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INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

Sixteenth Session
Geneva, May 3 to 7, 2010

POLICIES, MEASURES AND EXPERIENCES REGARDING INTELLECTUAL
PROPERTY AND GENETIC RESOURCES: SUBMISSION BY ALGERIA

Document prepared by the Secretariat

1. At its fifteenth session, held from December 7 to 11, 2009, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ('the Committee'):

“invited Member States and observers to make available to the Secretariat papers describing regional, national and community policies, measures and experiences regarding intellectual property and genetic resources before February 12, 2010, and requested the Secretariat to make these available as information documents for the next session of the Committee.” [...]

2. Further to the decision above, the WIPO Secretariat issued a circular to all Committee participants, dated January 15, 2010, recalling the decision and inviting participants to make their submissions before February 12, 2010.

3. Pursuant to the above decision, the Delegation of Algeria submitted a document entitled “Contribution of the Representative of the Algerian Ministry of Culture at the 15th Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore concerning Algeria’s Experiences regarding Intellectual Property and Genetic and Biological Resources” and requested it be made available as an information document for the sixteenth session of the Committee.

4. The document is reproduced in the form received and contained in the Annex to this document.

[Annex follows]

ANNEX

CONTRIBUTION OF THE REPRESENTATIVE OF THE ALGERIAN MINISTRY OF CULTURE AT THE FIFTEENTH SESSION OF THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE CONCERNING ALGERIA'S EXPERIENCES REGARDING INTELLECTUAL PROPERTY AND GENETIC AND BIOLOGICAL RESOURCES

I. Background

Patentability related to industrial use of genetic resources comes under the remit of the industry sector and the National Institute of Industrial Property (INAPI) in Algeria. The Ministry of Culture is responsible for literary and artistic property and therefore also everything related to traditional expressions, folklore and intangible heritage.

II. Introduction

The general principles in the laws governing intellectual property for the two abovementioned areas (including industry) and all related aspects are: recognition of the creator's property rights and payment for any form of commercial exploitation undertaken. The use of copyright matter in the public domain is also subject to the authorization from and payment to the National Office of Copyright and Related Rights (ONDA), which has the status of a public entity. Income is used to finance the identification and preservation of the Algerian people's common heritage.

The notion of indigenous communities therefore does not have a place in the Algerian language or reality. In our country, this notion is quite simply part of the concept of "nation".

III. Measures regarding intellectual property and genetic resources

With regard to the issue of protecting genetic resources, it is necessary to specify that the legislation in force or planned legislation in Algeria takes into account the challenges for sovereignty of property and national natural resources with regard to industrial and commercial use of its wealth by international companies often without compensating the provider country.

Algeria is currently introducing a piece of legislation which will cover the conservation, preservation, circulation and transfer of biological resources and tailor the access to these resources to equitable sharing of potential benefits. It seeks to protect the interests of the current and future generations and to combat biopiracy by setting up a control mechanism for access to biological resources and the transfer of genetic material from Algeria.

A national body will examine all the requests for collection, circulation and transfer of biological resources that are subject to authorization against payment of a fee. A public register will centralize all these requests and a database established by law will allow resources to be traced.

Law 05-03 of February 6, 2005 on Seeds, Seedlings and Protection of Plant Breeds is currently in force (Official Journal No. 11 of February 9, 2005). It provides that the creation of new plant varieties resulting from a genetic process grants its owner the right to exclusive commercial use. Any use of these varieties is subject to authorization and gives rise to payment of a fee. The protection period is between 20 and 25 years.

IV. To conclude,

These are the national systems devised by Algeria regarding intellectual property and the use of biological and genetic resources.

They must be extended at the international level through the adoption of an international legal instrument.

