

**SECRETARIAT RESOLUTION No. 064/96**

**La Paz, 9 August 1996**

**WHEREAS:**

Paragraph 5 of Secretariat Resolution No.026/96 of April 4, 1996 repealed Secretariat resolution No.79/95 of August 3, 1995, and gave the National Seed Directorate responsibility for preparing regulations adapted to the current legal framework of the Administrative Decentralization of the Executive, for the purpose of implementing Supreme Decree No.23069 of February 28, 1992;

**DECIDES:**

To approve the following **General Regulations on Seed Certification and Inspection**, containing 51 Articles, and to give the National Seed Directorate responsibility for their implementation and enforcement.

**GENERAL REGULATIONS ON SEED CERTIFICATION AND  
INSPECTION**

**Scope, Objectives and Functions**

**Article 1.** - These Regulations are intended to promote the production and use of high-quality seeds through their certification and inspection. They establish the standards and rules for implementation of Supreme Decree No.23069 of February 28, 1992 and Secretariat Resolution No.026/96 of April 4, 1996 on certification of the production, conditioning, distribution, domestic and foreign trade of seeds.

**Article 2.** – The certification and inspection procedures are for the purpose of providing farmers with high-quality seeds and preventing the introduction and dissemination of common harmful weeds, untested plant material and/or seeds bearing pests and/or diseases.

**Article 3.** – Public or private natural or legal persons engaged in the production, import, conditioning, transport, storage, trading, donation and distribution of seeds shall be subject to the certification and inspection procedure prescribed by these Regulations.

**Article 4.** – The National Secretariat of Agriculture and Livestock (SNAG) shall be responsible for the certification and inspection of the production and trading of seeds, through the National Seed Directorate and the Seed Offices and Laboratories within Bolivia.

**Article 5.** – Quality control shall replace the phytosanitary examination and the Plant Health Offices in the departmental Prefectures shall only issue export health certificates.

### **Structure and Functions of the National Seed Committee**

**Article 6.** – The National Seed Committee shall have the structure and powers defined in Articles 1 to 8 of Secretariat Resolution No.026/96.

### **Structure and Functions of the National Seed Directorate**

**Article 7.** – The National Seed Director shall be appointed by the National Secretary for Agriculture and Livestock and shall have the indicative powers defined in Articles 9 to 17 of Secretariat Resolution No.026/96. He shall also inform the National Committee and the Seed Committees of the availability of grants, financial resources and technical assistance and shall oversee the activities of the Coordinating Unit in relation to the National Registers of Varieties, Producers, Dealers and the Protection of New Plant Varieties, in coordination with the National Secretariat of Industry and Trade, as well as other competent bodies, and shall provide the SNAG with quarterly reports.

### **Structure and Functions of the Coordinating Unit**

**Article 8.** – In addition to the structure and functions set out in Chapter IV of Secretariat Resolution No.026/96, the Coordinating Unit shall:

- (a) In coordination with the Seed Committees and other public or private institutions, carry out training, promotion and research programs, as well as any other activities aimed at increasing the use of high-quality seeds.
- (b) Coordinate and support the Seed Committees in carrying out their activities.

**Article 9.** – The staff of the Coordinating Unit shall be appointed in accordance with the internal regulations proposed by the National Committee and approved by the SNAG.

### **Structure and Functions of the Seed Committees**

**Article 10.** – The structure and functions of the Seed Committees indicated in Chapter V of Secretariat Resolution No.26/96 shall also include the authority:

- (a) To propose the updating of legal provisions relating to seeds, through the National Seed Directorate.
- (b) To supervise the work, plans and budget of the Seed Offices and Laboratories.
- (c) To endorse previously approved species for inclusion in the certification process, through local and departmental seed programs.

### **Structure and Functions of the Seed Office and Laboratories**

**Article 11.** – The structure and functions of the Seed Offices and Laboratories shall be those defined in Article 20 of Secretariat Resolution No.26/96.

### **Categories of Seeds**

**Article 12.** – The following categories of seeds shall be recognized:

- (a) **Genetic.** – Seed or vegetative propagating material derived from improvements directly controlled by a phytotechnician and constituting the original source for the production of succeeding generations. This category shall not be subject to inspection.
- (b) **Pre-basic.** Material obtained from vegetative propagation in tissue culture *in vitro* and propagation in greenhouses which retain their genetic identity and have a high standard of health. This category shall be subject to inspection.
- (c) **Basic.** – Material obtained from the genetic or pre-basic seed whose genetic identity specified by the phytotechnician or breeder remains unchanged. This category shall be subject to the certification process.
- (d) **Registered.** – The progeny of the basic seed whose genetic identity remains unchanged, subject to the certification process in accordance with the relevant specifications laid down in the rules.
- (e) **Certified.** - Seed derived from the preceding categories, subject to the certification process.
- (f) **Inspected.** – Seed from the preceding categories, subject to the certification process.
- (g) **Emergency categories.** – Categories reserved for emergency supplies. Their use is regulated in the General and Specific Rules on Seed Production.

