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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

The present document reproduces the text<sup>1</sup> of the Plant Seed Law, as last amended on 17 May 2000, as notified by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, under Article 63.2 of the Agreement (see document IP/N/1/TPKM/1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

TERRITOIRE DOUANIER DISTINCT DE TAIWAN, PENGHU, KINMEN ET MATSU

Le présent document contient le texte<sup>1</sup> de la Loi sur les semences végétales, modifiée en dernier lieu le 17 mai 2000, qui a été notifié par le Territoire douanier distinct de Taiwan, Penghu, Kinmen et Matsu au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TPKM/1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

TERRITORIO ADUANERO DISTINTO DE TAIWÁN, PENGHU, KINMEN Y MATSU

En el presente documento se reproduce el texto<sup>1</sup> de la Ley de Semillas, modificado por última vez el 17 de mayo de 2000, notificado por el Territorio Aduanero Distinto de Taiwán, Penghu, Kinmen y Matsu de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TPKM/1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte, dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

(Translation)  
**Plant Seed Law**

**Chapter I                      General Provisions**

***Article 1***

This Law is enacted for the control of crop seed plants, protection of the rights in new varieties and furtherance of improvement of varieties, in order to facilitate agricultural production and enhance farmers' benefit. For matters not provided for in this Law, relevant provisions of other applicable laws shall govern.

***Article 2***

The term "authority in charge" as used in this Law refers to the Council of Agriculture under the Executive Yuan in the case of the Central Government, or the Municipal Government in the case of a municipality, or the Hsien (City) Government in the case of a Hsien (City).

***Article 3***

Definitions of the terms used in this Law are given as follows:

1. Seed Plant: the whole or a part of a plant, which can be used for propagation or planting.
2. Variety: a plant group which has heritable characteristics and can be precisely distinguished from any other plant groups in the same plant species.
3. New Variety: a plant group which has at least one significant characteristics and form distinguished from that of the existing varieties, and whose major characteristics and form are heritable and stable.
4. Discoverer: a person who has discovered the mutation of a variety, which has the heritability and the stability.
5. Breeder: a person who engages in breeding work of new varieties.
6. Seed plant enterprise: an enterprise which is engaged in propagation, import/export or sale of seed plants.
7. Sale: the act of selling goods at a fixed price or trading in kind.
8. Promotion: the act of introducing or providing seed plants to others for adoption.

***Article 4***

Categories of plants governed by this Law shall be designated and published by the central authority in charge.

## **Chapter II                      New Variety Denomination Registration and Plant Breeder's Right Registration**

### ***Article 5***

A breeder or a discoverer who has bred or discovered a new variety having utilization value may apply for the following new variety registrations in accordance with this Law:

1. Denomination registration
2. Plant breeder's right registration

An application for the plant breeder's right registration set forth in the preceding Paragraph and the one for the denomination registration shall be simultaneously filed. In the absence of such simultaneous applications, no application filed for the plant breeder's right registration shall be allowed.

In case the breeder or the discoverer referred to in Paragraph One is an employee, the right to file the applications involved shall be governed by Article 23 of this Law.

### ***Article 6***

No plant breeder's right registration shall be granted after the denomination registration of any of the following new varieties is completed:

1. New varieties of general food crops.
2. New varieties which have been promoted and marketed before filing for denomination registrations.

The categories and nomenclatures of the general food crops referred to in the preceding Paragraph shall be prescribed and published by the central authority in charge.

### ***Article 7***

No promotion and sales activities can be conducted in respect of a new variety unless such new variety has been approved for denomination registration; provided, however, that this provision shall not apply to those new varieties which have been promoted or marketed prior to the enforcement of this Law.

### ***Article 8***

Upon the granting of a plant breeder's right registration covering a new variety, the registrant shall have the exclusive right to promote, sell and use such new variety, and any other person cannot promote, sell or use such new variety without the authorization by the registrant; provided, however, that this provision shall not apply if the new variety is used as a material in breeding another new variety and the experiment, research and observation thus involved is non-profit-seeking in nature.