Law No. 05-03 Of 27 Dhou El Hidja 1425 corresponding to February 6, 2005
on Seeds, Seedlings and Protection of Plant Breeds

The President of the Republic,

Whereas the Constitution, namely Articles 119, 120, 122 and 126;

Whereas Ordinance No. 66-154 of June 8, 1966, amended and supplemented, containing the Code of Civil Procedure;

Whereas Ordinance No. 66-155 of June 8, 1966, amended and supplemented, containing the Code of Criminal Procedure;

Whereas Ordinance No. 66-156 of June 8, 1966, amended and supplemented, containing the Criminal Code;

Whereas Ordinance No. 75-58 of September 26, 1975, amended and supplemented, containing the Civil Code;

Whereas Ordinance No. 75-59 of September 26, 1975, amended and supplemented, containing the Code of Commerce;

Whereas Law No. 79-07 of July 21, 1979, amended and supplemented, containing the Customs Code;

Whereas Law No. 84-17 of July 7, 1984, amended and supplemented, on financial laws;

Whereas Law No. 85-05 of February 16, 1985, amended and supplemented, on the Protection and Promotion of Health;

Whereas Law No. 87-17 of August 1, 1987 on Plant Health Protection;

Whereas Law No. 89-02 of February 7, 1989 on the General Rules of Consumer Protection;

Whereas Law No. 90-07 of April 7, 1990 containing the Information Code;

Whereas Law No. 98-11 of 29 Rabie Ethani 1419 corresponding to August 22, 1998 containing the Framework and Program Law for the Next Five Years of Scientific Research and Technological Development 1998-2002;

Whereas Ordinance No. 03-05 of 19 Jomada El Oula 1424 corresponding to July 19, 2003 on Copyrights and Related Rights;

Whereas Law 03-10 of 19 Jomada El Oula 1424 corresponding to July 19, 2003 on the Protection of the Environment in the Framework of Sustainable Development;

Whereas Law No. 04-04 of 5 Jomada El Oula 1425 corresponding to June 23, 2004 on Standardization;

Following adoption by Parliament;

Promulgates the Law that reads as follows:

TITLE 1 PRELIMINARY

Article 1

The purpose of this Law shall be to establish the conditions for:

- the approval, production, propagation and marketing of seeds and seedlings used in plant production;
- the protection of plant breeds.

Chapter I

Objectives and definitions

Article 2

The approval for seeds and seedlings and the protection of plant breeds shall aim to:

- foster and promote the use of plant varieties most suited to national agriculture and to the customs and needs of consumers;
- facilitate effective quality control of seeds and seedlings used in national agriculture;
- safeguard the rights of national and foreign breeders;
- organize and regulate all relationships between the different operators dealing with seeds and seedlings.

Article 3

For the purpose of this Law the following definitions shall apply:

Seeds and seedlings: grains, whole plants or part of these plants, which may be used for agricultural production or propagation and which meet the phytotechnical and plant health standards in force.

Plant material: living plants or living parts of plants, including eyes, crowns, scions, tubers, rhizomes, cuttings, shoots and seeds intended for propagation or reproduction.

Variety: Any cultivar, clone, pure line, strain or hybrid and sometimes natural or selected strains already being grown or likely to be grown and of useful, distinctive, uniform and stable nature.

Essentially derived variety: an essentially derived variety shall be understood to mean a variety that is predominantly derived from an initial variety or from a variety that is itself predominantly derived from the initial variety, has all the characteristics of the initial variety, especially those constituting the commercial interest of the initial variety, only differs from the initial variety in one or a very small number of characteristics, and is clearly distinct from the initial variety.

Pre-basic seeds and seedlings: seeds and seedlings derived from original material using methods of selecting protected lines and produced in accordance with provisions set out in the technical regulations.

Basic seeds and seedlings: Seeds and seedlings derived from the pre-basic category produced using selection conservation methods in accordance with provisions set out in the technical regulations governing the production of certified seeds and seedlings and/or agricultural produce intended for consumption.

Certified seeds and seedlings: seeds and seedlings derived from the basic category and produced in accordance with provisions of the technical regulations governing agricultural produce intended for consumption.

Standard seeds and seedlings: seeds and seedlings derived from certified material which meet the phytotechnical and plant health criteria established in the technical regulations.

DUS test: distinctness, uniformity and stability test. These tests shall cover:

- **Distinctness**: the variety must be distinct from all the varieties listed in the Official Catalogue by having different morphological or physiological characteristics.
- **Uniformity**: the variety to be registered must be uniform in all its defining characteristics.
- **Stability**: the variety must be stable in all its defining characteristics for the duration of propagation.

VCU testing: tests to determine the value for cultivation and use.

The purpose of these tests shall be to determine the potential of the variety's agronomic and technological characteristics.