### **National Register of Varieties**

**Article 13.** – The National Seed Directorate shall be responsible for the National Register of Varieties subject to the following regulations:

- (a) The purpose of the National Register of Varieties is to establish a general administrative system for the varieties of seeds used in Bolivia and those which for any reason do not have the characteristics specified for their cultivation.
- (b) Requirements for a variety: In order to be registered, a variety shall meet the following requirements:

- (1) Be distinct from others listed in the National Register in at least one characteristic of agricultural importance.
- (2) Remain stable: in other words, after reproduction or at the end of each cycle, it shall still conform to the description of the variety.
- (3) Be uniform: in other words, individual examples are alike in all the characteristics taken into account in each case.

(c) Application for registration

1. Applicant. An application for registration of a variety shall be made by the breeder or his legal representative, domiciled in Bolivia.
2. Registration. Applications for registration shall be made to the National Directorate through the Seed Offices and Laboratories in Bolivia, accompanied by the information specified.
3. Documentation. In general, an application for registration shall contain at least the following information:
  - (a) Name and address of the applicant.
  - (b) Name and address of the breeder.
  - (c) Cultivation.
  - (d) Proposed name of the variety.
  - (e) Country of origin of the variety.
  - (f) Method of breeding.
  - (g) Description of the process to be used to conserve the variety.
  - (h) Distinctive characteristics of the new variety.
  - (i) Tests carried out and results thereof.
  - (j) Detailed description of the variety.
  - (k) Most appropriate ecological conditions for growing it.
  - (l) Where the applicant is not the breeder, proof of his authorization variety shall be provided. For foreign varieties, the substantiating documentation shall be legalized by the Bolivian Consulate in the country of origin and for varieties of Bolivian origin it shall be certified.
- (d) Vegetative material: Applicants shall also furnish the vegetative material (seeds, tubercles, rhizomes, stolons, etc.) required for the relevant tests, as many times as required.
- (e) Sworn declaration: Applicants shall present a sworn declaration indicating the characteristics of the new variety, specifying that it is new, distinct, uniform and stable.
- (f) Field trials and laboratory tests: Where the information contained in the sworn declaration does not clearly determine that the material to be registered is a new variety, the National Seed Directorate of the SNAG shall conduct field trials and laboratory tests in order to corroborate the information.

- (g) Approval or refusal: Based on the results of the foregoing information, the National Seed Directorate of the SNAG shall approve or refuse registration.
- (h) List of varieties: for registered varieties, the National Directorate shall publish lists of the commercial varieties of cultivated species, species whose cultivation is restricted, protected or liberalized, resulting from the certification process, and others;
- (i) Variety denomination: Each variety shall be designated by a single generic denomination that allows it to be identified without any confusion, consequently:
- (1) It shall not consist solely of figures.
  - (2) It shall not be liable to mislead or cause confusion concerning the characteristics of the variety or the identity of other breeders or owners who possess other varieties.
  - (3) Where the variety has been bred abroad, it shall as far as possible retain the denomination of the place of origin.
  - (4) It shall not contain words such as “varieties”, “cultivar”, “form”, “hybrid”, “cross”, “genetic”, “basic”, or other generic words.
  - (5) It shall be distinct from other varieties and shall not contain diminutives and/or synonyms of names of existing varieties in order to prevent confusion and to protect the right of registration.
- (j) Grounds for refusal:
- (1) If the documentation submitted is incomplete.
  - (2) If the variety is not uniform, stable and/or distinct.
  - (3) If the breeder’s authorization has not been obtained.
- (k) Disqualification from registration of a variety: A variety may be disqualified from registration:
- (1) If it is proved that the documentation submitted is false.
  - (2) If it does not retain the characteristics for which it was registered.
- (l) Fee: The cost of registering a variety shall comprise the following:
- (1) The registration fee.

- (2) The cost of field trials and/or laboratory tests prior to registration.
- (3) The fee for verification by field trials or laboratory tests after registration.

