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الوكالة الأمريكية للتنمية الدولية  
مشروع إصلاح السياسات الزراعية  
وحدة تصميم وتنفيذ السياسات

*Ministry of Agriculture and Land Reclamation*

## **AGRICULTURE POLICY REFORM PROGRAM**

*Reform Design and Implementation Unit (RDI)*

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**RDI REPORTS**

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*Report No. 138*

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*Proposed Plant Variety  
Protection Office for Egypt:  
Structure, Staffing, Equipment  
and Operation*

*Prepared Upon The Request Of:*

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*June 2001*

# **Proposed Plant Variety Protection Office for Egypt: Structure, Staffing, Equipment and Operation**

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## **Organization**

This volume contains three parts:

- Part 1: Consultant's Report and Recommendations
- Part 2: Draft Operations Manual for Use by Office Staff
- Part 3: Draft Users' Handbook to Guide Applicants

### **Part 1: Consultant's Report and Recommendations**

#### **Introduction**

1. I was appointed as a DAI Consultant (intermittent employee) to produce proposals for the setting up of a Plant Variety Protection Office in Egypt, which was to operate in Cairo in line with standard international practices. I made two visits to Cairo, in March and May 2001, and produced two reports on the basis of information obtained on the first visit. The first report contained preliminary proposals on the structure, staffing, equipment and operation of the proposed Office; it has been revised and expanded to produce this final report. The second report was a draft operations manual which has also been revised in the light of further discussions with the Egyptian authorities, particularly the Central Administration for Seed Certification (CASC) of the Ministry of Agriculture and Land Reclamation (MALR), in which the proposed Office will be based.
2. These proposals are based upon the draft Ministerial Decree on The Protection of Plant Varieties submitted by the Egyptian government to

the Union for the Protection of New Varieties of Plants (UPOV) for review on 17 October 1999, and subsequent proposed amendments which are still under consideration by the Egyptian authorities. This paper also contains some proposals that may need to be considered in the light of the final wording of the draft decree.

3. The draft decree states (Article 2) that "There shall be a Registrar of Plant Variety Protection" and that "The Office of the Registrar ... shall be an office in the Ministry of Agriculture and Land Reclamation". The purpose of this paper is to propose a framework in which the proposed Office can operate efficiently from Day 1 of its existence.

#### **Likely Throughput of Applications**

4. It is difficult to forecast accurately the potential demand for the proposed system, and given the large preponderance of ARC varieties on the List of Registered Field Crops in Egypt, much will depend on the extent to which ARC varieties are entered for protection. However, there are approximately 225 varieties of field crops and 350 vegetable varieties registered in Egypt (though not all may now be protectable), and it may be estimated that up to 10 per cent of this figure would be new varieties eligible for protection each year. Leaving aside the possibility of an initial surge in applications to take account of the transitional and introductory provisions referred to in paragraphs 6 to 10 below, an estimate of 10 per cent would indicate a throughput of around 50 to 60 applications per year. In addition, it is expected that the establishment of a protection system in itself will

generate additional plant breeding activity, both by Egyptian companies and public authorities and by foreign and multinational breeders setting up breeding programs in Egypt.

5. The structure of the Office will depend to some extent on the expected demand for protection through the Egyptian system and on its relationship with those operating the official system of Variety Registration in Egypt (known as National Listing in the European Community). However, these proposals are based on the assumption that initial use of the system will rise to a level requiring a staff base of four to six administrative personnel, including the Registrar.

#### **Transitional Provisions Affecting Initial Demand**

6. Initial use of the system will depend to some extent on how Egypt applies two particular provisions of the 1991 UPOV Convention in relation to new member states. First, Article 3 of the 1991 UPOV Convention requires that new member states must protect at least 15 species on joining the Convention. These would generally be the most important species in economic terms.
7. The breeders will need to know the species which are covered by protection, and looking at the List of Registered Field Crops and Vegetable Crops of 21 March 2000, the species with the most registered varieties would appear to be:

Agricultural crops:            Berseem clover  
                                         Cotton  
                                         Faba Bean

Maize  
Rice  
Sorghum  
Sunflower  
Wheat  
And possibly Alfalfa, Barley, Soybean and  
Sudan Grass.

Vegetable crops: Sugar beet  
Cucumber  
Potato  
Egg plant  
Tomato  
Melon  
Pepper  
Beans.

However, CASC may of course add other species to this list, and a decision needs to be made on this matter, in liaison with the breeders, before the system comes into force.

8. The basic provision on novelty in Article 6 of the UPOV Convention permits propagating or harvested material to be sold in Egypt for a period of up to one year prior to the application for protection, or outside Egypt for 4 years (6 years for trees and vines). It also gives new member states the option of extending the normal novelty provisions to include "varieties of recent creation" as a one-off measure on introducing protection. The term "recent creation" is not defined in the Convention, and thus it is important for the Egyptian authorities to decide whether, and if so, how, to apply this concession.
9. It would be possible to apply it to all existing varieties, however long they have been registered or sold, or a more limited provision. For

example, the European Union allowed periods of 4 and 6 years, with a period of one year after the introduction of protection in which to apply. In taking a decision on this, consideration needs to be given to the extent to which breeders with existing registered varieties might wish to apply for protection and enforce their rights in these varieties. The breeders will also need to consider the impact of extending protection upon users of their varieties who have been free to market them without restriction.

10. There are benefits from introducing a generous provision on this. For example, in the event of another breeder genetically modifying an existing registered variety, the original breeder who had protected his variety would be able to control the use of his variety under the provisions on essentially derived varieties. He would not need to charge royalties on varieties of recent creation, but could license their use on his own terms.

#### **Duties of the Registrar**

11. The Registrar of the Office will be a Director within the General Directorate for Seed Measures and Development, under the control of the head of the Central Administration of Seed Testing and Certification (CASC). Although the Registrar's post exists within this line management structure, the draft Decree provides that to a significant degree, the Registrar operates as an independent official with his own powers and responsibilities. His basic responsibility is for the efficient operation of the Plant Variety Protection system, to ensure that the relevant law and decree(s) are observed, and to manage

the staff of the Office. He will also take the preliminary decision on whether to grant or refuse a certificate of protection, although a more senior officer may at least for an initial period, carry out the actual signing of the grant document.

12. The duties of the post of Registrar under the provisions of the draft Decree include:

1. to keep the Register of Plant Varieties (Article 2);
2. to ensure that each application receives a preliminary examination (Article 5);
3. to manage the functions and staff of the Office;
4. to ensure that all the requirements of the Law and Decree are observed;
5. to liaison with foreign authorities on the exchange of test reports on applicant varieties under the UPOV arrangements;
6. to represent the Office at national and international meetings concerning plant variety protection;
7. to account to senior management on the operation and financial position of the Office.

### **Duties of Other Staff of the Office**

13. It is proposed that for the initial period following the opening of the Office, it should have three expert staff, the Registrar, an Administrator/Finance Assistant, and an Administrator/Technical Assistant. These staff would be supported by a clerk and a secretary. The proposed structure is shown in Annex 1, and provisional person specifications and job descriptions would be as follows:

**(a) Administrator/Finance Assistant**

**Qualifications**

- Recent graduate with a good degree or professional qualification in finance, accountancy or business studies
- Can speak and write Arabic and English or French
- Ability to be trained in procedures of the Office
- Computer literate

**Job description**

1. Receive and register applications from plant breeders or their agents;
2. Receive and check fees to ensure they meet statutory requirements;
3. Examine forms to check for completion; return them to applicant if necessary;
4. Pass checks or cash to Ministry cashier;
5. Confirm priority date of application;
6. Open file to contain application papers;
7. Allocate file number (e.g. numerical species/variety sequence);
8. Record application for finance purposes;
9. Pass file to administrator/technical assistant for further action;
10. Maintain the accounts of the Office, reporting to the Registrar as necessary.

