains;

- (xii) “testing of distinctness, homogeneity and stability (DHS)” means the technical procedure whereby it is established that the new plant variety or the essentially derived plant variety is distinguishable from others whose descriptors are known, is homogenous with respect to their characteristics in each reproduction cycle and is stable with respect to the recurrence of the same characteristics throughout successive generations;
- (xiii) “live sample” means that supplied by the applicant for protection rights which, if used in the propagation of the plant variety, confirms the descriptors specified;
- (xiv) “seed” means every and any kind of plant structure used for the propagation of a plant variety;
- (xv) “propagation” means the reproduction and multiplication of a plant variety, or the concurrence of such acts;
- (xvi) “propagation material” means every and any part of the plant or plant structure that is used in the reproduction and multiplication thereof;
- (xvii) “whole plant” means the plant with all the parts thereof that are capable of being used in the propagation of a plant variety;
- (xviii) “farming and forestry complex” means the group of activities concerned with the cultivation of plant genera and species among other things with a view to human and animal nourishment and the production of fuels, oils, dyes, fibers and other material for industrial, medical, forestry and ornamental purposes.

## Article 6

A new plant variety or an essentially derived variety of any plant genus or species is entitled to protection.

- (1) Plant varieties not conforming to the provisions of the first paragraph above that have already been offered for sale prior to the date of the application shall also be entitled to protection, provided that the following cumulative conditions are met:
  - a) the application for protection must be submitted within 12 months of compliance with the provisions of paragraph (2) of this Article, for each species or plant variety;
  - b) the first commercialization of the plant variety must have occurred not more than ten years before the date of the application for protection;
  - c) the protection shall be effective only for the purpose of using the plant variety to obtain essentially derived plant varieties;
  - d) protection shall be granted for the balance of the terms provided for in Article 11 of Law No. 9,456 of 1997, the reference date for the purpose being that of the first commercialization.

- (2) The SNPC shall be responsible for progressively disclosing the plant species and the relevant minimum descriptors necessary for the filing of applications for protection, and also for setting the time limits for the purposes of subparagraph (a) of paragraph (1) above.
- (3) The disclosure referred to in paragraph (2) above shall follow a scale of species according to the following schedule, expressed as a cumulative total of protected species:
  - (a) on the date of entry into force of this Decree: at least five species;
  - (b) after three years: at least ten species;
  - (c) after six years: at least 18 species;
  - (d) after eight years: at least 24 species.

#### Article 7

The denomination of the plant variety to be protected shall consist of at least one word but not more than three words, an alphanumeric combination, a combination of words and letters or a combination of words and numerals.

- (1) The holder of the right to protection may not use as a denomination for the plant variety a designation that:
  - (a) does not allow the plant variety to be identified;
  - (b) may mislead or confuse as to the origin, source, characteristics, value or identity of the plant variety, or as to the identity of the breeder;
  - (c) is identical or confusingly similar to another denomination used for an existing variety of the same or a similar botanical species;
  - (d) is identical or confusingly similar to another designation in which a third party holds previously acquired protection rights;
  - (e) is contrary to morality and proper practice;
  - (f) refers solely to attributes shared by other varieties of the same species;
  - (g) consists of the botanical or a common name of a genus or species;
  - (h) implies that the plant variety is derived from or related to another plant variety when that is not the case;
  - (i) includes terms such as variety, plant variety, form, hybrid or cross, or translations thereof;

- j) for different reasons does not constitute a generic denomination of the plant variety;
  - l) reproduces, wholly or in part, a trademark or service mark relating to the field of plants or to the field of application of the plant variety, or a well-known trademark.
- (2) When the plant variety is already protected or in the process of acquiring protection in another country, the same denomination must be retained, except where it is unsuitable for linguistic reasons or for any of the reasons listed in paragraph (1) above, in which case the applicant is responsible for proposing another denomination, on pain of the shelving of the application for protection.

#### Article 8

The natural or legal person who for commercial purposes produces, sells, offers for sale, reproduces, imports or exports, and also packages or stores for such purposes, the propagation material of a protected plant variety shall be bound to use the designation approved at the time of protection thereof.

Sole paragraph. For the purposes of the first paragraph of this Article, the denomination of the protected plant variety may be combined with an industrial or commercial trademark or trade name or even to a similar denomination, provided that it may be easily recognized and is duly authorized by the holder of the rights in the plant variety concerned.