- **value for cultivation**: study of the variety's productivity in a specific trial taking into consideration the climate and cultivation factors of the area where the variety was tested.
- **value for use**: study of the product's value for use in accordance with the technical rules specific to each species.

A variety shall be considered to have value for cultivation and use where, compared to other registered or standard varieties, it noticeably improves the crop, productivity and regularity of the yield or any use of the products deriving therefrom.

Batches: sets of particular seeds and seedlings with identification numbers, which are uniform and recognizable in nature.

Certification: official process guaranteeing compliance with seed and seedling production under plant health and phytotechnical standards established by regulation.

Successor in title: any natural or legal person with due authorization from the breeder to use his variety.

Holder: any natural or legal person with due authorization from the breeder or his successor in title to use his variety.

Nurseries: area or space reserved for the production of seeds and seedlings.

Chapter II

National Authority for Phytotechnology

Article 4

A National Authority for Phytotechnology shall be created, under the Ministry of Agriculture, and shall be responsible for:

- approving seed and seedling varieties and monitoring the conditions in which they are produced, marketed and used;
- protecting plant breeds.

Article 5

The National Authority for Phytotechnology shall have a National Seed and Seedling Commission which shall be made up of specialized technical committees and technical inspectors.

The arrangements for the organization and operation of the National Authority for Phytotechnology, and the rights, composition and operation of the National Seed and Seedling Commission and the specialized technical committees shall be established by regulation.

Chapter III

Scope of application

Article 6

The approval of varieties and the protection of plant breeds shall only apply to the plant genera and species on the list established by regulation.

Article 7

Under this Law, new plant varieties shall be subject to:

- either an application for approval in order to be registered in the Official Catalogue established in accordance with the provisions of Article 9 of this Law for the sole recognition of its varietal character;
- or an application for protection of this new variety;
- or, both the procedures for registration in the Official Catalogue and the protection of rights at the same time.

TITLE II SEEDS AND SEEDLINGS

Chapter I

Approval of species and varieties and their registration in the Official Catalogue

Article 8

Approval shall be granted for varieties which have been examined, analyzed and laboratory or field tested, which aim to assess the distinctness, uniformity, stability and value for cultivation and use of the variety concerned in accordance with the technical regulations for approval.

The technical regulations for approval and the assessment procedures shall be established by regulation.

Article 9

An Official Catalogue of Species and Varieties in which approved varieties are registered shall be created.

The main morphological and physiological features and any characteristics enabling the different registered varieties to be distinguished shall be registered in the Official Catalogue.

The specification of this official catalogue, the conditions for its upkeep and publication, and the arrangements and procedures for registration in the Official Catalogue shall be established by regulation.

Article 10

The Official Catalogue of Species and Varieties shall contain two lists:

List A: shall record the varieties which have undergone tests and assays in accordance with the technical regulations for approval and which meet the approval requirements;

List B: shall record the varieties which are of interest regarding national agricultural production or may be intended for export, despite not meeting all the requisite technical specifications for approval.

Article 11

Any variety registered in the Official Catalogue, whose name, or one of its characteristics or conditions for use has been modified, shall submit a new application for approval for its registration.

Article 12

The basic elements of hybrid plants and compound varieties shall remain secret if their breeders so wish.

The modalities for the application of this Article shall be established by regulation.

Chapter II

The classification, production and marketing of seeds and seedlings

Section I

The classification of seeds and seedlings

Article 13

The seeds and seedlings of any species and varieties of agricultural plants shall be classified in the following categories:

- pre-basic and basic seeds and seedlings,
- approved seeds and seedlings,
- standard seeds and seedlings.

The classification in each of these categories shall be done using a model for approval specific to each species or group of species.

Article 14

The purpose of classifying seeds and seedlings into pre-basic and basic, approved and standard categories shall be to establish the technical quality and plant health of the seeds and seedlings concerned.

Article 15

Approved and standard seeds and seedlings must be directly derived from basic seedlings of a particular variety.

Article 16

The requirements of seed and seedling classification in the categories provided for in Article 13 above and the procedures for approval shall be established by regulation.

Section II

The production and marketing of seeds and seedlings

Article 17

Subject to the legal provisions in force regarding biological resources and the provisions of Article 6 of this Law, only varieties duly approved and registered in the Official Catalogue of Varieties, in accordance with the arrangements and conditions established by this Law, may be produced, propagated, imported, exported, distributed and marketed.