**(b) Administrator/Technical Assistant**

**Qualifications**

- A degree in agriculture, botany or a related subject
- Qualifications or abilities in business studies or administration
- Can speak and write Arabic and English or French
- Able to be trained in procedures of the Office
- Computer literate

**Job description**

1. Receive file from Administrator/Finance Assistant;
2. Enter application data on to computer;
3. Examine application to check ownership of variety;
4. Examine novelty (previous commercialization);
5. Check Technical Questionnaire (TQ) has been completed;
6. Examine proposed variety name;
7. Add application data to contents of next official bulletin;
8. Pass copy of application and TQ to Technical Unit (for DUS test);
9. Maintain liaison with Technical Unit;
10. When DUS test result received, issue grant certificate;
11. Inform Administrator/Finance Assistant for annual renewal purposes;
12. Maintain Register of Plant Varieties.

**(c) Clerk**

The role of the clerk will be to support these officers in carrying out of the above duties. However, the decision on the need and timing of this

appointment will depend upon forecasts of likely demand for the system in the early months of its operation. Similarly, the role of Secretary to the Registrar and the timing of the appointment will need to be considered. Ideally, all staff of the Office should be appointed in time for the initial setting up of the Office.

### **Legal Advice**

14. The Registrar will on occasions require access to legal advice when it is unclear whether the terms of the Law and Decree have been adhered to. This might be in such cases as where the ownership of a variety is not straightforward or is contested, or where the novelty of the variety is in question, and it is unclear whether the criteria have been met. Equally, any appeal against a decision of the Registrar and which brings into play the appeals procedure in the decree will require input from a lawyer with some knowledge of intellectual property, preferably with plant variety protection experience.
  
15. A full-time lawyer is not needed in the Office for this purpose. The best solution would be to allocate this work to a lawyer within the MALR who could include this in his portfolio of responsibilities, and build up some experience and expertise in the Egyptian legislation. An alternative would be to use outside legal companies, but in my view this would not only be expensive, but inappropriate in terms of providing advice to officials and ministers.

## **DUS Testing / Technical Advice**

16. It is intended that DUS (distinctness, uniformity and stability) testing will be carried out by the Variety Testing Directorate, which is part of the General Directorate for Seed Measures and Development of CASC. For variety registration purposes, it is also understood that technical results are passed to a variety registration committee, which takes the final decision on whether a variety should be permitted to be marketed in Egypt. However, these technical results include trials on the performance of the variety known as Value for Cultivation and Use (VCU), which involves a subjective judgment of the value of a variety. For plant variety protection, only the DUS test is required, carried out on the basis of international (UPOV) guidelines.
  
17. It is therefore proposed that the results of the DUS should be passed directly to the Registrar of the Office for his decision on whether they meet the criteria for protection. With regard to ad hoc technical advice, where the Registrar feels that he needs further technical input, this could be provided by technical staff expert in the testing of the crop concerned in the Variety Testing Directorate.

## **Equipment and Computerization of the Office**

18. As a minimum, the Office should be provided with the following equipment:
  1. Three telephone lines, one each for the Registrar and the two assistants;
  2. A facsimile machine;
  3. A photocopier (or easy access to one);

4. A system for maintaining the application files;
5. Sufficient desks, chairs, secure cupboards and other normal office equipment.

It is difficult to recommend a precise room area for the Office, as this depends upon availability and other factors. However, it is important that the staff of the Office is all in one room, ideally with the Registrar in an adjoining room. I understand that some assistance with office furniture and possibly computers may be available from the German technical assistance (GTZ) project.

19. With regard to a computer system, it would be useful to have terminals installed as quickly as possible so that at least the three senior staff of the Office have constant access to the proposed in-house system. It is proposed that the system be developed in two stages: first, a simple database containing information on variety applications and protected varieties, including the following:

1. Name and address of applicant;
2. Breeder's reference number of variety;
3. Proposed variety denomination;
4. Application priority date;
5. Record of action taken on application;
6. Data for insertion into official bulletin;
7. Computer copy of Register of Plant Varieties;
8. Fees paid;
9. Office file number;

And once rights are granted:

10. Name and address of holder of rights;
11. Approved variety denomination;
12. Dates of grant of rights and expiry; and
13. Annual renewal date;

20. This system would then form the basis of a more sophisticated system that would generate automatically reminders of when annual renewal fees were due, stock letters and the information needed to be included in the next issue of the official bulletin. Further consideration will be given to this in due course, but although suitable programs could be obtained from other national (e.g. the U.K.) offices, a new program would have to be written to meet the precise situation in Egypt.

#### **Forms and letters, etc.**

21. Forms for use by the Office, applicants and holders of rights will need to be designed, and drafts of these are appended to this report. The main forms will be as follows:
1. Application for plant variety rights;
  2. Technical Questionnaire;
  3. Assignment of rights form;
  4. Authorization of agent form; and
  5. Grant certificate.

Drafts of these forms are in Annexes 2 to 5, except for the Technical Questionnaire.

In addition, stock letters/memoranda will need to be produced to cover the following actions:

1. Receipt of completed application and money;
2. Confirmation of priority date;
3. confirmation of acceptance of application and variety name;
4. Memo to Variety Testing Directorate requesting DUS test/result;
5. Letter to accompany grant certificate confirming grant date, annual renewal date and date of expiry of rights;
6. Letter and invoice for annual renewal fees.

22. A draft of the proposed application form is appended at Annex 2. With regard to the Technical Questionnaire, it is proposed that the UPOV model TQ be used initially, adapted in due course to meet specific Egyptian requirements.

### **Published Information**

23. In accordance with Article 10 of the draft Decree, the proposed grant of a variety protection title should contain the following information:
1. Name of the applicant;
  2. Name of the breeder;
  3. Approved variety denomination;
  4. Date and time of filing
  5. Date of proposed grant;
  6. Details of priority claims;
  7. Denominations used in other countries;
  8. Date of expiry.

24. The description of the variety in accordance with UPOV Guidelines should be appended to the proposed grant. The above information should be available for inspection by interested parties on request, following publication in the Official Gazette. However, I would propose a review of this arrangement. The draft Decree states that publication must take place within 3 months of the date of grant (or cancellation, if applicable). It also then states that the Office shall issue a Bulletin every 6 months containing the following information:
- a. Applications for protection;
  - b. Applications for variety denominations;
  - c. Registration of new denominations for protected varieties;
  - d. Withdrawals of applications;
  - e. Rejections of applications;
  - f. Grants of variety protection titles;
  - g. Other official announcements.
25. In my opinion, it would be easier to combine these two separate functions into one, publishing all the information in the Bulletin of the Office at intervals of not more than 3 months. This would reduce costs and ensure that the published information was targeted towards those with a specific interest in the subject.

### **The Register**

26. The Register is the official record of grants of rights issued by the Office and in line with Article 11 of the draft Decree should contain the following information:
- a. Serial number of the grant of rights;

- b. Genus and species of protected variety;
- c. Approved denomination in Egypt and any other agreed denomination outside Egypt;
- d. Summary of variety description;
- e. Name and address of holder of grant and name and address of breeder;
- f. Priority date, where claimed;
- g. Dates on which protection begins and ends, including date where protection ends prior to the full period of entitlement.

