

INTERNATIONAL UNION FOR THE PROTECTION OF NEW
VARIETIES OF PLANTS (UPOV)
Consultative Committee and COUNCIL

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Hamburg, 20 March 2015

CIOPORA comments on the draft Plant Breeders' Rights law of EGYPT

Dear members of the Consultative Committee and the Council,

CIOPORA very much appreciates it that EGYPT intends to adhere to the UPOV 1991 Act and has submitted its draft PBR law to UPOV.

After studying the draft law submitted to UPOV by letter dated 3 November 2014, CIOPORA considers the draft Law in general as being conform with the UPOV 1991 Convention. CIOPORA agrees to the general conclusions of the Office of UPOV in number 35 on page 5 of document C(Extr.)/32/3.

Please find attached the CIOPORA letter of today to the Ministry of Agriculture & Land Reclamation of Egypt. We kindly invite the Consultative Committee and the Council to consider the CIOPORA remarks in the letter regarding the enforcement of PBR in Egypt.

Respectfully yours,

CIOPORA



Dr. Edgar Krieger
Secretary General

Via e-mail casc@casc.gov.eg

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Hamburg, 20 March 2015

Draft Plant Breeders' Rights Law of Egypt

Dear Mr. Agiba,

CIOPORA very much appreciates it that EGYPT intends to adhere to the UPOV 1991 Act and has submitted its draft PBR law to UPOV. The members of CIOPORA consider Egypt as a very important country in the production and trade of ornamentals and fruits.

After studying the draft law submitted to UPOV by letter dated 3 November 2014, CIOPORA considers the draft Law in general as being conform with the UPOV 1991 Convention. CIOPORA agrees to the general conclusions of the Office of UPOV in number 35 on page 5 of document C(Extr.)/32/3.

CIOPORA would like to congratulate Egypt for the development of this PBR law.

We would like to draw your attention to one aspect in the law, regarding enforcement.

While Articles 203 to 205 explicitly list some measure in case of infringements, we are not able to find a provision that grants damages to the holder of a Plant Breeders' Right in the case of an infringement. Additionally, the draft PBR law does not contain any link to customs measures in relation to plant products covered by a PBR.

We are confident that the general tort law and the customs law of Egypt are applicable to plant breeders' rights infringements, too.

CIOPORA invites EGYPT, for the sake of completeness, to declare to the UPOV Consultative Committee and the Council that its tort law and its customs law is applicable to Plant Breeders' Rights, for that appropriate legal remedies for the effective enforcement of breeders' rights are provided for in Egypt, according to Article 30 (1) (i) of the UPOV 1991 Convention.

Finally, Plant Breeders' Rights law is – due to the specialities of the material incurred – difficult and to judge about such cases it needs special knowledge in said matter. Thus, it is advisable to direct Plant Breeders' Rights court cases to selected courts which are specialised in Plant Breeders' Rights law or at least to courts that already are established for

patent infringement cases because of similar experience in industrial property. This guarantees a unitary and qualified case law, to the benefit of the entire industry.

We are at your disposal for further discussions on this subject.

Respectfully yours,

CIOPORA

A handwritten signature in blue ink, appearing to be 'E. Krieger', written in a cursive style.

Dr. Edgar Krieger
Secretary General