

Council

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Geneva, October 28, 2022

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EXAMINATION OF THE CONFORMITY OF THE DRAFT LAW ON THE PROTECTION OF VARIETIES OF PLANTS OF ARMENIA WITH THE 1991 ACT OF THE UPOV CONVENTION

Document prepared by the Office of the Union

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EXECUTIVE SUMMARY

1. By letter, dated and received on September 22, 2022, addressed to the Secretary-General of UPOV, His Excellency, Mr. Vahan Kerobyan, Minister for Economy, Ministry of Economy of the Republic of Armenia, requested the examination of the Draft Law on the Protection of Varieties of Plants of Armenia (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act"). The letter is reproduced in Annex I to this document. Annex II contains a copy of the Draft Law in English.

2. The Council is invited to:

(a) note the analysis in this document;

(b) take a positive decision on the conformity of the Draft Law on the Protection of Varieties of Plants of Armenia with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Armenia once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and

(c) authorize the Secretary-General to inform the Government of Armenia of the above decision.

BACKGROUND

3. Article 34(3) of the 1991 Act provides that "[a]ny State which is not a member of the Union and any intergovernmental organization shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its Draft Laws with the provisions of this Convention. If the decision embodying the advice is positive, the instrument of accession may be deposited."

4. Armenia started the procedure to become a member of the Union by means of a Note dated October 15, 2003, in which the Permanent Mission of the Republic of Armenia to the United Nations Office and other International Organizations in Geneva requested the advice of the Council on the conformity with the 1991 Act of the "Law of the Republic of Armenia on the Protection of Selection Achievements" (Law). The Council examined the Law, at its twenty-first extraordinary session, held in Geneva on April 2, 2004 (see document [C\(Extr.\)/21/6](#) "Report", paragraph 7) and decided to:

"(a) advise the Government of Armenia that the Law of the Republic of Armenia on the Protection of Selection Achievements (the Law), in its main provisions, incorporates the substance of the 1991 Act, and that it may deposit an instrument of accession to the 1991 Act;

"(b) further advise the Government of Armenia that it may wish to amend and supplement the texts of its legislation, as recommended in document [C\(Extr.\)/21/2](#), so as to avoid recourse to the general principle in Article 2 of the Law."

5. During a meeting on June 24, 2010, between Ms. Satenik Abgarian, Deputy Permanent Representative to the World Trade Organization and the Office of the Union, Ms. Abgarian reported that the Law that provided the basis for the positive decision of the Council of 2004 on accession to the UPOV Convention, was no longer relevant. On July 22, 2010, the Office of the Union provided comments on the Draft Law of 2010 and informed the relevant authorities that the Draft Law once finalized would need to be submitted to the Council for examination of its conformity with the UPOV Convention.

6. From July 2010 to September 2022, the Office of the Union provided comments on different versions of the Draft Law.

7. By letter, dated and received on September 22, 2022, addressed to the Secretary-General of UPOV, His Excellency, Mr. Vahan Kerobyan, Minister for Economy, Ministry of Economy of the Republic of Armenia, requested the examination of the Draft Law on the Protection of Varieties of Plants of Armenia (hereinafter referred to as the "Draft Law"), for conformity with the 1991 Act of the UPOV Convention (hereinafter referred to as the "1991 Act"). The letter is reproduced in Annex I to this document. Annex II contains a copy of the Draft Law in English.

BASIS FOR THE PROTECTION OF NEW PLANT VARIETIES IN ARMENIA

8. In Armenia, the protection of new plant varieties in accordance with the 1991 Act will be governed by the Draft Law, once adopted. An analysis of the Draft Law follows in the order of the substantive provisions of the 1991 Act.

Article 1 of the 1991 Act Definitions

9. Article 2.1 (1) and (3) of the Draft Law contains definitions of breeder and variety corresponding to the definitions in Article 1(iv) and (vi) of the 1991 Act, respectively.

Article 2 of the 1991 Act: Basic Obligation of the Contracting Parties

10. Article 1 of the Draft Law contains provisions corresponding to the basic obligation provided by Article 2 of the 1991 Act.

Article 3 of the 1991 Act: Genera and Species to be Protected

11. Article 3(2) of the Draft Law provides as follows:

"2. This Law shall be applied on the date of its coming into force to all plant genera and species"

12. Article 3(2) of the Draft Law corresponds to the obligation under Article 3(2) of the 1991 Act.

Article 4 of the 1991 Act: National Treatment

13. Article 3(1) of the Draft Law contains provisions on national treatment corresponding to the provisions of Article 4 of the 1991 Act.