### **Training of Office Staff**

- 27. It is important that the executive staff members of the Office, i.e. the Registrar and the two senior assistant posts, are properly trained to take on the duties required of them. This training should cover the operational work of receiving and processing applications and the related documents, and how to deal with less routine events such as appeals and representations. It should also provide an opportunity to consider the options for future use of an enhanced computerized system use as a management tool as well as a database of applications, grants etc.
- 28. This training would best be carried out in a national plant variety protection office, such as that in the United Kingdom, where the procedures are not dissimilar to those which would be based on the proposals above. An alternative would be to explore whether the Community Plant Variety Office (CPVO) in Angers, France, would be willing to assist with training. Initial soundings with the UK Plant Variety Rights Office (PVRO) indicate that they would be willing to

take part in a training program, and have pointed out that it might be useful to arrange such training for a period when applications are being received, such as the early autumn.

29. On the question of training costs, it is unlikely that the U.K. PVRO would charge for their services, but funding would be necessary to cover air fares, accommodation and subsistence expenses. It would also be necessary for someone to plan, make the detailed arrangements, and act as host during the training period. It is proposed that the training take place over a period of two weeks, plus time for travelling and rest/recuperation. I would be willing to take on this function, subject to agreement on the detailed arrangements. I also had a useful meeting with Ms. Jaleen Moroney of the American SIPRE Project on intellectual property rights in Egypt, who has indicated that this project may have access to funds to pay for airfares and per diem costs. An estimate of the total cost of airfares, hotel costs and pocket money would be in the region of \$8,000 to \$10,000 (US Dollars).
30. In conclusion, I should like to thank Lawrence Kent and Barry Greengrass for their personal support and encouragement in this project. I should also like to thank the staff of CASC, especially Eng. Mohamed Morsy and the Director, Undersecretary Fawzy Shaheen. My gratitude and support also extend to Eng. Gamal Eissa Attya, the proposed future Registrar of the Office, for his ideas and his friendship; I wish him well in his new role when the Office begins its work.

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## Part 2: Draft Operations Manual for Use by Office Staff

### Egyptian Plant Variety Protection Office

### Draft Operations Manual

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## A. Introduction

1. Plant variety protection (PVP) entitles the holder of protection to prevent anyone doing any of the following acts in respect of the propagating material of the protected variety without his authority:
  - (a) production or reproduction (multiplication);
  - (b) conditioning for the purpose of propagation;
  - (c) offering for sale;
  - (d) selling or other marketing;
  - (e) exporting;
  - (f) importing
  - (g) stocking for any of the purposes mentioned in (a) to (f).

All species are eligible to be considered for PVP, in accordance with Article 3 of the draft Decree.

2. Requests from potential applicants for PVP should be met by forwarding the following documents:
  - (a) Application form;
  - (b) Technical Questionnaire;
  - (c) Assignment of Protection form (if appropriate);
  - (d) Authorisation of Agent form (if appropriate);
  - (e) List of fees.
3. For some species, applications need to be received by specified dates for tests to be carried out during the current year. These will be advised by the DUS testing authority, and should be published in advance in the Bulletin of the Office.
4. On receipt of an application, the Administrator/finance assistant should make up a variety file and allocate a file number in a series prefixed by a species code, e.g. Wheat = 01, Barley = 02. Thus the first application for a Barley would be 02/01.

5. The applications must be in English or Arabic, or accompanied by a translation into one of these languages.
6. Stock letters will have been produced covering most of the routine acts concerning the Office. These should be found as document templates in Microsoft Word or a similar program.
7. All details relating to PVP applications must be published in the Bulletin of the Office.

**B. Initial checking of applications**

1. Ensure that the application fee has been received and pass the cheque or money to the Cashier.
2. Check the application form to ensure that all questions have been answered.
3. If the applicant is from outside Egypt, check that questions 7 to 11 have been completed, and there is an Authorisation of Agent form.
4. Check that Question 14, proposed variety denomination has been stated.
5. Question 15: if the applicant is not also the breeder or discoverer and developer of the variety, check for documentary evidence of assignment, or an Assignment form.
6. Check whether Section 16 (applications made in other states) has been completed. If it is left blank there should be no priority claim in Section 17. If there is a claim in Section 17, check that the claimed foreign application is within 12 months of the Egyptian application. If there are two or more earlier applications, the earliest date is the one that must be claimed, and again must be within 12 months of the Egyptian application.
7. Questions 18 and 19 (previous commercialisation/novelty) must be answered. The rules that need to be complied with state that:

- (a) propagating or harvested material must not have been sold or otherwise disposed of, for the purpose of exploiting the variety and with the consent of the applicant, in Egypt more than one year before the Egyptian application date;
- (b) propagating or harvested material must not have been sold or otherwise disposed of, for the purpose of exploiting the variety and with the consent of the applicant, in other countries more than 4 years (6 years for trees and vines) before the Egyptian application date;

These previous commercialisation rules do not apply to offers for sale as part of the Assignment of Protection, contractual arrangements for the purpose of increasing the stock or for carrying out tests and trials.

- 8. If the novelty of the variety is in any way unclear, the applicant should be asked to clarify the position, and if necessary a legally binding statement should be requested.
- 9. Question 20 must be answered. If the variety is a Genetically Modified Organism pass the application to the Registrar for further action.
- 10. Ensure that the declaration at the end of the form has been signed and dated.

### **C. Registering the application**

- 1. The following information should be entered in the manual Register and on to the computer database by the Administrator/Technical Assistant:
  - (a) Office file number;
  - (b) Name and address of applicant;
  - (c) Breeder's reference number of the variety;

- (d) Proposed variety denomination;
  - (e) Application priority date;
  - (f) Confirmation of fee payment.
2. The above data should also be entered into the list of applications for inclusion in the Bulletin of the Office (this may be done automatically by the computer when the program has been written).

#### **D. Checking the Technical Questionnaire (TQ)**

1. The Administrator/Technical Assistant should also check that all sections have been completed where applicable, and the form signed.
2. Insert Office file number on the top of the form.
3. Cross-check the information concerning the applicant, breeder, variety reference and details of other applications against the application form, and seek clarification from the applicant where there are any discrepancies.
4. Check if any special test is required or if the variety is a GMO, and consult the Registrar if necessary.
5. For ornamental applications a photograph is required. If not provided, ask the applicant for one.
6. Copy the TQ to the Technical Officer responsible for the DUS testing of the species concerned.
7. If there are any problems relating to the technical content of the application, raise these with the Technical Officer.

#### **E. Requesting Plant Material**

[It is assumed that the Technical Officer undertaking the DUS test will request the seed or other plant material required. If not, a procedure will be written on the ordering of the material].

#### **F. Purchase of DUS test reports from abroad**

1. If it is agreed that the DUS test report should be purchased from abroad, or testing is to be carried out by a foreign authority, a letter of request should be prepared and two copies of the letter and a copy of the Technical Questionnaire should be sent to the foreign authority. A copy of the request should be placed on the variety file.
2. If the test is to be carried out abroad on Egyptian seed, liaise with the breeder and the Technical Officer on the supply of seed to the foreign authority.
3. If purchasing a report from abroad, mark forward the variety file for when the report is due.
4. When the report is received, confirm with the Registrar that it is satisfactory.
5. If an invoice is received from the foreign authority, pass this to the Administrator/ Finance Assistant and send an invoice to the applicant to recover the fee. When received, the fee is passed to the Cashier

#### **G. Actions during test period**

[As no test fees are specified in the draft Decree, it is assumed that no separate test fee will be levied for Plant variety protection purposes. Should this change, a procedure will be written to deal with this].