Article 18

The conditions for naming seeds and seedlings as well as the information regarding their purity, origin, age, plant health or aspects of their characterization shall be established by regulation.

Article 19

The activity of producing, propagating, wholesaling or semi-wholesaling seeds or seedlings by any natural or legal person shall be subject to prior approval.

The conditions for approval and the arrangements for granting approval shall be established by regulation.

Article 20

Natural or legal persons who produce or propagate seeds and seedlings may produce seeds and seedlings directly or have third parties produce them.

Article 21

Regardless of the property regime or the legal conditions of use, all the plots used for producing and propagating seeds and seedlings, provided for in Article 20 above, shall be declared annually to the National Authority for Phytotechnology and kept in good phytosanitary condition.

Article 22

Natural and legal persons importing, producing or propagating seeds and seedlings shall ensure that the plant material made available to users by them corresponds to the characteristics thereof registered in the Official Catalogue of Varieties.

Article 23

In addition to complying with technical and plant health standards, marketed seeds and seedlings shall meet storage, packaging and labeling requirements established by regulation.

TITLE III

Plant Breeds

Article 24

A plant breed shall be understood to mean any new plant variety which is created, discovered or developed, as a result of a particular genetic process or a particular composition of the

hereditary processes, is different from any other plant group and constitutes an independent entity in relation to its capacity for propagation.

Article 25

Any plant breed stipulated in this Law, after meeting the requirements for approval, shall receive the protection provided for in this Law.

Chapter I

Conditions for approval of protection rights

Article 26

The application for plant breeder's rights, provided for in Article 25 above, shall be submitted to the National Authority for Phytotechnology by any natural or legal person of Algerian nationality.

Natural or legal persons of foreign nationality may apply for plant breeder's rights subject to the principle of reciprocity.

Article 27

The variety shall bear a generic designation which allows it to be identified.

It shall be made up only of numbers and not be liable to mislead or confuse with regard to the characteristics, value or identity of the variety.

Article 28

A variety shall be considered new where, on the date of filing the application, it has not been sold or ceded for commercial purposes to third parties by the breeder, or where the breeder has given consent for use:

- on its national territory for more than a year,
- on territory that is not national territory for more than four years or in the case of trees and vines for more than six years.

Article 29

The applicant shall be required to submit any information, documents or plant material requested by the National Inspection Authority, whose purpose is to:

- check that the variety actually belongs to the applicant;
- check that the variety actually belongs to the stated botanical taxon;
- establish that the variety is new, distinct, uniform and stable;
- establish the official description of the variety where it meets the requisite conditions.

Detailed instructions for the application, the publication of results, and the samples to be submitted for the required tests and inspections shall be established by regulation.

Chapter 2

Plant breeder's rights

Article 30

A document entitled "plant breed certificate", which shall constitute an intangible property title, may be issued for any plant breed that meets the conditions established in this Law.

The plant breed certificate shall confer on its holder the right of protection consisting of an exclusive right to the commercial use of the variety concerned.

The procedure for the grant of plant breed certificates shall be established by regulation.

Article 31

The filing of an application for plant breeder's rights shall legally entail the temporary protection of the variety before the plant breed certificate is granted.

The first applicant applying for the protection of a variety shall be given priority.

Article 32

The holder of a plant breed certificate shall be deemed to be, in the absence of proof to the contrary, the holder of the right of protection.

Article 33

A Rights Register shall be established by the National Authority for Phytotechnology.

This Rights Register shall be public.

Article 34

The Rights Register, numbered and signed by the National Authority for Phytotechnology, shall be in four parts:

- the first part shall be where applications for new plant breed certificates are entered;
- the second part shall be where plant breed certificates are entered;
- the third part shall be where licensing contracts, compulsory licenses and licenses of right are entered in accordance with Articles 47, 48 and 49 below;
- the fourth part shall be where premature termination, withdrawals, annulments or the public domain system of the variety concerned are entered in accordance with the provisions of Article 35 below.

The technical aspects and arrangements for keeping and publishing the Rights Register shall be established by regulation.

Article 35

The public domain system shall be understood to mean the system in which plant varieties are not covered by any right of protection and may therefore be used commercially free of charge.