### **Agronomic Approval**

**Article 14.** – A natural or legal person intending to produce and/or market seeds of varieties and/or hybrids in Bolivia shall comply with the following agronomic approval rules:

- (a) The National Seed Directorate of the SNAG and the Seed Offices and Laboratories shall be responsible for testing for the purposes of agronomic approval and may utilize outside services therefor. If the applicant has an approved centre, subject to authorization it may carry out the field trials. Where any problem exists or is envisaged relating to the performance of a variety in the area where it is to be marketed and/or distributed, the competent Office and Laboratory shall request a prior technical study and, subject to its findings, the National Directorate shall suspend the trading and/or distribution of the product in order to safeguard agriculture in the region concerned.
- (b) Duration of testing: Tests shall be carried out over at least two years during the same season. Subject to justification and where the Seed Office and Laboratory deems necessary, they may last for a longer period.
- (c) Site of testing: For the purposes of approving a variety, the tests shall be carried out in the area recommended by the breeders.
- (d) Application for approval: A person seeking approval of a variety shall provide the Seed Office and Laboratory with a duly completed application for approval accompanied by the following documents:
  - (1) Certificate of the National Register of Varieties.
  - (2) Description of the variety's characteristics.
  - (3) Production zones.
- (e) Supply of material for testing: The applicant shall furnish the Seed Office and Laboratory with the quantity of seed needed to carry out the tests.

The seeds and the documentation shall be provided within the following time limits:

- (1) **For summer sowing:** testing application, until 30 August. Supply of material, until 30 September.
- (2) **For winter sowing:** testing application, until 28 February. Supply of material, until 30 April.

- (f) Test results: The Seed Office and Laboratory shall provide the Technical Commission of the competent Committee with the results of the test.
- (g) Approval or refusal: On the basis of the results, the Technical Commission of the Seed Committee shall approve or refuse the trading, use and/or distribution of the seed variety seeking agronomic approval and shall inform the National Directorate for the purpose of confirmation and disclosure at the national level. Agronomic approval of a seed variety shall have legal effects for its trading within Bolivia.
- (h) Fee: The person concerned shall pay the amount of the service approved by the competent Seed Committee and endorsed by the SNAG.

### **Variety Protection**

**Article 15.** – Pursuant to Decision No.345 of the Board of the Cartagena Agreement (JUNAC), which establishes protection for the rights of breeders of plant varieties, a natural or legal person that has created or bred a new variety may request protection for the variety through the competent national authority, designated as the National Secretariat of Agriculture and Livestock pursuant to Article 13 of Supreme Decree No. 23069, subject to the following regulations:

- (a) a variety shall be considered as predominantly derived from the initial variety when it originates from this 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 original variety, particularly if it is clearly distinguishable from the initial variety and, except for the differences which result from the 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.
- (b) A natural or legal person who has bred or created a new variety may request a “**Title of ownership**”, which gives the holder the right to prevent third parties from carrying out the following acts in respect of the reproductive or propagating material of the protected variety without his consent:
  - (1) Production, reproduction or propagation.
  - (2) Conditioning for the purposes of reproduction or propagation.
  - (3) Offering for sale.
  - (4) Selling or any other act which implies placing the reproductive or propagating material on the market for commercial purposes.
  - (5) Exporting.
  - (6) Importing.

- (7) Stocking for any of the purposes mentioned in the preceding paragraphs.
- (8) Commercial use of ornamental plants or parts thereof as propagating material with the aim of producing ornamental or fruit-bearing plants or parts of ornamental or fruit-bearing plants or cut flowers.
- (9) Engaging in the acts specified in the preceding paragraphs in respect of the harvested product, including entire plants and parts of plants obtained through the unauthorized use of reproductive or propagating material of the protected variety, unless the holder has had reasonable opportunity to exercise his right in relation to the said reproductive or propagating material.

A breeder's certificate shall also grant the holder exercise of the rights specified in the preceding paragraphs in respect of varieties which are not clearly distinguishable from the protected variety, in accordance with subparagraph (g)(2) of these Regulations, and in respect of varieties whose production requires the repeated use of the protected variety, as well as varieties which are essentially derived from the protected variety, unless it is itself an essentially derived variety.

- (c) The duly protected title of ownership is transferable and may be the subject of any type of contract. In the event of dispute, the matter may be brought before the ordinary courts. Changes in ownership shall be registered with the National Seed Directorate of the SNAG.
- (d) A variety for which variety protection is sought shall meet the following requirements:
  - (1) Applications shall be accompanied by the following information:
    - (a) Name and address of the breeder.
    - (b) Cultivation.
    - (c) Proposed name of the variety.
    - (d) Germplasm from which it originated.
    - (e) Country of origin of the variety.
    - (f) Method of breeding.
    - (g) Description of the process to be used to conserve the variety.
    - (h) Distinctive characteristics of the new variety.
    - (i) Tests carried out and results thereof.
    - (j) Detailed description of the variety.
    - (k) Most appropriate ecological conditions for growing it.
    - (l) Where the applicant is not the breeder, he shall provide proof of his authorization to obtain protection of the variety. For foreign varieties, the substantiating documentation shall be legalized by the Bolivian Consulate in the country of origin and for varieties of Bolivian origin it shall be certified.