1. Liaise with the Technical Officer during the test period to ensure there are no problems. If an interim report is made, send a copy of this to the applicant.

## **H. Naming**

1. If the applicant has not provided a proposed name they should be approached to provide a name.
2. If the variety has a colour in the name, check with the Technical Officer that this is correct before issuing grant.
3. Check name against Egyptian list, taking account of UPOV naming classes to see whether it is likely to cause confusion or offence (in both English and Arabic).
4. When a computer-based name checking system is available (e.g. the UPOV CD-ROM) also check on this basis.
5. If acceptable, enter the approved variety name on the file and computer record, and write to the applicant confirming that the name has been accepted.
6. If the name is not acceptable, explain to the applicant and request a new name.
7. Enter the proposed variety name in the list for the next Bulletin of the Office.

## **I. Withdrawal of applications**

1. If the applicant informs the Office that he wishes to withdraw the application, write to the applicant confirming the withdrawal.
2. Insert the reason for withdrawal on the variety file.
3. Advise the Technical Officer of the withdrawal.
4. Cancel any outstanding action on the application.

**J. Final Actions prior to grant**

1. When DUS test report is received, confirm that the report is positive, and that legal criteria have been met (ownership of variety, previous commercialisation etc.).
2. Check that proposed name has been approved.
3. Write to applicant sending copy of DUS test report and confirming that grant of protection may be issued. Ask for confirmation that they wish to proceed.

**K. Issue of Protection Certificate**

1. Prepare the Protection certificate (draft provided) and pass the file to the Registrar with a recommendation to sign. Check that the name of the holder and variety is correct. The certificate should contain the following information:
  - (a) Species;
  - (b) Variety name;
  - (c) Name and address of holder;
  - (d) Correct period of protection (20 years - 25 years for trees and vines);
  - (e) Date of issue.
  - (f) Office file reference number.
2. Prepare entry for Bulletin of the Office confirming grant of protection.
3. Send protection certificate to holder with covering letter.
4. Pass file to Administrator/technical assistant/finance assistant to record renewal date.

## **L. Renewals**

1. Three months before renewal date, send letter to holder inviting him to renew grant of protection.
2. Include invoice for renewal fee with letter of invitation.
3. On receipt of renewal fee, pass cheque or money to cashier.
4. Record renewal on register and computer record.
5. Mark forward for next renewal date.

## **M. Non-payment of renewal fees**

1. If renewal fee not received by renewal date, send reminder to holder informing him that failure to pay fee within one month of renewal date will result in termination of protection.
2. If necessary, send further reminder after two weeks.
3. If fee still not received after one month, send letter notifying of proposal to terminate protection, and inform to right to appeal.
4. If no appeal received, enter termination in register and on computer.
5. Prepare termination entry in Bulletin of the Office.

## **N. Surrender of protection**

1. Where the holder voluntarily surrenders protection, send letter to holder confirming receipt of surrender information.
2. Inform Administrator/technical assistant/finance assistant that no renewal is necessary.
3. Enter surrender information in Register and on computer.
4. Prepare surrender entry in Bulletin of the Office.
5. If another person wishes to take over the protection, an assignment of protection form must be completed by the new holder.
6. A new renewal fee must be paid by the new holder.

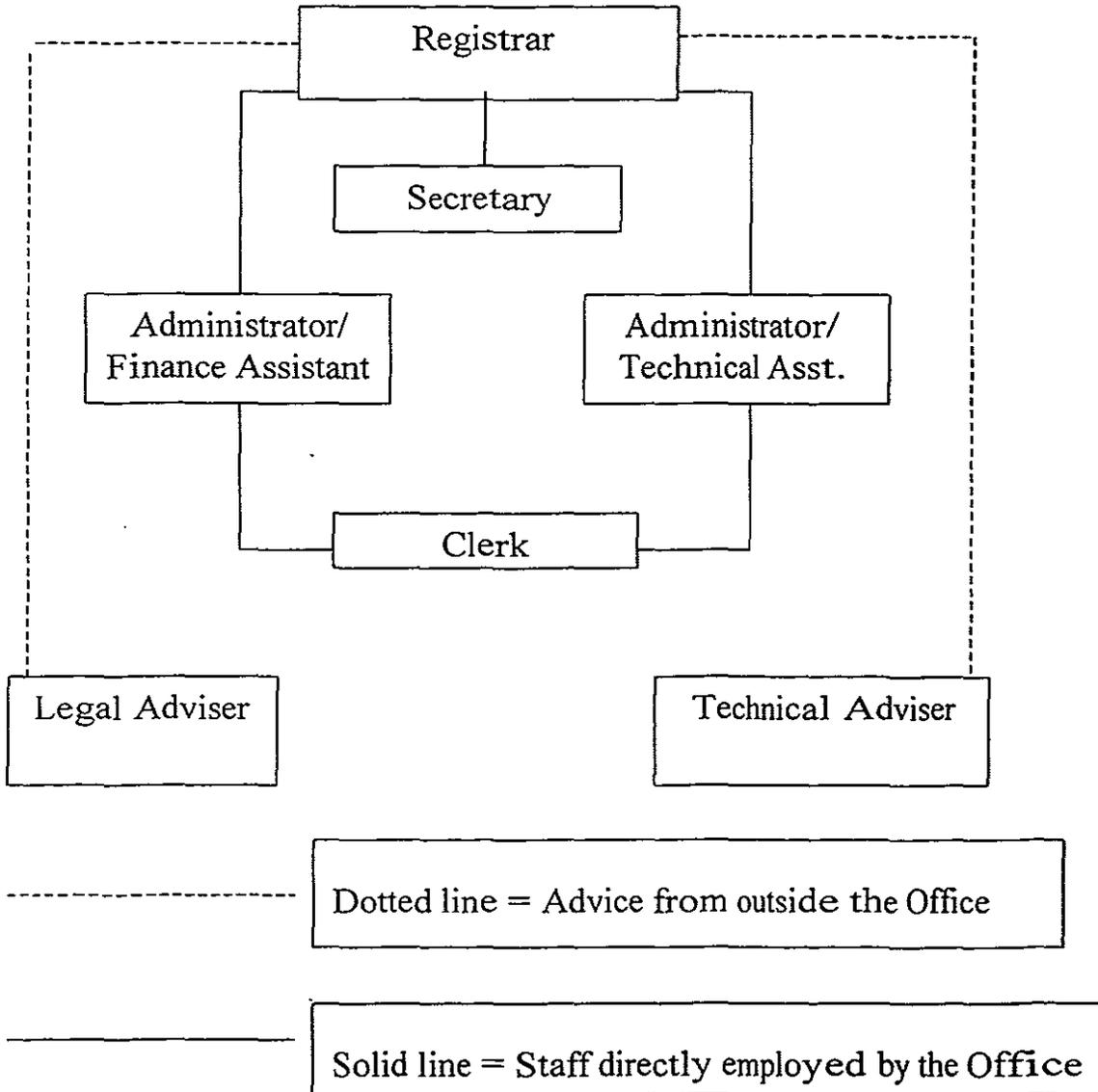
7. The fee for transfer of the right must be paid by either the new or previous holder.
8. If right is transferred, record information in Register and on computer, amend file data and prepare entry for the Bulletin of the Office.