Article 36

The protection shall cover the aspects of production or reproduction and propagation of the protected variety.

The protection shall also cover the conditioning and offer for sale of the protected variety and any form of marketing, export and import of the protected variety.

Article 37

Rights related to the plant breed certificate shall cover:

- the protected plant variety,
- any variety that does not clearly differ from the protected variety,
- any variety predominantly derived from the protected variety where the former is not itself predominantly derived from another variety,
- any variety whose production requires the repeated use of the protected variety.

Article 38

The term of protection shall be twenty years for annual species and twenty-five years for tree and vine species.

The term of protection shall start on the date the plant breed certificate is granted.

Beyond the term of protection, the variety shall enter the public domain except where the breeder or successor in title applies for a renewal of protection.

The renewal of protection may only be granted once for a maximum term of ten years.

Article 39

The right of protection shall incur a fee, the amounts and arrangements for collection of which shall be established in the Finance Law.

Chapter 3

General conditions for the use of the right of protection of plant breeds

Article 40

The variety for which protection has been granted may be the subject of a license contract between the breeder and an accredited establishment producing and propagating seeds and seedlings, in accordance with the provisions of Article 19 above, qualified within the meaning of this Law as the user of the variety.

Article 41

The breeder's rights may be transferred in their entirety or in part to one or more successors in title.

The transfer of rights shall be executed in an official document. The transfer to third parties shall only be effective after entry in the Rights Register.

Article 42

The license contract provided for in Article 40 above and the act of transfer provided for in Article 41 above shall establish, subject to being declared null and void, the scope of rights granted to the user or successor in title and, in particular, whether they are exclusive or non-exclusive, limited or unlimited in nature. The license contract and/or act of transfer shall also establish the value of the fee for use, which shall entitle the breeder to compensation for use.

Article 43

Under the supervision of the National Authority for Phytotechnology, the owner of the plant breeder's rights shall maintain the protected variety or its hereditary components, if any, for the term of the right.

On these grounds and upon request of the National Authority for Phytotechnology, the owner shall submit all information, documents and/or plant material deemed necessary for verifying the maintenance of the variety.

The conditions, arrangements and procedures for variety maintenance and its verification may be specified by regulation.

Article 44

A plant breed created by the State researcher during the exercise of his functions shall belong to the public establishment for which he works. The name of the author shall be included in the breed certificate.

Only the public establishment shall be entitled to apply for the plant breeder's rights or the registration of the new variety in the national Catalogue, in accordance with the conditions set out in this Law.

Chapter 4

Limits of the right of protection

Article 45

Subject to documents, facts, data or information under the provisions of Article 12 of this Law, the rights related to the plant breed certificate shall not include acts done:

- privately for non-commercial purposes;
- for experimental, educational or scientific research purposes or within the framework of creating a gene bank;

- with a view to creating a new variety provided that the new variety is not essentially derived from a protected variety or that the creation of the new variety does not require the repeated use of the protected variety;
- by farmers for cultivation on their own holding by using the product of the harvest which they have obtained by planting the protected variety with the exception of ornamental and flowering plants.

Article 46

The holder of the plant breed certificate may waive all or some of his rights at any time. The waiver shall be executed in a written statement and sent to the National Authority for Phytotechnology. The waiver in accordance with the provision of this Article shall entail a transfer of the rights concerned to the public domain.

Article 47

Any natural or legal person may apply for and obtain from the National Authority for Phytotechnology a compulsory license where the protected variety has not been exploited by its owner within three years starting from the date the plant breed certificate was granted.

Article 48

The compulsory license may only be granted to protect an actual public interest.

The National Authority for Phytotechnology may take a reasoned decision in the public interest and on these grounds grant a compulsory license.

The National Authority for Phytotechnology shall also ensure that the applicant for a compulsory license meets the following conditions:

- the application shall be filed by an establishment producing and propagating seeds and seedlings with due accreditation and shall have the necessary expertise and professional skills;
- the establishment producing and propagating seeds and seedlings shall be able to exploit the breeder's right financially;
- the establishment producing and propagating seeds and seedlings shall have applied for a license, in accordance with the requirements provided for in Article 40 above, from the holder of the right concerned, who shall have refused the application;
- the application shall be filed three years after the date the plant breeder's rights were granted.