Articles 5 to 9 of the 1991 Act: Conditions of Protection, Novelty, Distinctness, Uniformity and Stability

14. Articles 4 to 8 of the Draft Law contain provisions on the conditions of protection corresponding to the provisions of Articles 5 to 9 of the 1991 Act.

Article 10 of the 1991 Act: Filing of Applications

15. Article 9 of the Draft Law contains provisions on the filing of applications. The Draft Law does not seem to contain provisions which conflict with Article 10 of the 1991 Act.

Article 11 of the 1991 Act: Right of Priority

16. Article 10 of the Draft Law contains provisions on the right of priority corresponding to the provisions of Article 11 of the 1991 Act.

Article 12 of the 1991 Act: Examination of the Application

17. Article 11 of the Draft Law contains provisions concerning the examination of the application corresponding to the provisions of Article 12 of the 1991 Act.

Article 13 of the 1991 Act: Provisional Protection

18. Article 12 of the Draft Law contains provisions on provisional protection corresponding to the provisions of Article 13 of the 1991 Act.

Article 14 of the 1991 Act: Scope of the Breeder's Right

19. Article 13 of the Draft Law contains provisions on the scope of the breeder's right corresponding to the provisions of Article 14 of the 1991 Act.

Article 15 of the 1991 Act: Exceptions to the Breeder's Right

20. Article 14 (1) of the Draft Law contains provisions concerning the compulsory exceptions to the breeder's right corresponding to the provisions of Article 15(1) of the 1991 Act.

21. Article 14(2) to (4) of the Draft Law contains provisions concerning the optional exception under Article 15(2) of the 1991 Act, as follows:

"2. It is not considered as infringing the breeders' rights, if within reasonable limits and subject to safeguarding the legitimate interests of the breeders, farmers use, for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected varieties or varieties covered by part 4 (1) or (2) of Article 13 of this Law included in the list of prescribed agricultural crops.

"3. The authority body of the Government shall prescribe the list of agricultural crops. The varieties of fruits, ornamentals, vegetables and forest plants are excluded from the exception referred to in part 2.

"4. The reasonable limits and the means of safeguarding the legitimate interests of the breeders, referred to in part 2, shall be specified in the Regulations."

Article 16 of the 1991 Act: Exhaustion of the Breeder's Right

22. Article 15 of the Draft Law contains provisions concerning the exhaustion of the breeder's right which correspond to the provisions of Article 16 of the 1991 Act.

Article 17 of the 1991 Act: Restrictions on the Exercise of the Breeder's Right

23. Article 16 of the Draft Law contains provisions concerning the restrictions on the exercise of the breeder's right which correspond to the provisions of Article 17 of the 1991 Act.

Article 18 of the 1991 Act: Measures Regulating Commerce

24. Article 17 of the Draft Law contains provisions concerning measures regulating commerce which correspond to the provisions of Article 18 of the 1991 Act. The Draft Law does not seem to contain provisions which conflict with Article 18 of the 1991 Act.

Article 19 of the 1991 Act: Duration of the Breeder's Right

25. Article 18 of the Draft Law contains provisions concerning the duration of the breeder's right which correspond to the provisions of Article 19 of the 1991 Act.

Article 20 of the 1991 Act: Variety Denomination

26. Article 19 of the Draft Law contains provisions on variety denominations corresponding to the provisions of Article 20 of the 1991 Act.

Article 21 of the 1991 Act: Nullity of the Breeder's Right

27. Article 20 of the Draft Law contains provisions on the nullity of the breeder's right corresponding to the provisions of Article 21 of the 1991 Act.

Article 22 of the 1991 Act: Cancellation of the Breeder's Right

28. Article 21 of the Draft Law contains provisions on the cancellation of the breeder's right corresponding to the provisions of Article 22 of the 1991 Act.

Article 30 of the 1991 Act: Implementation of the Convention

29. In relation to the obligation to "provide for appropriate legal remedies for the effective enforcement of breeders' rights" (Article 30(1)(i) of the 1991 Act), Article 22 of the Draft Law contains provisions on the available remedies for the enforcement of breeders' rights.

30. Article 2.1 (4) of the Draft Law provides that the authority entrusted with the task of granting breeders' rights is the Ministry of Economy of Armenia in accordance with the requirement in Article 30(1)(ii) of the 1991 Act.