**O. Appeals**

1. An appeal against a decision of the Office must be made to the Registrar in writing.
2. The Registrar must respond within 60 days.
3. If no response is received, or the appellant is not satisfied with the response, he can appeal direct to the Minister of Agriculture.
4. After a further 60 days, a further appeal can be made to the appropriate court.
5. The Registrar should handle the appeals personally, but the Office should ensure that the documents are properly recorded, in case the appeal goes to the court.

Proposed Egyptian Plant Variety Protection Office

Staff Plan



**Egypt PVP Office**

**Draft Application Form**

1. Applicant's name .....
2. Telephone number .....
3. Fax number .....
4. E-mail address .....
5. Address .....
6. If a company, address of Head Office .....
7. If non-Egyptian applicant, name.....  
and address of representative  
in Egypt .....
8. Telephone number .....
9. Fax number .....
10. E-mail address .....
11. Address for correspondence .....
12. Botanical taxon of variety  
(genus, species or sub-species) .....
13. Breeder's reference no. or  
Provisional name of variety .....

14. Proposed Variety Denomination.....

15. The original breeder is  the applicant
- the following person:

Name .....

Address .....

Telephone number .....

Fax number .....

E-mail address .....

If the original breeder is not the applicant, please state how the variety was transferred to the applicant; (documentary evidence is required)

16. Details of all other applications made in UPOV Member States or the European Union:

Filing date	Filing date
Filing state	Filing state
Application no.	Application no.
Variety name or ref.	Variety name or ref.

17. Is priority claimed in respect of the earliest application filed?

- No
- Yes, in (country) .....
- On (date) .....

18. Has the variety been sold within the territory of Egypt?

- No
- Yes, as follows:

Date..... Denomination.....

19. Has the variety been sold outside the territory of Egypt?

- No
- Yes, as follows:  
(country of first sale)

Date ..... Denomination..... Country.....

20. Is the variety a Genetically Modified Organism?

- Yes
- No

21. Does the application fee and Technical Questionnaire accompany this application?

- Yes
- No

**Declaration**

I hereby apply for a grant of plant breeders' rights in Egypt.

I hereby declare that the above information is true, to the best of my knowledge.

Signed .....

Name .....

Place .....

Date .....

# Arab Republic of Egypt

## Ministry of Agriculture and Land Reclamation

### Plant Variety Protection Office

#### Assignment of Rights Form

IMPORTANT: the person who bred, or discovered and developed the variety or his/her successor in title is entitled to apply for and be granted plant variety protection. This form should only be completed by that person if he/she wishes to assign his/her rights in a variety (or entitlement to rights) to another person. Once assignment has taken place, the assignor will forfeit any future claim on the variety.

I/we

Being the breeder(s) or his/her successor in title assign to:

The right to apply for and/or hold a grant of Plant Variety Protection in the following variety(ies):

Signature ..... Date .....

Name in block letters .....

For and on behalf of .....

# Arab Republic of Egypt

Ministry of Agriculture and Land Reclamation

## Plant Variety Protection Office

### Authorisation of Agent Form

I/we hereby authorise:

*(name and address of agent)*

to sign any application, notice or other document given delivered to or served upon the Registrar of the Plant Variety Protection Office

and to make all representations to the Minister of Agriculture and Land Reclamation relating to the plant variety/ies below:

Signature ..... Date .....

Name in block letters .....

For and on behalf of .....

# Arab Republic of Egypt

Ministry of Agriculture and Land Reclamation

Plant Variety Protection Office

## Grant of Plant Variety Protection

(applicant's name and address).....  
.....  
.....

having made application for a grant of Plant Variety Protection in respect of the following plant variety of

(species).....

known as

(variety name).....

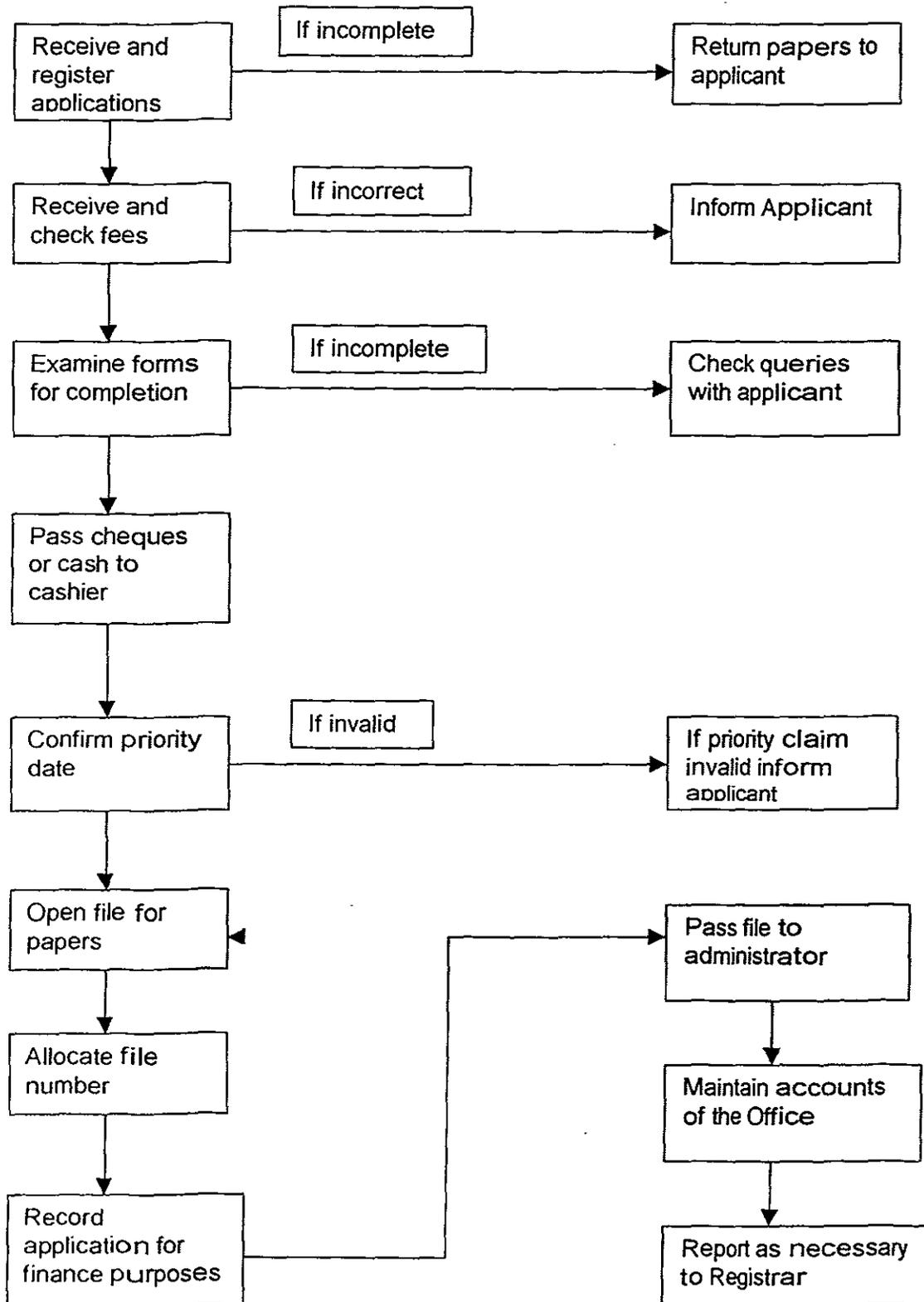
being a variety of a species prescribed by the Ministerial Decree of (date)..... the Minister of Agriculture and Land Reclamation hereby grants to the Applicant PLANT VARIETY PROTECTION In respect of the aforesaid plant variety subject to and with the benefit of the provisions of the said Ministerial Decree for a period of ..... years from the date of this Grant.