The arrangements, term and procedures for the granting of the compulsory license, as well as the parameters for calculating the fees for use of the compulsory license shall be established by regulation.

Article 49

In exceptional cases and for reasons linked to national food security or which are important to national agricultural development, the decision in the public interest provided for in Article 48 above, which shall be qualified within the meaning of this Law as a license of rights, may be

issued by the National Authority for Phytotechnology without the variety concerned being the subject of a request for a compulsory license. Where this is the case, the National Authority for Phytotechnology shall appoint one or more accredited establishments which produce and propagate seeds and seedlings to exploit the protected variety concerned.

The conditions, arrangements, term and parameters for calculating fees for use of the license of rights shall be established by regulation.

Chapter 5

Lapse of the right of protection

Article 50

Except for the lapse of protection, the termination of plant breeder's rights may only occur as a result of premature termination, withdrawal, or cancellation of rights.

Article 51

The premature termination of rights shall be applied by the National Authority for Phytotechnology where:

1. rights are waived in accordance with the provisions of Article 46 above;
2. the fee established in accordance with the provisions of Article 39 above is not paid;
3. documents, samples and plant material planned for the verification of the maintenance of the variety are not made available to the National Authority for Phytotechnology in accordance with the provisions of Article 43 above.

The procedure for premature termination of rights may only lead to the transfer of the variety concerned to the public domain under the provisions of Article 35 above.

Article 52

The withdrawal of rights shall be issued, once all administrative and legal remedies have been exhausted, when the National Authority for Phytotechnology confirms that the plant breeder's right has been granted to a person who was not entitled to this right.

The withdrawal procedure may be initiated at the request of any natural or legal person under the provisions of Article 26 above in their capacity as the breeder and for the purpose of upholding their rights or by the National Authority for Phytotechnology where the plant breed owner waives his rights, in which case the variety shall be transferred to the public domain.

Article 53

The cancellation of rights shall be executed where it becomes clear during the exploitation of the protected variety that the variety no longer meets one of the criteria of novelty, distinctness, uniformity or stability, which were conditions for the granting of protection.

TITLE IV

Control, Violations And Sanctions

Chapter 1

Control of seeds and seedlings and plant breeders' rights

Article 54

Without prejudice to the various types of control carried out by the competent authorities for agriculture and the marketing of agricultural products, the control of production and propagation of seeds and seedlings and the verification of plant breeder's rights shall be performed by a team of phytotechnical inspectors under the National Authority for Phytotechnology.

The arrangements for the organization and operation of the team and its duties shall be established by regulation.

Article 55

The phytotechnical inspectors shall take the following oath:

“I swear by Almighty God that I will perform my tasks in a faithful and loyal manner and, in all cases, carry out the duties entrusted to me.”

Section 1

Inspection on National Territory

Article 56

An inspection of the production and propagation of seeds and seedlings of species and varieties listed in the Official Catalogue shall be established.

Article 57

Inspectors of the National Authority for Phytotechnology shall inspect nurseries and production and propagation fields, and verify compliance with the standards of production and propagation of each category of seeds and seedlings and where necessary of plant breeder's rights.

Article 58

The arrangements and procedures for the technical and plant health inspection on national territory carried out by the phytotechnology inspectors shall be established by regulation.

Section 2

Border control

Article 59

The list of the country's points of entry and exit of seeds and seedlings shall be established by regulation.

Article 60

When entering national territory, seeds and seedlings shall be accompanied by documentation and undergo a technical and plant health inspection.

The nature of the required documents and procedures for technical and plant health control shall be established by regulation.

Article 61

The export of seeds and seedlings shall be subject to a technical and plant health inspection.

The arrangements for the technical and plant health inspection of seeds and seedlings intended for export as well as documents that must accompany them shall be established by regulation.

Section 3

Appeal procedures

Article 62

Where the phytotechnical and plant health inspection is sanctioned through a measure in which import, export or marketing is refused in accordance with the procedures set out in Articles 60 and 61 above, the operator or producer shall be entitled to appeal to the National Authority for Phytotechnology.

Article 63

The appeal to the National Authority for Phytotechnology may be accompanied by any explanatory documents or any expertise from institutions approved to that end.

The procedures and arrangements for appeal, and the conditions for approval of these institutions shall be established by regulation.