- (2) Vegetative material: Applicants shall also furnish the vegetative material (seeds, tubercules, rhizomes, stolons, etc.) required for the relevant tests, as many times as required.
- (3) Sworn declaration: Applicants shall present a sworn declaration indicating the characteristics of the new variety, specifying that it is new, distinct, uniform and stable, in accordance with these Regulations.
- (4) Field trials and laboratory tests: Where the information contained in the sworn declaration does not clearly determine that the material to be protected is a variety that is distinct, stable and uniform, the National Seed Directorate of the SNAG shall conduct field trials and laboratory tests in order to corroborate the information.
- (5) Approval or refusal: Based on the results of the foregoing information, the National Seed Directorate of the SNAG shall approve or refuse protection of the variety.
- (6) List of protected varieties: The National Seed Directorate of the SNAG shall publish the list of varieties that have been protected.
- (7) Denomination of new varieties: The denomination of new varieties shall comply with the following:
  - (a) A variety shall be given a denomination that is its generic designation.
  - (b) No rights 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 expiry of the breeder's right.
  - (c) 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 in a particular country.  
  
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. It must be different from every denomination which designates, in the territory of any country, an existing variety of the same plant species or of a closely related species.
  - (d) The denomination of the variety shall be submitted to the National Seed Directorate of the SNAG by the breeder.
  - (e) If it is found that the denomination does not satisfy the requirements of the preceding paragraph, the authorities 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 competent national authority at the same time as the breeder's right is granted.

- (f) Prior rights of third parties 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 subparagraph (i) is obliged to use it, the competent national authority shall require the breeder to propose another denomination for the variety.
- (g) A variety shall only be the subject of an application for a breeder's right under the same denomination in the territory of origin. The National Seed Directorate of the SNAG shall register the denomination proposed, unless it considers it unsuitable. In the latter case, it shall require the breeder to submit another denomination.
- (h) The National Seed Directorate of the SNAG shall ensure that the competent national authorities of the other countries parties to the Cartagena Agreement are informed of matters concerning variety denominations. Any national competent authority may address its observations on the registration of a denomination to the authority which communicated that denomination.
- (i) A person who, under any title, offers for sale, markets or disposes of propagating material of a protected variety shall be obliged to use the denomination of that variety, even after the expiry of the breeder's right in that variety, except where, in accordance with the provisions of paragraph (f), prior rights prevent such use.
- (j) When a variety is offered for sale, marketed or disposed of under any title, the National Seed Directorate of the SNAG may authorize it to be associated with a trademark, trade name or other sign distinct from the registered variety denomination.

If such an indication is associated, the denomination must be easily recognizable.

- (k) Denominations of a plant variety shall not be registered as trademarks or trade names.
- (e) A title of ownership of a variety shall not give the holder the right to prevent third parties from using the protected variety if such use is:
- (1) In a private context for non-commercial purposes.

- (2) For experimental purposes, or
  - (3) For the purposes of breeding and exploiting a new variety, except in the case of a variety essentially derived from a protected variety. This new variety may be protected in the name of its breeder.
- (f) The breeder's right shall not be infringed by persons who keep and sow the product obtained from growing the protected variety for their own use or for sale as a raw material or foodstuff, excluding commercial use of the reproductive or propagating material, including entire plants and parts thereof of fruit, ornamental and forest species.
- (g) In addition to the above requirements, the variety must comply with the following characteristics:
- (1) Be new: a variety shall be deemed to be new if the reproductive or propagating material, or harvested material of the variety, has not been sold or otherwise disposed of to others, by or with the consent of the breeder or his successor in title, for purposes of commercial exploitation of the variety. The condition of novelty shall no longer apply when:
    - (a) Exploitation was initiated at least one year before the date of filing the application for a title of ownership or the priority claimed if the sale or disposal took place within Bolivia or any country member of the Board of the Cartagena Agreement.
    - (b) Exploitation was initiated at least four years, or in the case of trees and vines at least six years, prior to the date of filing the application for a title of ownership or the priority claimed if the sale or disposal took place elsewhere than in Bolivia or in any other country member of the Board of the Cartagena Agreement.
    - (c) The condition of novelty shall not be lost through the sale or disposal of the variety to third parties, for example, when such acts:
      - 1. Are the result of misuse to the detriment of the breeder or his successor in title.
      - 2. Form part of an agreement to transfer the right in the variety provided that it has not physically been disposed of to a third party.
      - 3. Form part of an agreement under which a third party, on behalf of the breeder, increases the stocks of the reproductive or propagating material.