Date.....

Signed (on behalf of the Minister of Agriculture And Land Reclamation)

Qualifications: Graduate level; English & Arabic speaker

Job description

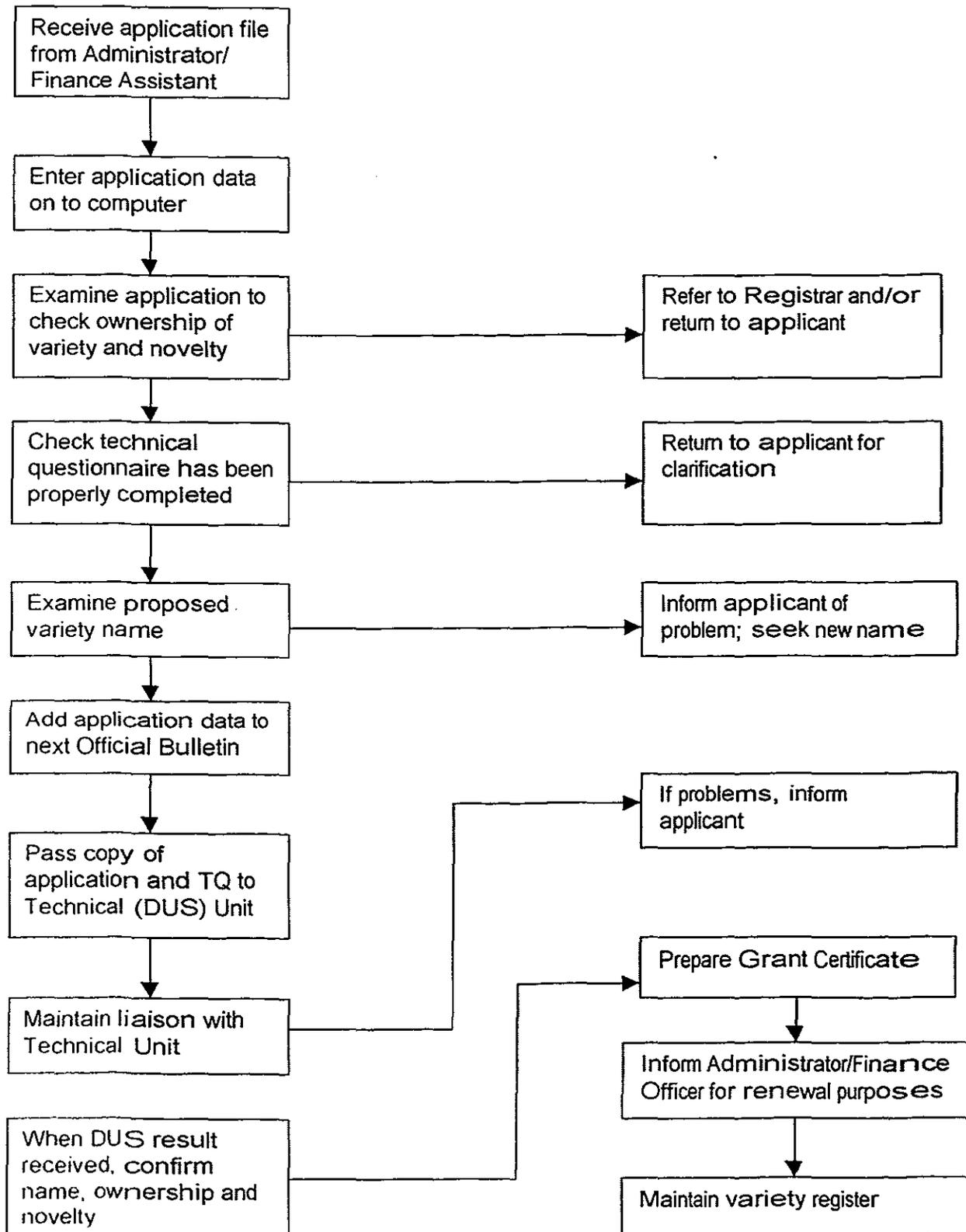


Administrator/Technical Assistant

Annex 7

Qualifications: Graduate level; English & Arabic speaker

Job description



# **What is Plant Variety Protection?**

**Barry Greengrass  
Consultant**

Annex 8:

What is Plant Variety Protection? – Powerpoint Presentation

# **WHAT IS “PROTECTION”?**

**An exclusive right for the breeder to exploit his new variety.**

**Other seed producers need the permission of the breeder if they wish to produce and sell the variety**

# WHAT IS PROTECTED?

- **Only the plant variety**
- **The breeder cannot protect a characteristic**

# HOW IS A VARIETY PROTECTED?

- **standard international criteria for grant of protection**
- **scope of protection**
- **duration of protection**
- **which species?**

# **MINIMUM SCOPE OF PROTECTION**

**Specified ACTS with specified MATERIAL of specified VARIETIES can only be carried out with the authority of the breeder, subject to specified EXCEPTIONS**

# **The ACTS in relation to the PROPAGATING MATERIAL**

- **Production or reproduction (multiplication)**
- **Conditioning for the purpose of propagation**
- **Offering for sale**
- **Selling or other marketing**
- **Exporting**
- **Importing**
- **Stocking for any of the above purposes**

# HARVESTED MATERIAL

- **Breeder's right extends to harvested material**
  - **if the material is obtained through the unauthorised use of propagating material**
  - **if the breeder has not had reasonable opportunity to exercise his right in relation to the propagated material**

# VARIETIES COVERED BY BREEDER'S RIGHT

- **The protected variety**
- **Expressly, any variety not clearly distinguishable from the protected variety**
- **Varieties whose production requires repeated use of the protected variety**
- **Essentially derived varieties**

# **EXCEPTIONS FROM THE BREEDER'S RIGHT**

## **Acts done**

- (i) privately and for non-commercial purposes**
- (ii) for experimental use**
- (iii) for the purpose of breeding other varieties**

**“FARMER'S PRIVILEGE”**

# MINIMUM DURATION

**TREES and VINES**                      **25 years**

**OTHER PLANTS**                        **20 years**

# **WHERE is protection available?**

Territoriality

European Union

TRIPS Agreement

# **HOW does one obtain protection?**

Application

Examination

Grant

## Part 3: Draft Users' Handbook to Guide Applicants

# Egyptian Plant Variety Protection Handbook 2001

*Note: This is an incomplete draft presented as an example of the type of 'users' handbook' that the PVP Office may finalize once the legislation is passed.*

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Foreword by the Registrar of Plant Variety Protection

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2. What is plant variety protection?
3. What species can be protected?
4. Who can apply for plant variety protection?
5. What criteria must a plant variety meet to obtain plant variety protection?
6. When does protection start?
7. How do I make an application?
8. Commercialization of varieties submitted for plant variety protection
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11. What charges are made for plant variety protection?
12. Naming of varieties
13. Granting plant variety protection
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17. Enforcement of plant variety protection
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19. Compulsory licenses
20. Termination and surrender of plant variety protection
21. Nullity
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### Appendices