#### Article 9

During the term of protection of the plant variety, the holder of the rights in it shall ensure that the protected plant variety remains consistent with its description after repeated reproduction or multiplication or, where a particular cycle of reproduction and multiplication has been specified, at the end of each such cycle.

#### Article 10

The original document evidencing transfer, by inter vivos transaction, of the ownership of protection of a plant variety shall include the full particulars of the assignor and assignee, and also those of the witnesses, and the precise details of the protected plant variety.

CHAPTER II  
SPECIFIC PROVISIONS

SECTION I

*Plant Variety Protection Application*

Article 11

An application seeking protection for a new plant variety or for an essentially derived plant variety shall only be allowed if the SNPC has previously disclosed the plant species and its relevant minimum descriptors.

Sole paragraph. The provisions of the first paragraph above shall also apply to plant varieties protectable under Article 4(1) of Law No. 9,456 of 1997.

Article 12

The application for plant variety protection shall be filed on a special form to be introduced by the SNPC.

Sole paragraph. In the case of an application for protection of an essentially derived plant variety, the interested party shall, notwithstanding the requirements of Article 14 of Law No. 9,456 of 1977, mention the variety's essentially derived status as well as its genetic origin as provided in subparagraph (iii) of the said Article.

Article 13

The application for plant variety protection shall be filed with the SNPC, which shall undertake the preliminary examination as to form to determine the existence of synonyms, and where none are found to exist shall record the application provided that it is in due form.

Article 14

The recorded data concerning the application for plant variety protection shall include the date and hour of the registration, the filing number of the application, the full name and address of the interested party and of his agent if any, in order to establish the precedence of the protection applied for.

Article 15

On the recording of the application for plant variety protection, an examination shall be made to verify compliance with legal and technical requirements, notably concerning the descriptors determining the DHS characteristics, and evidence of the conduct of tests and trials of the plant variety.



- (1) Where a similarity is detected between two or more plant varieties of the same species in the course of the procedural examination, the priority of the applications for protection shall be determined as provided in the preceding Article.
- (2) When the application for protection does not provide sufficient data for a complete procedural examination, the SNPC shall require the applicant to submit, within a period of 60 days counted from receipt of notice to that effect, a new technical specification and also other complementary information.
- (3) Where the requirement provided for in the preceding paragraph has been complied with and doubt persists as to the differentiation of the plant variety, the SNPC may perform the tests or comparative field trials at the applicant's expense, if the latter agrees thereto, or decide to shelve the application.
- (4) In the event of intervening business, the period of up to 60 days for publication of the application for plant variety protection, provided for in Article 16 of Law No. 9,456 of 1977, shall be counted from the date of completion of the said business.
- (5) On publication of the application, there shall be a period of 90 days for the filing of oppositions.
- (6) On receipt of opposition, the SNPC shall within 30 days serve notice on the applicant for protection, enclosing a copy of the entire contents of the opposition, to submit his response within 30 days of the date of receipt of the said notice.
- (7) Upon receipt of the applicant's rebuttal of the opposition or on the expiry of the term of 30 days provided for in the preceding paragraph without any response, the SNPC shall rule on whether or not to allow the application for protection.
- (8) The decision allowing or rejecting the application for protection may be appealed within 60 days of the date of publication thereof, as provided in paragraph (7) of Article 18 of Law No. 9,456 of 1977.
- (9) On receipt and recording of the appeal, the SNPC shall conduct the proceedings and submit them to the State Minister of Agriculture and Supply, who shall issue a decision within a period of 60 days counted from the said recording.

#### Article 16

The SNPC shall be responsible for officially requiring, after the application for protection has been published, that the name of the plant variety be changed where:

- (1) a fact is noted that would have prevented the acceptance of the denomination had it been noted at the time of examination of the application for protection;
- (2) it is requested by the holder of the right or by his legal representative with due justification;
- (3) it is requested by a third party, the existence of a prior right to the denomination having been ascertained.

- (1) Where a request for a change of denomination under items (ii) and (iii) of this Article has been allowed, the SNPC shall require the holder of the right to submit a new denomination within a period of 60 days counted from the date of receipt of the notification.
- (2) Should the requirement fail to be met within the period specified in paragraph (1) above, the application shall be shelved and the provisional protection certificate, if one has been issued, shall be cancelled.
- (3) When a new plant variety denomination has been specified, the application for protection shall be republished, the period of 90 days for oppositions restarted and the applicant informed accordingly.