4. Form part of an agreement under which a third party conducts field trials or laboratory tests or small-scale processing tests in order to evaluate the variety.
5. Are aimed at obtaining the harvested material that would have been obtained as a secondary or surplus product to the variety or the activities defined in subparagraphs 3 and 4 above.
6. Are carried out unlawfully.

- (2) Be distinct: A variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of filing of the application for a title of ownership or the priority claimed.

The filing of an application for a title of ownership or for listing in the Official Register of crops shall render the variety a matter of common knowledge from that date provided that the application leads to the granting of a title of ownership or inclusion of the variety in the Register, as the case may be.

- (3) Be uniform: A variety shall be deemed to be uniform if is sufficiently uniform in its essential characteristics in accordance with the systems of reproduction or propagation.
- (4) Be stable: In its essential characteristics, in other words, the characteristics described by its breeder remain unchanged at the end of each cycle of propagation.

- (h) The term of a title of ownership shall be 25 years for vines, trees including fruit trees, as well as their graft stock, and 20 years for all other species, computed from the date of grant of the title.
- (i) When required to do so by the National Seed Directorate of the SNAG, the holder of a title of ownership shall provide a live sample of the protected variety possessing the same characteristics as originally defined, together with all the information needed to comply with these Regulations.
- (j) The holder of a title of ownership shall pay the annual fee for protection according to the scale and regulations approved by the National Seed Directorate of the SNAG.
- (k) A breeder who has duly filed an application for protection in another State shall enjoy a right of priority for a period of 12 months for the purpose of filing an application for protection. This period shall be computed from the date of filing of the first application. The day of filing shall not be included in the latter period.

- (l) In order to benefit from the provision in subparagraph (k), the new submission shall include an application for protection, the claim of priority of the first application and, within a period of three months, a certified copy of the documents constituting the said application.
- (m) A title of ownership shall expire for the following reasons:
  - (1) Termination of the legal period of the breeder's right, in which case the variety shall become available for public use.
  - (2) Renunciation of his right by the breeder, in which case the variety shall become part of the public domain.
- (n) A title of ownership granted shall become null and void if it is established that:
  - (1) The conditions of novelty and distinctness established in these Regulations were not complied with at the time of the grant of the title of ownership.
  - (2) The grant of the title of ownership was essentially based upon information and documents furnished by the breeder and the conditions of uniformity and stability prescribed in these Regulations were not effectively complied with at the time of the grant of the title of ownership; or
  - (3) The title of ownership was granted to a person who was not entitled to it, unless it was transferred to the person who was so entitled.

No breeder's right shall be declared null and void for reasons other than those referred to in the preceding subparagraphs.
- (ñ) A title of ownership shall be cancelled if it is established that:
  - (1) The conditions of uniformity and stability prescribed in these Regulations are not complied with.
  - (2) If, after being requested to do so, within a prescribed period:
    - (a) The breeder does not provide the authority with the information, documents or material deemed necessary for verifying the maintenance of the variety.
    - (b) Where the denomination of the variety is cancelled after the grant of the right, the breeder does not propose another suitable denomination.
    - (c) The annual fee for registering ownership of a variety has not been paid within three months from its notification.

No breeder's right shall be cancelled for reasons other than those referred to in the preceding paragraphs.

- (o) For the purpose of ensuring adequate supplies of a protected variety, for reasons of public interest, the National Secretariat of Agriculture and Livestock may declare a variety freely available, subject to fair compensation to the breeder. The National Seed Directorate of the SNAG shall determine the amount of the compensation after hearing the parties and on the basis of the extent of exploitation of the protected variety.

While the declaration of free availability is in effect, the National Seed Directorate of the SNAG shall permit interested persons who offer sufficient technical and financial guarantees and register at its offices for this purpose to use the variety.

A declaration of free availability shall remain in effect as long as the grounds for it continue to exist, with a maximum of two (2) years, which may be extended for one further period of two years if the conditions for the declaration continue to exist after the expiry of the first two-year period.

