

**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 text¹ of the Enforcement Rules of the Plant Seed Law, as last amended on 31 January 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).

**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 texte¹ du Règlement d'application de la Loi sur les semences végétales, modifié en dernier lieu le 31 janvier 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).

**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 texto¹ del Reglamento de aplicación de la Ley de Semillas, modificado por última vez el 31 de enero 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).

¹ 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)

ENFORCEMENT RULES OF THE PLANT SEED LAW

Article 1

These Rules are enacted pursuant to Article 47 of the Plant Seed Law (hereinafter referred to as the "Law").

Article 2

Any applications, defense statements and other necessary documents and materials filed in accordance with the provisions of the Law and these Rules shall be made in Chinese; Chinese translations of the scientific terms included therein shall be made in accordance with the terms compiled by the National Institute of Translation and Compilation, as followed by the original terms in a foreign language. Names of plants must be indicated by giving the scientific names thereof.

Where the documents/materials referred to in the preceding Paragraph are originally prepared in a foreign language, the originals must also be submitted.

Article 3

Documents/materials for filing a new variety registration pursuant to Article 9 of the Law sent via postal service must be delivered by registered mail, with sufficient postage paid therefor.

Whether an applicant takes actions within the time limit prescribed by the Law or specified by the authority in charge shall be determined by the date of receipt of the written applications, documents and/or materials by the authority in charge, or in the case of postal delivery, the date of the postmark stamped by the Post Office involved.

Article 4

When two or more persons jointly apply for or own a new variety registration or jointly own a new variety right, all the applications and proceedings therefor shall be jointly filed and instituted by all joint-owners; provided, however, that there is another agreement, such an agreement shall govern.

Article 5

When applying for a denomination registration or a plant breeder's right registration in respect of a new variety for which a corresponding denomination registration or plant breeder's right registration has been filed in a foreign country, the applicant shall indicate in his written application the name of such foreign country, and the filing date as well as the serial number of such foreign application. The central authority in charge may request that the applicant submit the relevant certified documents when necessary.

Article 6

An applicant may authorize an agent to act on his behalf concerning his application for a new variety registration. The applicant shall produce and submit to the central authority in charge a Power of Attorney specifying the agent ' s designated power; the same provision shall apply whenever there is a change of the agent or the agent ' s designated power.

Article 7

In the case of an applicant who is a foreigner or a foreign organization having no domicile, residence, office, or place of business within the territory of the Republic of China, he shall authorize an agent to act therefor pursuant to the preceding Article.

The applicant referred to in the preceding Paragraph shall submit a Nationality Certificate or a Certificate of Corporate Nationality of a Certificate of Organization, which has been legalized by an ROC embassy or consulate in a foreign country or an institution authorized by the Ministry of Foreign Affairs, or notarized by a public notary in its country of origin.

Article 8

In the case of an applicant who is an ROC citizen or an ROC organization having no domicile, residence, office, or place of business within the territory of the Republic of China and has not appointed any agent, he shall designate a person to receive services therefor, and a recordation concerning such designation shall be filed with the central authority in charge.

Article 9

In the case of any change of an applicant ' s domicile, residence, office, place of business, or seal, a recordation concerning such change shall be filed with the central authority in charge.

Article 10

The central authority in charge may entrust other institutions to conduct evaluations and follow-up evaluations of the characteristics and form of a new variety, as specified in Articles 9□2□ and 25 of the Law.

Article 11

The determination of the first application, as referred to in Article 11 of the Law, shall be based on the date of submission of all the necessary documents/materials listed in Article 9□1□ of the Law. In the case of a late submission of any necessary documents in accordance with Article 13 of the Law, such determination shall be based on the date of such late submission.

Article 12

A written opposition filed pursuant to Article 15 of the Law shall be made in triplicate and specify the following particulars:

1. Application number of the application under opposition or the number of the registration under opposition;
2. Category and name of the new variety under opposition;
3. Name and domicile or residence of the person against whom the opposition is instituted; in the case of a juristic person or organization, its name, address of principal office or place of business, and the name of its representative or manager;
4. Name, and domicile or residence of the opposition petitioner; in the case of a juristic person or organization, its name, address of principal office or place of business, and the name of its representative or manager;
5. Reasons for opposition and supporting evidence;
6. Signature and seal of the opposition petitioner; and
7. Year, month and date of filing.