#### Article 17

The holder of the protection rights in a plant variety shall provide the SNPC with all the information and clarifications concerning it that may be requested of him, including inspection of the means adopted to conserve the live sample of the plant variety in his possession.

- (1) The samples supplied for inclusion in the plant variety germ plasm collection referred to in item (ix) of Article 3 of this Decree may only be used for evidentiary purposes in matters pertaining to plant variety protection.
- (2) The handling and examination of the live samples referred to in the sole paragraph of Article 22 of Law No. 9,456 of 1977 shall be confined to evidentiary use in the DHS testing of the plant variety.

#### Article 18

For the plant variety protection application, the period to be observed for the purposes of Article 6 of this Decree with respect to offering for sale or commercialization shall be that of the first commercial operation involving the plant variety concerned in the form of basic, registered, certified or inspected seed.

#### Article 19

Certificates of the original documents attesting public powers of attorney, as issued by the competent agencies, shall be considered valid for the conduct of the administrative procedure relating to plant variety protection applications, and for the subsequent monitoring of that procedure.

### SECTION II

#### *National Register of Protected Plant Varieties (CNCP)*

#### Article 20

The National Register of Protected Plant Varieties (CNCP) shall record at least:

- (i) the file number of the application for protection;
- (ii) the number of the provisional protection certificate;
- (iii) the number of the plant variety protection certificate;
- (iv) the name of the species (botanical name and common name);
- (v) the denomination of the plant variety;
- (vi) the starting date of the protection;
- (vii) the expiry date of the protection;
- (viii) the name and address of the holder of the protection rights;
- (ix) the name(s) of the breeder(s);
- (x) the name and address of the legal representative;
- (xi) the name and address of the technical supervisor;
- (xii) the country of origin of the plant variety;
- (xiii) any changes in the protection certificate;
- (xiv) recorded annotations.

### SECTION III

#### *Compulsory License*

##### Article 21

The compulsory license is the instrument used by the public authority to allow the exploration of a protected plant variety at the request of a legitimately interested party with or without the permission of the holder of the rights therein for a period of three years, renewable for identical periods but without exclusiveness and against remuneration, as provided in this Decree.

- (1) For the purpose of requesting a compulsory license, a producer of seeds as defined in the Law shall be considered a legitimately interested party, provided that there is no action pending against him for infringement of the economic order as provided in Law No. 8,884 of July 11, 1994.
- (2) The remuneration referred in the first paragraph above shall be determined by SNPC arbitration in the absence of agreement between the holder of the rights in the protected

plant variety and the party requesting the compulsory license, and shall be based on freely negotiated percentages consistent with current market practice for that species.

## Article 22

The request for a compulsory license shall be supported by:

- (i) the qualifications of the requester;
- (ii) the particulars of the holder of the right to the plant variety;
- (iii) the denomination and a sufficient description of the plant variety;
- (iv) the grounds for the request, due regard being had to the provisions of Article 28 of Law No. 9,456 of 1977;
- (v) written evidence that the requester has exhausted all measures at his disposal for the negotiation of a voluntary license proposal made to the holder of the right to the plant variety or to his agent;
- (vi) proof that the requester is financially and technically able to exploit the plant variety, evidenced by:
  - (a) an area that he owns or shares within a cooperative;
  - (b) the capacity for seed processing;
  - (c) storage capacity;
  - (d) a technical supervisor;
  - (e) an owned or contracted laboratory for seed analysis;
  - (f) a seed distribution network;
  - (g) a client list;
  - (h) a descriptive list of plant varieties produced and commercialized by him, classified by genus or species;
  - (i) proof of registration with the Ministry of Agriculture and Supply as a seed producer;
  - (j) capital commensurate with production costs;
- (vii) other evidence specifically required by the Administrative Board of Economic Defense (CADE), due regard being had where applicable, to the provisions of Article 35 of this Decree.

- (1) The requester shall also mention the existence of any voluntary licenses in relation to the plant variety granted to third parties, and any pending court proceedings concerning the same subject, should he have knowledge thereof.
- (2) The SNPC and the CADE are bound to treat information provided by the applicant in strict confidence, as provided by Law.