1. UPOV Guidelines for Variety Denominations
2. Naming Classes

## **Foreword by the Registrar of Plant Variety Protection**

*It is my pleasure to inform you that the Plant Variety Protection Office of the Arab Republic of Egypt is open for business. As the first Registrar of the Office, I hope this handbook will explain the system to you. If you have any queries, my staff and I will be very pleased to help you.*

*Plant variety protection is a form of intellectual property designed specifically to protect new varieties of plants. The International Convention for the Protection of New Varieties of Plants (the UPOV Convention) is the international basis for plant variety protection.*

*The UPOV Convention was first signed in 1961, and substantially revised in 1991, to strengthen the breeder's right, to reflect changes in plant breeding technology and to clarify the earlier UPOV Convention in the light of experience of its operation in UPOV Member Countries. The Egyptian law of ..... gives effect to the 1991 Convention in Egypt. This booklet aims to give plant breeders and others who are interested a short explanation of the main administrative procedures involved in considering applications for plant variety protection. The Office is happy to deal with any queries concerning plant variety protection. If you have questions with which you think we can help, then please contact us. You will find our address and telephone number below.*

**Gamal Eissa Atteya**  
*Registrar of Plant Variety Protection*

## **1. The Plant Variety Protection Office**

The Plant Variety Protection Office (PVPO) administers Egyptian plant variety protection. Our address to which all applications and inquiries should be made is :

Plant Variety Protection Office

[address]

Telephone [    ]

Fax [       ]

Email

The Office is open to the public from [    ], to [    ]. Saturday to Wednesday and from on Government holidays and at certain other times as advertised in the Official Bulletin

Plant variety protection granted by the PVPO is exercisable only in Egypt. For protection in other countries a separate grant must be obtained by applying to the appropriate national authority (also see below).

## **2. What is plant variety protection?**

Plant variety protection entitles the holder to prevent anyone doing any of the following acts as respects the propagating material of the protected variety without authority :-

1. production or reproduction (multiplication)
2. conditioning for the purpose of propagation
3. offering for sale
4. selling or other marketing
5. exporting
6. importing
7. stocking for any of the purposes mentioned in (a) to (f) above
8. any other act that may be prescribed by Ministerial Decree

The holder of protection can authorize others to carry out these acts on whatever terms and conditions the holder wishes to impose, subject to the safeguard of compulsory licensing (see section 19). The issue of licenses to carry out any of the above acts on a protected variety, and terms of such licenses, are matters for the holder of the protection, to whom all inquiries should be addressed. The PVPO has no powers to intervene in such matters apart from the case of compulsory licenses.

Protection may also extend to harvested material obtained from the unauthorized use of propagating material, but only where the holder has not had reasonable opportunity to exercise protection.

Plant variety protection does not extend to any act done for private and non-commercial purposes, for experimental purposes or for the purpose of breeding another variety.

### **Hybrids and Essentially Derived Varieties**

A holder of plant variety protection also has the protection set out above in respect of any variety which is dependent on his protected variety. Dependent varieties are defined as those whose repeated production requires the repeated use of the protected variety (i.e. hybrids), or those which are essentially derived from a protected variety which is not itself essentially derived.

A variety is deemed to be essentially derived from another (initial) variety if it is predominantly derived from the initial variety, and it retains the essential characteristics resulting from the genotype, or combination of genotypes, of the initial variety. The PVPO has no role in deciding whether a variety is essentially derived or not. This is a private, commercial matter which, in the event of dispute, may be for the courts to resolve.

### **3. What species can be protected?**

The following plant species can be protected by Egyptian plant variety protection:

[  
 ]

However, where new tests have to be devised to cater for new species, applicants may be asked to propose a testing method and meet the full costs of these tests.

### **4. Who can apply for plant variety protection?**

An application for plant variety protection must be made by the person who bred or discovered and developed the variety, or his successor in title (referred to as the "breeder"). If a person breeds a variety, or discovers and develops it in the course of his employment, then, unless there is agreement to the contrary, the employer (or employer's successor in title) is the person entitled to the grant of protection.

The breeder may however assign (i.e. transfer) the protection in the variety to another person or company and thus forfeit any future claim on the variety. If protection are assigned to another person or company, written evidence from the breeder is required. An "assignment of protection" form is available for this purpose. Once protection are assigned, PVPO will have no further contact with the breeder and the grant of protection certificate will be issued in the

name of the person or company to whom protection have been assigned.

An applicant for plant variety protection may make his application through an agent if he so wishes. An applicant from outside Egypt must nominate an address for service or agent within Egypt. If an agent is to be used, written authorization from the applicant is required to confirm appointment of an agent. An "authorization of agent" form is available for this purpose. All correspondence and requests for fees are directed to the agent and PVPO has no direct contact with the applicant.

### **5. What criteria must a plant variety meet to obtain plant variety protection?**

Once a valid application for plant variety protection is accepted, seed/plant material of the variety will be requested for official tests designed to assess whether the variety is distinct, uniform and stable (DUS). The variety must also be new.

#### **Distinctness**

A variety is deemed to be distinct if it is clearly distinguishable by one or more characteristics which are capable of a precise description from any other variety whose existence is a matter of common knowledge at the time of the application.

A variety is in common knowledge if :-

1. it is, or has been, the subject of plant variety protection in any country,
2. it is, or has been, entered in an official register of plant varieties in any country, or
3. an application for plant variety protection or entry in an official register is under consideration in any country, provided the application is successful.

A variety may also be in common knowledge if it is already in cultivation, has been exploited for commercial purposes, is held in a recognized reference collection or has a precise description in any publication.

#### **Uniformity**

A variety is deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in those characteristics that are included in the examination for distinctness.

### **Stability**

A variety is deemed to be stable if those characteristics which are included in the examination for distinctness, as well as any others used for the variety description, remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each cycle.

### **Novelty**

A variety is deemed to be new if propagating or harvested material has not been sold or otherwise disposed of, for the purpose of exploiting the variety, with the consent of the applicant :-

1. in Egypt earlier than 1 year before the date of application, and
2. outside Egypt earlier than 4 years (6 years in the case of trees or vines) before the date of application.

Varieties which meet these criteria are eligible for a grant of plant variety protection.

### **6. When does protection start?**

Plant variety protection cannot be exercised until a grant of protection has been made by the PVPO. However, once protection is granted, the holder is entitled to "reasonable" compensation for anything done during the application period which, had it been done after protection were granted, would have constituted an infringement. The application period begins on the day the application is published in the Official Bulletin and ends with the granting of protection. In the event of dispute, it would ultimately be for the courts to determine what constitutes "reasonable" compensation.

### **7. How do I make an application?**

All of the forms required for making an application for Egyptian plant variety protection can be obtained from PVPO at the address given in section 1.

When making an application the following must be submitted to the PVPO :-

- A completed application form
  - A completed Technical Questionnaire for the particular species
  - The application Fee
  - A color photograph showing the representative features of the variety for ornamental applications.
- The following may also be required when making an application: -

- An 'assignment of protection' form if the applicant is not the breeder (see section 4 - Who can apply for plant variety protection)
  - An 'authorization of agent' form if you wish to use an agent (see section 4 - Who can apply for plant variety protection)
- Please note that all applications and documents must be in Arabic or English.

All forms must bear an original signature (where an application is made by a company it must be signed 'for and on behalf of' the company, by a person with authority to sign).