- (p) Breeders resident abroad shall enjoy equal rights with breeders resident in Bolivia.
- (q) Any person seeking protection of a foreign variety shall:
  - (1) Indicate his legal domicile in Bolivia for this purpose or appoint an authorized representative.
  - (2) Where necessary, the National Seed Directorate of the SNAG may request reasonable proof showing that the applicant is entitled to protect the variety.
  - (3) Undertake to meet the legal provisions and the regulations applicable in Bolivia to the ownership of varieties.
- (r) The National Seed Directorate of the SNAG shall be given the following responsibilities:
  - (1) To keep the Register of Ownership of Varieties.
  - (2) To grant, refuse, cancel or annul titles of ownership of varieties.
  - (3) Where necessary, it may itself obtain the technical proof it deems necessary for the purpose of granting titles of ownership of varieties, or may do so through other bodies, and may seek confirmation or verification from similar bodies.
  - (4) To enter into relevant national or international treaties or agreements.

- (5) At any time, to request information and samples of culture material of a variety from the holder of a title of ownership of the variety in question.
- (s) A breeder shall enjoy provisional protection during the period between filing an application and grant of a title of ownership. Action for damages may only be brought after the title of ownership has been granted, but it may cover damage caused to the plaintiff as of publication of the application.
- (t) After registration has been requested and the information has been examined, the National Seed Directorate of the SNAG shall publish once only in three (3) Bolivian newspapers a summary of the application, initiating a period of thirty (30) working days during which third parties may submit any claims. At the expiry of this period and if no objection has been lodged, the title of ownership shall be granted.

If any claim is made during this period, it shall be communicated to the applicant, who shall have sixty (60) working days to present his arguments. After reviewing the information, the National Seed Directorate of the SNAG shall grant the title or reject the application made.

- (u) Transitional provision:

A variety that was not new when the National Register of Varieties was opened for the submission of applications may be protected, notwithstanding the provisions of subparagraph (f)(1) of these Regulations, if it meets the following criteria:

- (1) The application is submitted during the year following the opening of the Register of Ownership for the genus or species to which the variety belongs, the date of February 1, 1996 being deemed the date of opening of the Register; and
- (2) The variety has been entered in a register of varieties in any country member of the Board of the Cartagena Agreement or in a register of protected varieties in any country that has special legislation on the protection of plant varieties.

The duration of a title of ownership granted under this provision shall be in proportion to the period that has already elapsed after listing or registration in the country referred to in paragraph (2) above. If the variety has been registered in several countries, the earliest listing or registration shall apply.

### **Certification and Inspection of Seeds**

**Article 16.** – The Seed Offices and Laboratories shall be responsible for the following:

- (a) Keeping the registers of producers, conditioners and importers of seeds.

- (b) Certifying the origin and quality of seeds available to farmers.
- (c) Monitoring and ensuring compliance with the technical specifications required for the cultivation, utilization and storage of seeds.
- (d) Issuing and verifying certificates of origin and quality, as well as the labels for seeds produced.
- (e) Inspecting imports to ensure that they meet the quality and adjustment criteria laid down in the legal provisions.
- (f) Collecting the fees for certification, registration, use of labels and other services. The revenue shall be deposited in a special account opened by the Seed Committees.

**Article 17.** – The standards for the certification of seeds shall specify the permitted tolerance levels for field inspections and laboratory tests.

**Article 18.** – For the purposes of quality control, official inspectors shall have free access to farms, installations, stores, warehouses and other places where seeds are produced, conditioned, stored, sold or distributed.

**Article 19.** – If it is found that the certified and inspected seeds do not meet the technical requirements, they may not be marketed or distributed on penalty of a fine and temporary or definitive cessation of the activity.

**Article 20.** – Seed Offices and Laboratories, using the methodology and procedures of the OECD, AOSCA and other international institutions, shall be empowered to inspect fields used to produce seeds and to carry out laboratory tests on batches of seeds for export.

**Article 21.** – Seed Offices and Laboratories shall be given properly trained staff for the purpose of controlling the quality of domestically produced and imported seeds.

### **Register of Seed Producers, Conditioners and Dealers**

**Article 22.** – Natural or legal persons engaged in selling and/or distributing seeds shall be registered in the National Register of Seed Dealers kept by the National Seed Directorate of the SNAG. The following information shall be submitted for this purpose:

- (1) Name or company name.
- (2) Name of the owner(s).
- (3) Postal and telegraphic addresses.
- (4) Capacity and type of warehouses or stores.
- (5) Branches or agencies showing their addresses.

- (6) Single Tax Registration number.
- (7) Specification of the class and category of the seeds in which they deal.