#### Article 23

On receipt of a request for a compulsory license, the Ministry of Agriculture and Supply shall, where it considers the requirements of the preceding Article satisfactorily complied with, order:

- (i) the processing of the request together with its attachments;
  - (ii) the preparation of a technical opinion by the SNPC;
  - (iii) the service of notice on the holder of the plant variety, and, where applicable on the holder of the compulsory license, to submit a response, should they wish to do so, within a period of ten days counted from the date on which the said notice is served;
  - (iv) publication of an extract from the compulsory license request, for third-party information and opposition within a period of ten days.
- (1) On expiry of the ten-day period accorded to the holder of the protected plant variety and to the holder of a voluntary license, if any, provided for in item (iii) of this Article, the file shall be forwarded to the CADE, with or without comment, together with the technical opinion provided for in the following Article, within a maximum period of 15 days.
  - (2) Should the request be insufficiently supported by documents evidencing compliance with the requirements provided for in the preceding Article, the Ministry of Agriculture and Supply shall demand that the requester submit documentation to complement that specified within a period of 15 days counted from the date of receipt of the relevant notice, failing which the request shall be shelved.

#### Article 24

The technical opinion of the SNPC on a request for a compulsory license shall include:

- (i) a report concerning the request which, in addition to complying with the provisions of Article 22 of this Decree, shall mention the existence of prior compulsory license requests, if any have been filed;
- (ii) an objective appraisal of the adverse effects on trade that the license is intended to remedy;
- (iii) a proposal that the compulsory license be allowed or rejected, with an objective statement of the reasons therefor.

Sole paragraph. The SNPC shall provide the CADE on request with the additional information with which to conduct the compulsory license proceedings.

#### Article 25

Where no additional action is necessary, the CADE shall examine the compulsory license request within a maximum period of 30 days.

#### Article 26

Save for legitimate reasons, in the judgement of the CADE, based on the technical opinion submitted by the SNPC, the compulsory license shall lapse with or without notice if, within a period of six months of publication of its grant, the requester has not taken the necessary steps to implement it.

Sole paragraph. The period for implementation of the provisions of this Article may be renewed once, at the request of the interested party, provided that it is duly justified.

#### Article 27

The provisions of Law No. 9,279 of May 14, 1996, shall be applied as appropriate to compulsory licenses.

### SECTION IV

#### *Restricted Public Use*

#### Article 28

The protected plant variety shall be declared subject to restricted public use ex officio by the State Minister of Agriculture and Supply on the basis of a technical opinion issued by the relevant competent agencies, such use being exclusively in the public interest to meet the needs of agricultural policy in cases of national emergency, abuse of economic power or other circumstances of extreme urgency, and in cases of non-commercial public use.

- (1) A plant variety shall be deemed subject to restricted public use if, by order of the Ministry of Agriculture and Supply, it may be exploited directly by the Federal Union or by third parties designated by the latter, without exclusive rights but without authorization by its holder, for a period of three years, renewable for equal periods, on condition that the holder is notified and remunerated as provided in this Decree.
- (2) The notice provided for in the preceding paragraph shall be immediately issued on publication of the declaration of restricted public use and shall contain at least:
  - (a) the reasons for the declaration;
  - (b) a list of the natural or legal persons authorized to exploit the plant variety, including names, addresses and registration numbers in the Brazilian Individual

Taxpayers Register (CPF) or the Brazilian Corporate Taxpayers Register (CGC) within the Ministry of Finance;

- (c) the remuneration payable;
  - (d) the minimum annual volume of reproductive or vegetative propagating material of the plant variety that is necessary for its exploitation.
- (3) The remuneration payable for exploitation of a protected plant variety declared subject to restricted public use shall be calculated on the basis of the market prices for the species applicable on the date of the declaration, due regard being had to the factors that determined them.

## SECTION V

### *Public Services*

#### Article 29

The services provided for in Article 53 of Law No. 9,456 of 1977 that are subject to remuneration under the regime of specific public service prices include the following:

- (i) the application for protection;
- (ii) the annual fee;
- (iii) transfer of ownership;
- (iv) other amendments to the protection certificate;
- (v) laboratory tests;
- (vi) comparative field trials to determine the DHS of the plant variety;
- (vii) status certificates.

#### Article 30

The Ministry of Agriculture and Supply shall set, collect and apportion funds deriving from the services provided for in the preceding Article, and also update the said funds.