PVPO will acknowledge applications within 7 days of receipt and allocate a reference number. This number should be quoted on all correspondence regarding the variety. At the appropriate time PVPO will request seed/plant material for DUS tests to be conducted.

***Please note that if you do not provide any information, documents, or plant material requested within the time allowed, your application may be refused.***

### **8. Commercialization of varieties submitted for plant variety protection**

There is no restriction on commercialization of the variety while an application for a grant of plant variety protection is under consideration. However there may be other restrictions on marketing, in particular no seed of the major agricultural and vegetable species may be marketed in Egypt unless the variety is registered in Egypt.

### **9. Claiming priority**

If a plant variety protection application has been filed overseas it may be possible to claim priority based on the first application, providing the Egyptian application is received within one year of the first application. In order to claim priority, a copy of the earlier application, certified by the office in the country in which it was made must be supplied to PVPO within 3 months. (Likewise PVPO can supply certified copies of Egyptian applications).

If priority is granted in respect of an earlier application in another country, then the date of the Egyptian application is backdated to the date of this earlier application.

### **10. DUS tests**

Once an application has been accepted, PVPO will request plant material or seed to enable DUS tests to be carried out.

This work is mainly carried out by the ARC. For some species testing is carried out by testing authorities in other Member States under bilateral agreements.

In most cases DUS tests for ornamentals will take one year, herbage varieties and trees a minimum of three years, and two years for other species. But tests may take longer if there is difficulty in establishing distinctness and applicants will be notified in these circumstances.

Please note that for hybrid varieties, DUS tests may need to be conducted on the parent lines. If this is the case then a test fee will be charged for each parent line as well as the hybrid.

Copies of reports and botanical descriptions made as a result of these tests will be supplied to anyone who asks for them. Details of hereditary sources of a hybrid will not be made public.

### **Special DUS Tests**

If applicants anticipate there may be distinctness problems for a variety the need for a special DUS test should be indicated on the Technical Questionnaire when submitting the application. If feasible, arrangements will be made for the test to be carried out by one of the testing authorities who will invoice applicants directly for the work carried out. Where possible such special tests will be carried out within the normal testing period.

### **Genetically Modified Varieties**

Applicants must notify the PVPO if an application relates to a genetically modified (GM) plant variety. The relevant part of the application form must also be completed. No testing of GM varieties can take place unless and until the appropriate release consent has been issued.

It is the applicant's responsibility to obtain all the necessary consents and to inform PVPO of any restrictions which have been imposed which may affect conduct of the statutory tests. Copies of the consents must be provided with the application form. In cases where conditions have been applied to the release consent it may take longer to design the tests and applicants are therefore urged to provide this information as quickly as possible. PVPO should also be informed informally as soon as a decision is taken to enter an application for a GM variety.

## **11. What charges are made for plant variety protection?**

The fees payable in connection with plant variety protection application are set out below. The actual fee rates are enclosed as a supplement to this guide. The new fee rates are published in the Official Bulletin.

<b>Application Fee</b>	This must be paid with the application and a receipted invoice will be issued by return.
<b>DUS Test Fee</b>	One DUS test is required for both plant variety protection and variety registration. This will be requested if necessary.
<b>Annual Renewal Fee</b>	An annual renewal fee must be paid each subsequent year after the issue of a grant of protection to ensure protection are continued for the variety. PVPO will issue a reminder that protection are due to be renewed approximately 3 months before the renewal date followed by an invitation to renew approximately 6 weeks before the anniversary of the grant. Renewal of protection is subject to payment being received following which a receipted invoice will be issued.
<b>Penalty Fee</b>	If the renewal fee is not paid within 7 days of the renewal date then a penalty fee will be incurred. This will be notified via an invoice and notice that protection will be terminated if the renewal and penalty fees are not paid within 28 days of the renewal date.

55

## Extract from the International Convention for the Protection of New Varieties of Plants

of 2 December 1961 as revised on 10 November 1972, 23 October 1978 and 19 March 1991

### Article 20 Variety Denomination

- 1) *[Designation of varieties by denominations; use of the denomination]*
  - (a) The variety shall be designated by a denomination which will be its generic designation.  
-Each Contracting Party shall ensure that, subject to paragraph (4), no protection in the designation registered as the denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the breeder's right.
- 2) *[Characteristics of the denomination]* The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in the territory of any Contracting Party, an existing variety of the same plant species or of a closely related species. (See Appendix II for naming classes).
- 3) *[Registration of the denomination]* The denomination of the variety shall be submitted by the breeder to the authority. If it is found that the denomination does not satisfy the requirements of paragraph (2), the authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered by the authority at the same time as the breeder's right is granted.
- 4) *[Prior protection of third persons]* Prior protection of third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph (7), is obliged to use it, the authority shall require the breeder to submit another denomination for the variety.
- 5) *[Same denomination in all Contracting Parties]* A variety must be submitted to all Contracting Parties under the same denomination. The authority of each Contracting Party shall register the denomination so submitted, unless it considers the denomination unsuitable within its territory. In the latter case, it shall require the breeder to submit another denomination.
- 6) *[Information among the authorities of Contracting Parties]* The authority of a Contracting Party shall ensure that the authorities of all the other Contracting Parties are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any authority may address its observations, if any, on the registration of a denomination to the authority which communicated that denomination.
- 7) *[Obligation to use the denomination]* Any person who, within the territory of one of the Contracting Parties, offers for sale or markets propagating material of a variety protected within the said territory shall be obliged to use the denomination of that variety, even after the expiration of the breeder's right in that variety, except where, in accordance with the provisions of paragraph (4), prior protection prevent such use.

- 8) [Indications used in association with denominations] When a variety is offered for sale or marketed, it shall be permitted to associate a trademark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

## Appendix 2

### Naming classes

Class 1	Avena, Hordeum, Secale, Triticale, Triticum
Class 2	Panicum, Setaria
Class 3	Sorghum, Zea
Class 4	Agrostis, Alopecurus, Arrhenatherum, Bromus, Cynosurus, Dactylis, Festuca, Lolium, Phalaris, Phleum, Poa, Trisetum
Class 5	Brassica oleracea
Class 6	Brassica napus, B. campestris, B. rapa, B. juncea, B. nigra, Sinapis
Class 7	Lotus, Medicago, Ornithopus, Onobrychis, Trifolium
Class 8	Lupinus albus L., L. angustifolius L., L. luteus L.
Class 9	Vicia faba L.
Class 10	Beta vulgaris L. var. alba D.C., Beta vulgaris L. var. altissima
Class 11	Beta vulgaris ssp. vulgaris var. conditiva Alef (syn.: Beta vulgaris L. var. rubra l.), Beta vulgaris L. var. cicla L., Beta vulgaris L. ssp. vulgaris var. vulgaris
Class 12	Lactuca, Valerianella, Cichorium
Class 13	Cucumis sativus
Class 14	Citrullus, Cucumis melo, Cucurbita
Class 15	Anthriscus, Petroselinum
Class 16	Daucus, Pastinaca
Class 17	Anethum, carum, Foeniculum
Class 18	Bromeliaceae
Class 19	Picea, Abies, Pseudotsuga, Pinus, Larix
Class 20	Calluna, Erica
Class 21	Solanum tuberosum L.
Class 22	Nicotiana rustica L., N. tabacum L.
Class 23	Helianthus tuberosus
Class 24	Helianthus annuus
Class 25	Orchidaceae
Class 26	Epiphyllum, Rhipsalidopus, Schlumbergera, Zygocactus
Class 27	Proteaceae