31. Article 23 of the Draft Law corresponds to the obligation to publish information concerning applications for and grant of breeders' rights, and proposed and approved denominations as required in Article 30(1)(iii) of the 1991 Act.

General Conclusion

32. In the opinion of the Office of the Union, the Draft Law incorporates the substantive provisions of the 1991 Act. On that basis, once the Draft Law is adopted with no changes and the Law is in force, Armenia would be in a position "to give effect" to the provisions of the 1991 Act, as required by its Article 30(2).

33. *The Council is invited to:*

(a) *note the analysis in this document;*

(b) *take a positive decision on the conformity of the Draft Law of Armenia on the Protection of Varieties of Plants with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants, which allows Armenia once the Draft Law is adopted with no changes and the Law is in force, to deposit its instrument of accession to the 1991 Act; and*

(c) *authorize the Secretary-General to inform the Government of Armenia of the above decision.*

[Annexes follow]

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ANNEX I



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MINISTER

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Mr. Daren Tang
Secretary-General
International Union for the Protection of New Varieties of Plants (UPOV)
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Dear Secretary-General Tang,

I have the pleasure to inform you that the National Assembly of the Republic of Armenia is in the process of adopting the draft Law “On the protection of varieties of plant”.

The Ministry of Economy of the Republic of Armenia intends to adhere to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, revised at Geneva on November 10, 1972, on October 23, 1978 and on March 19, 1991 (UPOV Convention).

Pursuant to the provisions of Article 34(3) of the UPOV Convention, I would appreciate it if the Council of UPOV could examine the conformity of the Draft Law of the Republic of Armenia with the provisions of the UPOV Convention.

Sincerely yours,

Enclosure: Translation of the Draft Law in English

Best regards,

VAHAN KEROBYAN

9/22/2022

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Signed by: KEROBYAN VAHAN 1110760124

[Annex II follows]

DRAFT LAW
OF THE REPUBLIC OF ARMENIA

ON THE PROTECTION OF VARIETIES OF PLANTS

CHAPTER 1.

GENERAL PROVISIONS

Article 1. Subject matter of the Law

1. This Law shall regulate the relations pertaining to the breeding, use, protection of varieties of plants, the breeder's right, the nullity thereof and the grant of a title, or cancellation of that right.

Article 2. Main concepts used in the Law

1. The following main concepts shall be used in this Law:

(1) **breeder** –

- a. the person, who bred, discovered and developed any variety;
- b. the person, who is the employer of the person who bred, discovered and developed, a variety or who has commissioned the latter's work, unless otherwise provided for by the employment or civil law contracts concluded between them;
- c. the person, who is the successor in title of persons referred to in sub-points "a" and "b" of point 1 of part 1 of this Article;

- (2) **breeder's right** – the right of the breeder prescribed by this Law, which is certified by a licence granted to the breeder;

- (3) **variety** – a plant grouping within a single botanical taxon of the lowest known rank, which irrespective of whether the conditions for the granting of a breeder's right are fully met, can be:
- a. defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
 - b. distinguished from any other plant grouping by the expression of at least one of the said characteristics;
 - c. considered as a unit with regard to its suitability for being propagated unchanged;
- (4) **authority** – Ministry of Economy of the Republic of Armenia;
- (5) **UPOV** (hereinafter referred to as "UPOV") – International Union for the Protection of New Varieties of Plants, founded by the International Convention for the Protection of New Varieties of Plants of 1961 and further revised by Acts of 1972, 1978 and 1991;
- (6) **member of UPOV** – a Member State to the Act of 1978, or a Contracting Party to the Act of 1991 of the UPOV Convention of 1961;
- (7) **propagating material** (planting material) – a plant or a part of a plant used for reproduction of a variety;
- (8) **harvested material** – a plant or a part of a plant used for the purpose other than reproduction of a variety;
- (9) **nationals** – nationals of an UPOV Member State or nationals of a Member State of an intergovernmental organisation which is a member to UPOV.

Article 3. Scope of application of the Law

1. The provisions of this Law shall equally apply in relation to both nationals, natural or legal persons of the Republic of Armenia and nationals, natural or legal persons of UPOV Members, residing or operating in an UPOV Member.
2. This Law shall be applied on the date of its coming into force to all plant genera and species

CHAPTER 2.