**Article 23.** – Natural or legal persons engaged in conditioning and/or producing seeds shall be registered with the Seed Office and Laboratory in their place of domicile. The following information shall be submitted for this purpose:

**Conditioners**

- (1) Name or company name.
- (2) Name of the owner(s).
- (3) Postal and telegraphic addresses of the parent company and branches or agents.
- (4) Specification of the class and category of the seeds which they condition.
- (5) Details concerning the material facilities available such as warehouses, stores, equipment, etc., indicating their capacity.
- (6) Single Tax Registration number.

**Seed producers**

- (1) Name or company name of the nursery or producer.
- (2) Name of the owner(s).
- (3) Postal and telegraphic addresses and site.
- (4) Specification of the class and category of the seeds which they produce.
- (5) Single Tax Registration number.
- (6) Identity card for individual persons.

**Trade in Seeds**

**Article 24.** – Only seeds which meet the standards and registration requirements in force and which are designated as such on the official labels issued by the Seed Office and Laboratory may be sold to the public as certified seeds within the legally established categories. The person trading or distributing the seeds under any system shall be solely responsible for their quality.

**Article 25.** – The use of the expression “**Certified Seed**” on any material that does not meet the established certification and inspection standards shall be banned on penalty of a fine, seizure or suspension of the establishment’s operations.

**Article 26.** – Any seed offered for sale, transported, distributed or donated shall also bear the official label issued by the competent Seed Office and Laboratory and shall be identified by the following information:

- (a) Brand, name and address of the nursery or producer.
- (b) Common name of the species and variety.
- (c) Origin and source of the seed.
- (d) Chemical treatment used.
- (e) Net weight.
- (f) Category.

**Article 27.** – The transport of seeds in bulk shall require the label showing the number of the certificate of origin and quality issued by the competent Seed Office and Laboratory.

**Article 28.** – The import of seeds shall be subject to prior authorization by the Seed Committee, which shall be issued on the basis of the report by the Seed Office and Laboratory and the Plant Health Department.

**Article 29.** – Requests for the import of seeds shall be dealt with exclusively by the Seed Committee in the place where they are to be used and shall be verified by the Seed Office and Laboratory.

**Article 30.** – In order to obtain approval for the import of any class or category of seed, importers shall furnish the competent Seed Committee with the following information:

- (a) Species, variety, category of seed to be imported.
- (b) Quality analysis and phytosanitary certificate issued by the competent authorities in the country of origin.
- (c) Origin and quantity.
- (d) Area of distribution and use in Bolivia.
- (e) Customs post for the entry, destination and use of the seed.

**Article 31.** – Varieties that are listed in the National Register of Varieties and have been verified may be marketed, distributed or entered in the certification program.

**Article 32.** – The National Seed Directorate of the SNAG shall be empowered to propose the regulations for importing seed for its own use. Such seeds shall not be exempt from inspection and payment for the services furnished.

**Article 33.** – Official bodies or individual establishments which import grains or other plant structures for exclusive use in industrial activities or for consumption may not under any circumstances use them as seed on pain of the penalties established in these Regulations.

**Article 34.** – Publicity by producers and dealers concerning certified seeds shall correspond to the characteristics of the variety and the seed batch offered for sale. Violation of this provision shall lead to penalties for the offender.

**Article 35.** – Distribution of imported seeds containing prohibited weeds, diseases or pests harmful for domestic agriculture shall be prohibited. The distribution of varieties not authorized in Bolivia shall also be prohibited.

**Article 36.** – Standards for domestic and imported seeds relating to their purity, weeds, germination percentage, pests and diseases shall be laid down for each crop in a special publication which shall be revised at regular intervals.

Compliance with these standards shall be compulsory for any seeds intended for trading, donation or distribution in Bolivia.

### **Seed Testing**

**Article 37.** – Seed Offices and Laboratories, following the rules of the International Seed Testing Association (ISTA), shall be empowered to take samples, inspect and test seeds transported, sold, offered for sale, donated or distributed for sowing or planting in order to verify that they meet the legal provisions in effect.

**Article 38.** – Seed Offices and Laboratories shall have official seed testing laboratories for the purpose of verifying the quality of seeds produced in Bolivia or imported. These laboratories shall be exclusively authorized to issue official quality certificates.

**Article 39.** – Subject to a special request, private laboratories shall be approved as accredited laboratories provided that they meet the minimum requirements fixed by the National Seed Directorate of the SNAG. These laboratories shall assist in quality control under the seed certification process.