Where an application for a plant breeder's right registration covering a new variety has been approved and published, it shall have the ad interim effect of having the exclusive right referred to in

the preceding Paragraph from the publication date. However, such right shall be deemed non-existent ab initio if the application is subsequently rejected irrevocably due to procedural defects or as a result of an opposition action.

#### ***Article 9***

When applying for a new variety registration, a written application containing the following particulars together with relevant documents shall be filed with the central authority in charge:

1. Name and the address/domicile of the applicant. If the applicant is a juristic person or an organization, its title, the address of its office or business place, and the name as well as the address/domicile of its representative or manager are needed as well;
2. Category of the registration secured;
3. Category of the new variety;
4. Name of the new variety;
5. Source of the new variety;
6. Characteristics of the new variety;
7. Description of the details concerning the breeding or discovery involved;
8. Planting experiments report; and
9. Guidelines for planting.

When examining the application referred to in the preceding Paragraph, the central authority in charge may, as it deems necessary, order the applicant to provide materials required for testing and evaluating the characteristics and form of the new variety.

#### ***Article 10***

The right to file an application for a new variety registration may be assignable or inheritable. If the application is filed by the assignee or the inheritor, the name of the breeder or the discoverer shall be indicated therein, and the documents authenticating the assignment or inheritance shall be submitted therewith.

#### ***Article 11***

Where two or more persons severally apply for the registration covering the same new variety or the same names thereof, the registration, if feasible, shall be granted to the applicant whose application was first filed.

#### ***Article 12***

The central authority in charge shall form a New Variety Examination Committee for examination of new variety registration applications and oppositions.

Regulations governing the organization and the examination procedure of the Committee referred to in the preceding Paragraph shall be prescribed by the central authority in charge.

***Article 13***

Where an application filed for a new variety registration is found incomplete in terms of the necessary documents/ evidence or the incomplete statement, or where the applicant fails to provide the breeding materials as required, the central authority in charge shall serve the applicant with a notice setting forth reasons and the time for late submission of such discrepancies. If the applicant fails to comply with such late submission request, said application shall be dismissed.

***Article 14***

Upon the examination of an application filed for a new variety registration, the central authority in charge shall have the examination result be reduced into a written decision in which the reasons of such decision are clearly indicated, and forward the decision to the applicant. If the new variety is qualified for a denomination registration or a plant breeder's right registration, the result of the examination together with the characteristics of the new variety shall be published.

***Article 15***

After an application filed for a new variety registration is approved and published, any person who deems such application to be in violation of Article 5 or Paragraph One of Article 6, or any interested person who deems it to be in violation of Article 10 may, within three months from the publication date, institute an opposition action with the central authority in charge by submitting a written application stating therein the reasons for opposition and enclosing thereto supporting evidence.

Upon receipt of a written opposition application, the central authority in charge shall send a duplicate copy thereof to the applicant requesting the applicant to file a defense statement within 30 days. If no defense statement is filed within the given time limit, the central authority in charge shall make a decision at its own discretion.

Upon the examination of the opposition referred to in Paragraph 1 of this Article, a written decision with reasons stated therein shall be rendered and forwarded to the applicant and the opposition petitioner.

***Article 16***

Any applicant who is dissatisfied with the decision rejecting a new variety registration, or any opposition petitioner who is dissatisfied with the opposition decision rendered concerning matters referred to in Items 3 through 9, Paragraph One, Article 9 of this Law, may file for a re-examination with the central authority in charge within two months from the day following the date of receipt of the written decision.

An applicant or an opposition petitioner who is dissatisfied with the re-examination decision may file an application for re-consideration with the central authority in charge within two months

from the day following the date of receipt of the re-examination decision. No objections can be raised against a re-consideration decision.

The central authority in charge shall form a New Variety Re-examination Committee consisting of members with special academic and technical background to conduct the re-examination and re-consideration cases referred to in the preceding two Paragraphs. Re-examination or re-consideration decisions shall be adopted by a majority vote of the members at a meeting attended by two thirds of the members of the Committee. The Committee may invite experts in relevant fields or representatives of organizations concerned to attend to the Committee' s meetings. The applicant or the opposition petitioner involved may, as he deems necessary, request to be present at the meetings for necessary explanations as well.