***CONDITIONS AND CRITERIA FOR THE GRANT OF LEGAL PROTECTION
FOR VARIETIES OF PLANTS***

**Article 4. Conditions for the grant of legal protection
for varieties of plants**

1. The breeder's right shall be granted where the criteria for the grant of that right for the variety are satisfied.

The breeder's right shall be granted where the variety is:

- (1) new;
 - (2) distinct;
 - (3) uniform;
 - (4) stable.
2. The grant of the breeder's right may not be subject to any further conditions or differ from the criteria listed in part 1 of this Article, provided that the variety is designated by a denomination in accordance with the provisions of Article 19 of this Law, and the applicant complies with the formalities provided for by this Law, and that the applicant makes the payments of the required state duties prescribed by the Law of the Republic of Armenia "On state duty".

Article 5. Novelty

The variety shall be deemed to be new where, at the date of filing of the application for a breeder's rights, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, for purposes of the exploitation of the variety:

- 1) in the territory of the Republic of Armenia, in which the application has been filed earlier than one year before the application date;
- 2) in a territory of another state, earlier than four years or, in the case of fruit trees and of vines, earlier than six years before the said date.

Article 6. Distinctness

The variety shall be deemed to be distinct where it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application. In particular, the filing of an application for the granting of breeder's rights or for the entering of another variety in an official register of varieties, in any country, shall be deemed to render that other variety a matter of common knowledge from the date of filing in the application, provided that the filing in the given application leads to the granting of a breeder's right or to the entering of the said variety in the official register of varieties.

Article 7. Uniformity

1. The variety shall be 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 its relevant characteristics.

Article 8. Stability

The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

CHAPTER 3.

APPLICATION FOR THE GRANT OF THE BREEDER'S RIGHT

Article 9. Filing of applications

1. The date of receipt of the application by the authority shall be deemed to be the date of filing of the application for a breeder's right.
2. The application must contain:
 - (1) the written request;
 - (2) the variety denomination;
 - (3) the variety description;
 - (4) the receipt for payment of the state duty in the prescribed amount.

3. The requirements for the forms of the documents of the application shall be prescribed by the authority.
4. A new application shall be filed in for each variety.

Article 10. Right of priority

1. Everyone who has filed an application for the protection of a new variety of a plant in one of the UPOV Members shall enjoy, for a period of 12 months, a right of priority for the purpose of filing an application for the granting of a breeder's right for the same variety with the authority of another UPOV member. This period shall be computed from the date of filing of the first application.

The date of filing in the application shall not be computed in the period referred to in part 1 of this Article.

2. In order to enjoy the right of priority, the breeder must, in the application filed with the authority, include information about the priority of the first application. The applicant shall be obliged to furnish, within a period of not less than three months from the date of filing in the application, copies of the documents of the first application, validated by the authority having issued the first application, as well as samples or other evidence that the variety which is the subject matter of both applications is the same.
3. Filing of a new application or the publication or use of the variety within the period prescribed by part 1 of this Article may not constitute a ground for rejecting the application, as well as may not give rise to any third-party right.
4. The breeder shall be allowed a period of two years after the expiration of the period of priority or, where the first application is rejected or withdrawn, an appropriate time, after such rejection or withdrawal, in which to furnish, to the authority, any necessary information, document or material required for the purpose of the examination under Article 11.

Article 11. Granting of the breeder's right

1. The decision on granting or rejecting the breeder's right shall be rendered within a period of one month following the examination for compliance with the requirements for legal protection of new varieties of plants, provided for by Articles 4 to 8 of this Law. In the course of the examination, the authority may grow the variety or carry out necessary tests, cause the growing of the variety or the carrying out of other tests, or take into account the results of tests which have already been carried out.
2. For the purposes of carrying out tests and examinations, the authority may require the breeder to furnish the necessary information, documents or materials deriving from this Law.

3. The granting of the breeder's right may not be rejected, or this right may not be terminated by the authority on the ground of not granting previously the protection of the variety, rejecting the protection or expiration of the time limit thereof in another state or intergovernmental organisation.

Article 12. Provisional protection

1. With a view to protecting the interests of the breeder, the breeder shall be provided provisional protection of breeder's rights during the period between the filing of the application for the grant of a breeder's right and the grant of the breeder's right.
2. Provisional protection covers all those rights, which are granted in case of being granted the breeder's right.
3. The applicant is considered to be the holder of a breeder's right in relation to any person who, during the period provided in paragraph (1) has carried out acts which, once the right is granted, require the breeder's authorization as provided in Article 13. The applicant shall have the same rights to enter into license agreements and to initiate legal proceedings as if on the *filing* date the breeder's right had been granted to the applicant in respect of the variety concerned. The rights conferred under this paragraph shall be deemed never to have been conferred if the right is not granted.
4. Provisional protection shall only take effect in relation to persons whom the breeder has notified of the filing of the application.