Chapter 2

Criminal Provisions

Section 1

Recording infringements

Article 64

In addition to judicial police officers, the inspectors of the National Authority for Phytotechnology may investigate and record infringements of the provisions of this Law and its implementing texts.

Article 65

The recording of the infringement shall be attested by a report detailing the findings and statements or explanations received.

The reports shall be signed by the inspector or inspectors of the National Authority for Phytotechnology who recorded the infringement and the infringer or infringers.

Where the infringer or infringers refuse to sign the report, the report shall make mention of this.

The reports shall be forwarded to the Public Prosecutor of the jurisdiction concerned with a copy sent to the National Authority for Phytotechnology.

Article 66

On the basis of the reports received, the National Authority for Phytotechnology may issue a protective measure to prohibit marketing.

Section 2

Infringements and penalties

Article 67

Anyone on the staff of the National Authority for Phytotechnology who has, without being duly authorized by the breeder or his successor in title, communicated or attempted to communicate technical and/or scientific information, the confidentiality of which has been specifically requested by the breeder, shall be punished in accordance with the provisions of Article 301 of Ordinance No. 66-156 of June 8, 1966, as amended and supplemented in the Criminal Code.

Article 68

Anyone who fraudulently produces, propagates, imports or exports, or distributes and markets seeds and seedlings that are not approved and not registered in the Official Catalogue shall receive a prison sentence of two to six months and a fine of one million (1,000,000) to one million five hundred thousand (1,500,000) dinars.

Seeds and seedlings that are the subject of the infringement shall be destroyed.

Where the infringement is repeated, the penalty shall be doubled.

Article 69

Anyone who produces, propagates, distributes or markets seeds and seedlings on plots that are not declared to the National Authority for Phytotechnology shall receive a fine of one million (1,000,000) to one million five hundred thousand (1,500,000) dinars.

Seeds and seedlings that are the subject of the infringement shall be destroyed.

Where the infringement is repeated, the penalty shall be doubled.

Article 70

Anyone who distributes and markets seeds and seedlings in a manner which does not comply with the conditions for naming, storing, packaging and labeling set out in the provision of Articles 17 and 23 of this Law and its implementing texts shall receive a fine of one million (1,000,000) to one million five hundred thousand (1,500,000) dinars.

Article 71

Anyone who produces, propagates, distributes or markets seeds and seedlings without the approval provided for in Article 19 of this Law shall receive a fine of one million (1,000,000) to one million five hundred thousand (1,500,000) dinars.

Seeds and seedlings in the infringer's possession shall be destroyed.

Where the infringement is repeated, the penalty shall be doubled.

Article 72

Anyone who produces, propagates, imports, exports, distributes or markets seeds and seedlings and claims these are:

- plant varieties that are approved and registered in the Official Catalogue,
- in the classification set out in the provisions of Article 13 above ,

and which are actually, in themselves or because of an act under his responsibility, not in compliance with the variety specifications or in the classification stated shall receive a prison sentence of two to six months and a fine of one million (1,000,000) to one million five hundred thousand (1,500,000) dinars.

Seeds and seedlings that are the subject of the infringement shall be destroyed.
The infringer may also be liable for compensation for the harm caused by his infringement.

Where the infringement is repeated, the penalty shall be doubled.

Article 73

Regarding the protection of breeder's rights, the National Authority for Phytotechnology shall declare the prohibition on marketing any protected variety produced or propagated in a manner contrary to the provisions of this Law and shall notify the breeder, his successor in title or holders of the exploitation license.

TITLE V

TRANSITIONAL PROVISIONS

Article 74

Subject to breeder's rights and breeders wishing to protect their plant breeds in accordance with the provisions of this Law by filing an application for protection for regularization purposes in the year following the enactment of this Law, plant varieties already being exploited on the date of the enactment of this Law shall be entered in the Official Catalogue established in the provisions of Article 9 above for regularization purposes at the initiative of the National Authority for Phytotechnology, which shall be required to verify the validity of approvals made in accordance with the previous standards and procedures in light of the conditions of approval established in this Law.

Article 75

This Law shall be published in the *Official Journal* of the People's Democratic Republic of Algeria.

Done at Algiers, on 27 Dhou El Hidja 1425 corresponding to February 6, 2005.

Abdelaziz BOUTEFLIKA

[End of Annex and of document]