Sole paragraph. The product of the collection referred to in the foregoing paragraph shall be used for the training of personnel and in the introduction, operation, improvement and provision of the services provided for in this Decree.

## SECTION VI

### *National Plant Varieties Protection Board (CNPC)*

#### Article 31

The National Plant Varieties Protection Board (CNPC) is hereby established within the Ministry of Agriculture and Supply, in an advisory capacity, to provide support for the SNPC, under the chairmanship of the titular head of the SNPC, composed of one representative each of the agencies and entities designated below:

- (i) Farming and Livestock Defense Secretary Office, in the Ministry of Agriculture and Supply;
  - (ii) Ministry of Foreign Affairs;
  - (iii) Ministry of Industry, Trade and Tourism;
  - (iv) Ministry of Science and Technology;
  - (v) Ministry of the Environment, Water Resources and the Law of the Amazon Basin;
  - (vi) a national association of plant breeders;
  - (vii) the Brazilian Association of Seed Producers;
  - (viii) the Brazilian Cooperatives Organization;
  - (ix) the National Agriculture Confederation;
  - (x) the National Confederation of Agriculture Workers;
  - (xi) the Federal Board of Engineering, Architecture and Agronomy.
- (1) The members of the CNPC shall be appointed by the State Minister of Agriculture and Supply for a two-year term which may be renewed once.
  - (2) Within a period of 30 days following the publication of this Decree, the agencies and entities listed in the first paragraph of this Article shall designate their representatives on the CNPC and the corresponding substitutes.
  - (3) The Board shall meet in the presence of a simple majority of the members.
  - (4) The decisions of the Board shall be taken by a simple majority of the members present, with the chairman having a casting vote.
  - (5) The members of the CNPC shall not receive remuneration, the services rendered by them being, for all purposes, considered relevant to the cause of the Country's development.



- (6) The travel and accommodation costs arising from the participation of CNPC members in meetings of the Board shall be borne by the agencies and entities that they represent.
- (7) The SNPC shall provide the CNPC with administrative and operational support.
- (8) The CNPC shall have a period of 60 days, counted from the establishment thereof, within which to draw up its rules of procedure, which shall be approved in an administrative ruling by the State Minister of Agriculture and Supply.

#### Article 32

The CNPC shall be responsible for:

- (i) issuing statements concerning matters submitted to it by the SNPC for appraisal;
- (ii) suggesting rules and regulations on the protection of plant varieties;
- (iii) providing the SNPC with support in matters relating to plant variety protection, and especially in connection with domestic and international treaties and agreements.

### CHAPTER III

#### FINAL PROVISIONS

#### Article 33

For the purposes of the indemnification provided for in Article 37 of Law No. 9,456 of 1977, the remuneration of the holder shall be calculated on the basis of the market prices for the species applicable at the time of the reporting of the infringement, without prejudice to such legal additions as may be applicable.

#### Article 34

The following plant species are hereby disclosed for the purposes of the filing of applications for plant variety protection: cotton, rice, potato, beans, corn, soybean, sorghum and wheat, the minimum descriptors of which are specified in Annexes I to VIII of this Decree.

Sole paragraph. The disclosure of the remaining plant species, their minimum descriptors and whatever alterations may be necessary shall be carried out by the SNPC.

#### Article 35

The State Ministers of Agriculture and Supply and of Justice, within the scope of their respective responsibilities, shall issue complementary rules on the procedures and the conditions for the assessment and grant of compulsory licenses, due regard being had to the procedural requirements inherent in the proper defense and protection of the property rights established by Law No. 9,456 of 1977.

#### Article 36

The structure of the SNPC shall be specified in the regulations governing the structure of the Ministry of Agriculture and Supply.

Sole paragraph. Within a period of 60 days following the publication of this Decree, the State Minister of Agriculture and Supply shall approve the rules of procedure of the SNPC and also provide for the reorganization of the departments in charge of activities relating to seeds and seedlings, including those specific to seed testing laboratories, in order to make them structurally compatible with the SNPC.

#### Article 37

The State Minister of Agriculture and Supply is hereby authorized, due regard being had where applicable to the provisions of Article 35, to enact such complementary rules as may be necessary for the implementation of this Decree.

Art. 38. This Decree shall enter into force on the date of its publication.

Brasilia, 1997; 176th year of independence and 109th year of the Republic.