CHAPTER 4.

THE RIGHTS OF THE BREEDER

Article 13. Exclusive rights of the breeder

1. Subject to Articles 14 and 15 of this Law, the following acts – referred to in this Article – in respect of propagating material of the protected variety shall require the authorisation of the breeder:
 - (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 the purposes mentioned in points 1 to 6 of part 1 of this Article.
2. The breeder may make his authorisation subject to conditions and limitations.
3. Subject to Articles 14 and 15, the acts referred to in points 1 to 7 of part 1 of this Article, in respect of harvested material, including entire plants and parts of plants, obtained through the unauthorised use of propagating material of the protected variety shall require the authorisation of the breeder, unless the breeder has had a reasonable opportunity to exercise his right in relation to the said harvested material.
4. Provisions of parts 1 to 3 of this Article shall also extend in relation to:
 - (1) variety, which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety;
 - (2) varieties which are not clearly distinguishable in accordance with the provisions of Article 6 of this Law from the protected variety;
 - (3) varieties whose production requires the repeated use of the protected variety.
5. A variety shall be deemed to be essentially derived from another variety where:
 - (1) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;
 - (2) it is clearly distinguishable from the initial variety;
 - (3) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety,
6. Essentially derived varieties may be obtained by the selection of a natural or induced mutant, or of a somaclonal variant, or the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

Article 14. Exceptions to the breeder's right

1. The breeder's right shall not extend to
 - (1) acts done privately and for non-commercial purposes;
 - (2) acts done for experimental purposes;
 - (3) acts done for the purpose of breeding other varieties, and, except where the provisions of part 4 of Article 13 apply, acts provided for by parts 1 to 3 of Article 13 in respect of such other varieties.
2. It is not considered as infringing the breeders' rights, if within reasonable limits and subject to safeguarding the legitimate interests of the breeders, farmers use, for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected varieties or varieties covered by part 4 (1) or (2) of Article 13 of this Law included in the list of prescribed agricultural crops.
3. The authority body of the Government shall prescribe the list of agricultural crops. The varieties of fruits, ornamentals, vegetables and forest plants are excluded from the exception referred to in part 2.
4. The reasonable limits and the means of safeguarding the legitimate interests of the breeders, referred to in part 2, shall be specified in the Regulations.

Article 15. Exhaustion of the breeder's right

1. The breeder's right shall not extend to acts concerning any material of the protected variety, or of a variety covered by part 4 of Article 13 of this Law, which has been sold or otherwise marketed by the breeder or with the latter's consent in the territory of the Republic of Armenia, or any material derived from the said material, unless such acts:
 - (1) involve further propagation of the variety in question; or
 - (2) involve an export of material of the variety, which enables the propagation of the variety, into a country

which does not protect varieties of the said plant genus or species, to which the variety belongs, except where the exported material is for final consumption purposes.

2. In this Article, the term “material” in relation to a variety means:

- (1) propagating material of any kind;
- (2) harvested material, including entire plants and parts of plants;
- (3) any product made directly from the harvested material.

Article 16. Restrictions on the exercise of the breeder’s right

1. Except for the cases prescribed by this Law, the free exercise of the breeder's right may be restricted only for reasons of public interest.
2. When any such restriction has the effect of the authority authorizing a third party to perform any act for which the breeder’s authorization is required, the breeder shall receive equitable remuneration.

Article 17. Measures regulating commerce

The breeder’s right shall be independent of any measure taken to regulate the production, certification and marketing of material of varieties, or the importing or exporting of such materials. In any case, such measures shall not affect the application of the provisions of this Law.

Article 18. Duration of the breeder’s right

The breeder’s right shall be granted for a period of 20 years from the date of the grant of the breeder’s right. For fruit trees and vines, the said period shall be 25 years from the said date.

CHAPTER 5.