If the evidence in support of an opposition is a document, the original must be submitted along with two reproduced copies. The original shall be returned to the opposer after verification.

If the opposition petitioner is a natural person, a photocopy of his I. D. Card shall be submitted; if the opposer is a juristic person, a photocopy of its registration certificate shall be submitted.

An opposition petitioner may submit evidence in support of its opposition within 30 days from the date on which the opposition was lodged.

Article 13

Documents for filing an application for re-examination and an application for re-consideration in accordance with Article 16 of the Law shall be made in triplicate and specify the following particulars:

1. Application number of the application or the number of the registration involved;
2. Category and name of the new variety involved;
3. Name and domicile or residence of the applicant or opposition petitioner; in the case of a juristic person or organization, its name, address of principal office or place of business, and the name of its representative or manager;
4. Reference number and the date of receipt of the original decision, the opposition decision or the re-examination decision;
5. Reasons in support of the re-examination or re-consideration;
6. Signature and seal of the applicant or opposition petitioner; and
7. Year, month and date of filing.

Article 14

Ten days before the New Variety Re-examination Committee holds a meeting for evaluating and examining re-examination and re-consideration cases, it shall issue a written notification to the

applicant or opposition petitioner so that the applicant or opposition petitioner may be present at the meeting to provide explanations.

Article 15

The written decision referred to in Articles 14 and 15 of the Law and the re-examination decision as well as the re-consideration decision referred to in Article 16 of the Law shall specify the following particulars:

1. Application number of the application or the number of the registration involved;
2. Category and name of the new variety involved;
3. Name of the applicant or opposition petitioner; in the case of a juristic person or organization, its name;
4. Year, month and date of filing;
5. Text, the facts and the reasons of the decision; and
6. Date of decision.

Article 16

Where service of a written decision, a re-examination decision or a re-consideration decision cannot be effected, such decision shall be published in an official gazette of the central authority in charge; the service shall be deemed to have been effected upon the expiration of 30 days from the date of such publication.

Article 17

A new variety registration certificate or a plant breeder's right registration certificate, as specified in Article 18 of the Law, shall specify the following particulars:

1. Registration number;
2. Category of registration;
3. Category and name of the new variety involved;
4. Term of the plant breeder's right registration;
5. Name of the registrant;
6. In the case of a joint ownership of a new variety right, the respective shares of each joint-owner's ownership; and
7. Date of issuance of the certificate;

Article 18

The central authority in charge shall establish and maintain a register of new denomination registrations and the plant breeder's right registrations, in which the following particulars shall be indicated:

1. Category and name of the new variety;

2. Name and domicile or residence of the registrant or the agent thereof;
3. Year, month and date of filing, the application number and the registration number;
4. Year, month and date of publication and the publication number;
5. Results of an opposition, re-examination or reconsideration;
6. Registration number;
7. Category of registration;
8. Characteristics of the new variety;
9. In the case of a joint ownership of a new variety right, the respective shares of each joint-owner's ownership;
10. Date of assignment or inheritance in respect of the new variety right, and the name, domicile or residence of the assignee(s) or the heir(s);
11. Extinguishment or revocation of the denomination registration and the plant breeder's right registration, the reasons therefor, the date of extinguishment or the date of revocation;
12. Term of the plant breeder's right registration and the records of annuity payments therefor; and
13. Other particulars concerning the new variety denomination registration and the plant breeder's right registration.

Article 19

In the case of a loss or a damage to a certificate of a new variety denomination registration and that of a plant breeder's right registration, the registrant may apply for the issuance of a replacement certificate by stating the facts and effecting the payment of the certificate fee specified in Article 26(1) of the Law.

Article 20

The time periods specified in Article 28□2□ of the Law are prescribed as follows, depending on various characteristics of the plants:

1. Five years for trees and shrubs; and
2. 3 years for herbs.

The periods of time referred to in the preceding Paragraph shall commence on the publication date of the examination decision rendered on the new variety right.