Regulations governing the organization and the examination procedure of the Re-examination Committee referred to in the preceding Paragraph shall be prescribed by the central authority in charge.

#### ***Article 17***

Any applicant or opposition petitioner who disagrees with any matter other than those set forth in the preceding Article may file an administrative appeal or institute an administrative suit in accordance with the law.

#### ***Article 18***

In any of the following events, a new variety registration approved and published shall become irrevocable, and the central authority in charge shall issue to the applicant thereof a new variety denomination registration certificate or a plant breeder's right registration certificate.

1. Where no opposition has been filed upon the expiration of the publication period;
2. Where an opposition action was rejected and no re-examination application has been filed in accordance with Article 16 thereof against the opposition decision; or
3. Where an opposition was rejected through a re-examination decision and no application for re-consideration has been filed, or the re-examination decision is upheld after re-consideration.

In any of the following events, a decision rejecting a new variety registration shall become irrevocable:

1. Where no application for re-examination has been filed in accordance with Article 16 of this Law; and
2. Where a new variety registration was rejected through re-examination and no application filed for no re-consideration has been filed, or the re-examination decision is upheld after re-consideration.

**Article 19**

The term of a new variety right shall be fifteen years commencing from the publication date of the application.

**Article 20**

A new variety right shall be assignable or inheritable.

**Article 21**

In the case of an assignment or inheritance of a new variety right, a recordation application together with the relevant documents shall be filed with the central authority in charge for change of the registrant thereof. If the assignment or the inheritance is not recorded with the central authority in charge, it shall have no locus standi against any bona fide third party.

**Article 22**

Any co-owner of a new variety right shall not assign to a third party his own share of the rights therein, unless with the consent of the co-owner(s) who, as a whole, have owned more than two thirds of the total ownership of the new variety right.

**Article 23**

Unless otherwise covenanted in an agreement, the right in a new variety bred or discovered by an employee shall be vested in his employer provided, however, that the employer shall pay to the employee a considerable sum of monetary reward.

In case the agreement referred to in the preceding Paragraph contains any covenant precluding the employee from employing a new variety right and exempting the employer from paying a considerable sum of monetary reward, such covenant shall be deemed null and void.

**Article 24**

In promoting or selling a new variety which has been granted a denomination registration or a plant breeder's right registration, any name other than the registered name or the particulars beyond the registered scope thereof shall not be used.

**Article 25**

The owner of a new variety right shall provide the central authority in charge with adequate quantity of the seed plant involved as the testing materials required for conducting follow-up evaluations of the characteristics and form of the new variety under registration.

### **Article 26**

For all applications concerning new variety registrations, the applicant shall pay an application fee at the time of filing each of such applications. Upon the granting of a new variety registration, the owner thereof shall pay the certificate fee and annuities.

Any evaluation fees incurred in conducting the characteristics and form evaluations set forth in Paragraph Two, Article 9 of this Law and the follow-up evaluations set forth in the preceding Article shall be paid by the applicant or the owner of the rights in the new variety.

The amount of the application fee, certificate fee, annuities and evaluation fee referred to in the preceding two Paragraphs shall be determined by the central authority in charge.

### **Article 27**

A plant breeder's right registration shall be ipso facto extinguished in any of the following events□

1. In the case of the expiration of the term of a new variety right, on the day following the expiration date of the term of such new variety right;
2. In the case of the death of the owner of a new variety right without an heir, on the date of his death;
3. In the case of a voluntary abandonment of a new variety right by the owner thereof, and on the date of the owner's written declaration to such effect; and
4. In case the owner of a new variety right has made a further default within a grace period for payment of the annuity, and on the expiration date of the original statutory period for such payment.

### **Article 28**

If, without proper reasons, the owner of a plant breeder right registration fails to promote or sell his registered new variety within a specific period of time, the central authority in charge may, at the request of others or ex officio, revoke the plant breeder's right registration granted thereto.

The specific period of time referred to in the preceding Paragraph shall be determined by the central authority in charge according to the characteristics of the plants involved.

Before the revocation of the plant breeder's right registration pursuant to Paragraph One of this Article, the central authority in charge shall forward to the owner thereof a written notice requesting a defense statement be filed within 60 days. In the absence of a defense filed within the said time limit, the registration shall be revoked accordingly.