VARIETY DENOMINATION

Article 19. Variety denomination and use of denomination

1. Every variety must be designated by a denomination which will be its generic designation and must enable the variety to be identified. Subject to part 4 of this Article, no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination, even after the expiration of the breeder's right.
2. The denomination may not consist of 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 UPOV Member, an existing variety of the same plant species or of a closely related species.
3. The variety denomination shall be submitted by the breeder to the authority. Where it is found that this denomination does not satisfy the requirements of part 2 of this Article, the authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The variety denomination shall be registered by the authority at the same time as the breeder's right is granted.
4. Prior rights of third persons shall not be affected. If by reason of a prior right, the use of the variety denomination is forbidden to a person who, in accordance with the provisions of part 8 of this Article, is obliged to use it, the authority shall require the breeder to submit another denomination for the variety.
5. A variety must be submitted to all UPOV Members under the same denomination. The authority shall register the denomination submitted in accordance with the provisions of this Article, unless it considers the denomination unsuitable. Where the denomination is considered unsuitable, the authority shall require the breeder to submit another denomination.
6. The authority shall ensure that all competent authorities of the members of UPOV are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations.
7. Every competent authority of a member of UPOV may address its observations on the submission, registration or cancellation of a variety denomination to the authority.

8. Any person who, in the territory of the Republic of the Armenia, offers for sale or markets propagating material of a protected variety shall be obliged to use the denomination of that variety, even after the expiration of the breeder's right for that variety, except where, in accordance with the provisions of part 4 of this Article, prior rights prevent such use.
9. 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 variety denomination must be easily recognisable.

CHAPTER 6.

NULLITY AND CANCELLATION OF THE BREEDER'S RIGHT

Article 20. Nullity of the breeder's right

1. The breeder's right shall be declared null and void through judicial procedure when it is established that:
 - (1) the conditions laid down in Articles 5 or 6 were not complied with at the time of the grant of the breeder's right;
 - (2) where the grant of the breeder's right has been essentially based upon information and documents furnished by the breeder, the conditions laid down in Articles 7 or 8 were not complied with at the time of the grant of the breeder's right;
 - (3) the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled.
2. No breeder's right shall be declared null and void, except for the cases provided for by point 1 of this Article.

Article 21. Cancellation of the breeder's right

1. The breeder's right may be cancelled, where:
 - (1) it is established that the conditions prescribed by Articles 7 or 8 of this Law are no longer fulfilled;
 - (2) after being requested to do so and within a prescribed period:
 - a. the breeder is not able to provide the authority with the information, documents or materials deemed necessary for verifying and maintaining the variety;
 - b. the breeder does not propose another denomination, where the variety denomination is cancelled after the grant of the breeder's right.
 - c. the breeder fails to pay such fees as may be payable to keep his right in force.
2. No breeder's right shall be cancelled except for the cases provided for by part 1 of this Article.

CHAPTER 7.

APPLICATION OF THE LAW AND FINAL PROVISIONS

Article 22. Liability in case of violation of this Law

1. Violation of the requirements of this Law shall entail civil liability prescribed by the law of the Republic of Armenia.

Article 23. Publication of official information

1. Public awareness shall be ensured by the authority:
 - (1) through publication of information regarding the applications submitted for the grants of the breeder's right and the grant of the right.
 - (2) through publication of proposed and approved variety denominations.

**Article 24. Powers of the Government of the Republic of Armenia
in the sector of protection of varieties of plants**

1. The Government of the Republic of Armenia shall approve:
 - (1) the procedure for the grant of the breeder's right, examination of denomination proposed for the new variety, the list of the necessary information, documents or materials submitted for tests;
 - (2) the procedure for publication of information on application submitted for the grant of the breeder's right and the grant of the right, of proposed and approved variety denominations;
 - (3) the procedure for appeals;
 - (4) the procedure for keeping a register of persons having the breeder's right;
 - (5) the procedure for cancellation of the breeder's right.

CHAPTER 8.

TRANSITIONAL PROVISIONS AND ENTRY INTO FORCE

Article 25. Previous titles

1. Before entry into force of this Law, according to the Law of the Republic of Armenia "On the protection of selection achievements", the rights of the persons having received patents on selection achievements in cultivation of plants shall, following the entry into force of this Law, continue to be exercised, as prescribed by this Law.

Article 26. *Entry into force*

1. This Law shall enter into force on the tenth day following the day of its official promulgation.
2. The Law "On the Protection of Plant Varieties" shall be repealed from the moment of entry into force of this law.

Article 27. Transitional provisions

The legal acts provided for by Article 9, part 3, Article 14, part 3 and 4, and Article 24 of this law shall be adopted within six months after the official publication of the law.

[End of Annex II and of document /
Fin de l'Annexe II et du document /
Ende der Anlage II und des Dokuments /
Fin del Anexo II y del documento]