Article 21

In any of the following events, the registrant may file an application with the central authority in charge for correction of his approved new variety registration:

1. Where there is a mis-statement
2. Where there is ambiguity in the statement.

After the correction referred to in the preceding Paragraph is approved, the central authority in charge shall publish the cause of such correction in the official gazette.

Article 22

A seed-plant-enterprise shall apply for issuance of a seed-plant-enterprise registration certificate in accordance with Article 31 of the Law before it applies for the establishment registration. The authority in charge of a Hsien □City□government shall collect and report information with regard to registered enterprises to the provincial authority in charge.

The seed-plant-enterprise mentioned in the preceding Paragraph shall refer to those which have applied for establishment registrations in accordance with the Company Law and the Business Registration Law.

When applying for the issuance of a seed-plant-enterprise registration, the applicant shall pay a certificate fee; the levy of such fee shall be implemented in accordance with the budget procedure.

The amount of the certificate fee referred to in the preceding Paragraph shall be decided by the central authority in charge.

Article 23

When applying for the issuance of a seed-plant-enterprise registration certificate pursuant to Article 31□1□of the Law, a written application containing the following particulars shall be submitted:

1. Name of the enterprise and the address of its principal office or place of business;
2. Name, sex, birth date, I. D. Card No. and domicile or residence of the responsible person of the enterprise;
3. Categories and scope of seed plants involved in the operation;
4. Amount of capital stock;
5. Condition of operational equipment;
6. In the case of an enterprise engaged in the breeding of seed plants, the location and area of the seedling farm thereof;
7. Date of application; and
8. Other relevant matters.

Article 24

Being entrusted by a seed-plant-enterprise, the government inspection institutions may conduct inspections on the quality of seed plants. The inspection costs shall be borne by the seed-plant-enterprise and the amount of such costs shall be based on the criteria decided by the central authority in charge.

Article 25

When the authority in charge at various levels send representatives to inspect the quality of seed plants in accordance with Article 36 of the Law, the representatives shall randomly select 3 samples and, as accompanied by the enterprise concerned, put the samples into sealed containers. One of these

3 samples shall be kept by the enterprise; the other 2 samples shall be brought back for inspection and custody by the inspectors, with the purchase cost of such 2 samples paid.

The authority in charge may be accompanied by, or entrust an agricultural research institution or a testing and improvement institution for conducting the inspection referred to in the preceding Paragraph.

Article 26

When applying for the import of a new plant variety used as a material for breeding purposes in accordance with Article 38□1□ of the Law, a written application shall be filed the central authority in charge, with the following particulars indicated therein:

1. Name and domicile or residence of the applicant; in the case of a juristic person or an organization, its name, the address of its principal office or place of business, and the name of its representative or manager;
2. Name, and domicile or residence of the foreign owner of the plant variety; in the case of a juristic person or organization, its name, the address of its principal office or place of business, and the name of its representative or manager;
3. Category and name of the new variety;
4. Characteristics of the new variety;
5. Guidelines for breeding;
6. Import volume; and
7. Other matters designated by the central authority in charge.

Article 27

When applying for the import of a new variety used as a material for breeding purposes in accordance with the preceding Article, the import volume hereof shall be decided as follows:

1. 10 kg. or less for a seed in case 1000 grains of such seed weigh more than 100g.;
2. 5kg. or less for a seed in case 1000 grains of such seed weigh more than 10 g. but less than 100 g.;
3. 500 g. or less for a seed in case 1000 grains of such seed weigh less than 10 g.;
4. 1000 grains or less for bulbs, tubers and tuberous roots;
5. 1000 plants or less for seedlings; and
6. The volume or weight of other seed plants shall be decided by the central authority in charge in special cases.

Article 28

With regard to the observation experiments conducted in accordance with Article 38□2□ of the Law, the expenses therefor shall be borne by the enterprise concerned and the amount of such expenses shall be based on the criteria decided by the central authority in charge.

Article 29

These Enforcement Rules shall take effect as of the date of promulgation.