### **Article 29**

In any of the following events, a plant breeder's right registration shall be revoked by the central authority in charge:

1. Where the registered right is in violation of Article 5 of this Law;



2. Where the registered right is in violation of Paragraph One, Article 6 hereof, and is erroneously granted;
3. Where the central authority is unable to conduct the follow-up evaluation of the characteristics and form of the new variety, or the evaluation result thereof reveals the unstable characteristics of the new variety, as caused by the violation of Article 25 of this Law; and
4. Where the new variety was obtained in other illegal or improper manners.

In case a new variety under a denomination registration is found to be under the situation specified in Item 1 or Item 4 of the preceding Paragraph, the central authority in charge may revoke the denomination registration granted thereto.

Provisions of Paragraph Two of Article 15, Article 16, Article 17, and Paragraph Two of Article 18 of this Law shall apply mutatis mutandis to the revocation of new variety registrations set forth in the preceding two Paragraphs.

#### ***Article 30***

Any alteration, extinguishment or revocation of a new variety right shall be published by the central authority in charge.

### **Chapter III                      Administration And Registration of A Seed Plant Enterprise**

#### ***Article 31***

An enterprise engaged in the seed plant business shall not start its operation, unless the enterprise has been approved and a seed plant enterprise registration certificate has been issued by the authority in charge of a local municipal government or Hsien □City□government.

Qualification requirements of a seed plant enterprise and the criteria of facilities equipped thereby shall be prescribed by the central authority in charge.

#### ***Article 32***

A seed plant enterprise registration certificate shall contain the following particulars:

1. Number of the registration certificate and the date month and year of the registration date;
2. Name of the seed plant enterprise, the name of its responsible person and the addresses thereof;
3. Categories and the scope of seed plants involved in the operation thereof;
4. Amount of the capital stock;
5. Location of the seedling farm of a seed plant enterprise engaged in the propagation of seed plants;  
and
6. Other relevant particulars.

In the case of any alteration of any registered particulars referred to in the preceding Paragraph, a recordation application concerning such alteration shall be filed with the government authority issuing the original registration certificate within 15 days from the date of said alteration.

**Article 33**

A seed plant enterprise shall mark on the packages, containers or labels of the seed plants sold thereby the mandatory markings in Chinese or by symbols or markings.

Particulars as to the marking set forth in the preceding Paragraph shall be prescribed by the central authority in charge.

**Article 34**

Where a seed plant enterprise fails to start up its business operation within one year from the date of registration, or such enterprise, after starting the business operation, has ceased the operation for a period of one full year without good cause, the authority in charge under a municipal or Hsien (City) government may revoke the registration of said enterprise.

**Article 35**

A seed plant enterprise which has discontinued its business operation shall, within 30 days, file an application with the authority in charge under a municipal or Hsien (City) government for a business cessation registration, and turn in the registration certificate for nullification. In case the said enterprise fails to file such recordation application or turn in the registration certificate for nullification, the authority in charge shall revoke its registration ex officio.

**Article 36**

The authority in charge at various levels may send their representatives to inspect any seed plant enterprise as to their qualifications for registration, the criteria of facilities equipped thereby, the quality of the seed plants sold thereby and the mandatory markings made thereby; the seed plant enterprise under inspection shall raise no objection thereto. Upon uncovering any non-conformities as to the mandatory requirements, the criteria of facilities equipped, or the existence of diseases and/or insects on the seed plant, the inspecting authority shall serve a written notice to the seed plant enterprise under inspection requesting an improvement made to the discrepancies and/or any preventive measures adopted therefor within a specified time limit, or shall prohibit it from selling the seed plants in question.

At the time of performing functional duties, an inspector shall present and show the document authenticating his/her status identification.

**Chapter IV      Export/Import Control of Seed Plants**

**Article 37**

In order to prevent the development of domestic seed plant industry from being affected by diseases and/or insects or the excessive export and/or import of seed plants, the central authority in charge may, as it deems necessary, restrict or prohibit the export and/or import of seed plants.

Categories and quantities of seed plants to be restricted or prohibited from being exported and/or imported pursuant to the preceding Paragraph shall be published by the relevant authority in charge, as requested by the central authority in charge.

***Article 38***

Importation of a new variety from abroad shall be allowed only upon submission of the report on observations and experiments conducted in this country and approval of the denomination registration thereof; provided, however, that this provision shall not apply where, as approved by the authority in charge, the new variety is imported in a specific quantities as breeding materials.

The central authority in charge may appoint any agricultural research institutes or agricultural experiment institutes to conduct the observations and experiments referred to in the preceding Paragraph.

***Article 39***

A seed plant imported abroad may not be used for purposes other than those declared before import. The authority in charge may conduct the necessary treatments concerning medication or others in advance.

***Article 40***

Concerning seed plants required exclusively for propagation and export purposes as entrusted by foreign parties, the import thereof shall be approved by the central authority in charge.

**Chapter V-Punishments**

***Article 41***

Any person who promotes or sells a registered new variety without the consent of the owner of such new variety right shall be punished with imprisonment not exceeding two years, or detention, or in lieu thereof or in addition thereto a fine not exceeding twenty thousand yuan.

Any person who makes an unauthorized use of a registered new variety shall be punished with imprisonment not exceeding six months, or detention, or in lieu thereof or in addition thereto a fine not exceeding five thousand yuan.

Prosecution of the offenses set forth in the preceding two Paragraphs shall be instituted only upon complaints.

***Article 42***

Any person who violates any provisions of Article 7, Article 24, Paragraph One of Article 31, Paragraph One of Article 37, Paragraph One of Article 38, or Article 40 of this Law shall be punished with a fine no less than ten thousand yuan but not exceeding fifty thousand yuan.

Any seed plants owned by an offender prescribed in Article 7 or Paragraph One of Article 38 of this Law may be confiscated.

***Article 43***

One who violates the qualification requirements or the criteria of facilities equipped thereby as specified in Paragraph Two of Article 31 hereof and fails to make the necessary correction or improvement within the time limit as requested by the authority in charge, or who violates the sales prohibition notices given under Paragraph One of Article 36 hereof shall be punished with a fine no less than five thousand yuan but not exceeding thirty thousand yuan. If the offence conducted thereby is serious, the offender may be suspended from operating the business for a period of no longer than six months; in case no correction or improvement is made thereby within three months after its resumption of business operation, the authority in charge may report to the superior authority in charge for approval of the revocation of the offender's seed plant enterprise registration.

In case a seed plant, through investigation, is found to be infected with diseases and/or insects, such seed plant may be confiscated for destruction if the diseases and/or insects involved can not be prevented or cured, or has not been prevented or cured within a given time limit, or the sale of such seed plant infected with diseases and/or insects is still continued after the issuance of a sales prohibition order.

***Article 44***

In any of the following events, the offender shall be punished with a fine no less than three thousand yuan but not exceeding twenty thousand yuan:

1. In case of any violation of the provisions of Paragraph Two of Article 32 or Article 39 hereof;
2. In case of a failure to comply with the marking requirements set forth in Article 33 hereof; or
3. In case of a refusal to accept the inspector's inspection prescribed in Paragraph One of Article 36 hereof.

***Article 45***

The authorities in charge under municipal, Hsien □City□governments shall be responsible for the imposition of the fines specified in the preceding three Articles. In case an offender fails to pay the fine within a time limit specified in a notice issued thereto, the case shall be referred to the court for compulsory execution.

## **Chapter VI-Supplementary Provisions**

### ***Article 46***

Foreign nationals or organizations may apply for a denomination registration or a plant breeder's right registration covering a new variety, and may file complaint or private prosecution against the offences referred to in Paragraph One of Article 41 hereof provided that the nationals or organizations of the Republic of China may enjoy the same privileges in the home countries of such foreign nationals or organizations under treaties, agreements, or according to the laws or the practice in those foreign countries. This provision shall also apply in case any mutual protection agreement has been concluded by and between the R. O. C. and any foreign organizations or institutions and approved by the central authority in charge.

### ***Article 47***

The enforcement rules of this Law shall be prescribed by the Executive Yuan.

### ***Article 48***

This Law shall take effect from the date of promulgation.

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