**Article 40.** – Laboratory reports for the purposes of certification or control of trade, transport and distribution of seeds in Bolivia shall show the category, variety, type, batch number, origin, harmful or tolerable seeds of weeds, seeds of other crops and varieties, inert matter, germination percentage, hard seeds, humidity, cultural value, date of test and name of the owner or agent.

**Article 41.** – Any buyer of part of a batch of seeds who questions their quality may request the Seed Office and Laboratory to take samples and carry out the testing for purity and germination required within a period of fifteen (15) days from the date of

purchase until just before the harvest in order to determine genetic identity. He may require the seller to refund the cost of the seed, including the payment of damages, if the seed does not meet the terms of the transaction. Complaints shall be made in writing to the competent Seed Office and Laboratory accompanied by the invoice or proof of purchase.

**Article 42.** – If it is found that there are grounds for the complaint, the seller shall be obliged to reimburse the cost of the seed and freight to the buyer, without prejudice to the penalties laid down in the law. The buyer shall return the seed not utilized in its respective packets and the seller shall be responsible for the cost of return. The buyer may bring legal proceedings for the prejudice caused.

### **Violations and Sanctions**

**Article 43.** – A producer, importer or dealer in seeds or any other intermediary who produces, distributes, donates or sells seeds without approved registration in the National Register of Seed Dealers shall be punishable by a fine, as well as the seizure of the batches of seeds in his possession and the closure of his establishment.

**Article 44.** – The following acts shall be punishable by a fine and, as the case may be, seizure of the seeds and/or closure of the establishment:

- (a) Offering, using or distributing certified seeds (meaning all officially recognized categories), whether Bolivian or imported, which do not have or no longer have the qualities and characteristics laid down in the special rules applicable to the certification of seeds.
- (b) Offering or distributing as seed common materials (grains, tubercules, cuttings, etc.) which have not undergone the certification process.
- (c) Selling, distributing, donating or transporting seed without official certification labels or identification.
- (d) Adulterating certified inspected seeds at any stage of production, conditioning or distribution.
- (e) All acts intended to mislead the inspection authorities regarding the quality or origin of the seeds, as well as failure to comply with the technical specifications for production, conditioning, importing or storing seeds.
- (f) Using false certificates, labels or other documents or falsifying them in relation to the investigation, registration, inspection, certification, production, transport, distribution, trading, import and export of seeds.
- (g) Circulating advertising material that does not correspond to the actual characteristics of the seeds offered.
- (h) Trading, distributing, donating, and/or transporting seeds whose sell-by date has expired.

- (i) Trading, distributing and/or donating seeds treated with substances harmful to human or animal health without the notice “Unfit for use as a foodstuff” and the danger symbol on the package.
- (j) Trading, distributing, donating and/or transporting emergency category seed in areas where the competent Seed Committee has not authorized such categories.
- (k) Importing seed without the authorization of the competent Seed Committee.
- (l) Importing seed without the relevant documentation.
- (m) Using imported seed for purposes other than that for which it was authorized (research, own use, etc.) without prior authorization by the competent Seed Office and Laboratory.
- (n) Trading, distributing and/or donating imported seed when the competent Seed Office and Laboratory has not verified that the batch meets the standards and rules for the certification of seeds.
- (o) Trading, distributing and/or donating imported seed of agricultural species or varieties which are not officially allowed to be sown or have not been authorized for commercial production in Bolivia.
- (p) Trading, distributing, transporting or donating seed of varieties that are not listed in the National Register of Varieties.
- (q) Trading, using, distributing, transporting or donating seed that has been suspended by the competent Seed Office and Laboratory.
- (r) Hampering or preventing in any way the inspection activities of the competent authority.
- (s) Trading, distributing, transporting or donating seed of protected varieties without the consent of the holder of the title of ownership.
- (t) Any act that violates the special regulations on the trading and conditioning of seeds.

**Article 45.** – Officials of the National Seed Directorate, the Coordinating Unit, Seed Offices and Laboratories who produce, condition or market seeds on their own behalf shall be punishable by dismissal and shall be subject to legal proceedings. Failure to respect the legal provisions in effect regarding certification shall also be punishable.

**Article 46.** – In cases not specifically mentioned but which involve failure to observe the standards and rules applying to seeds, the Seed Offices and Laboratories shall punish the infringers by fines, seizure, temporary or even definitive closure of their establishment or facilities.

**Article 47.** – Infringement shall be punished by the Seed Committee through the Seed Offices and Laboratories, with the assistance of the police.

**Article 48.** – The amount of the fines shall be determined by the Seed Committees and approved by the SNAG.

**Article 49.** – Seeds and other material seized may be incinerated, destroyed or returned subject to compliance with the rules applicable. Fines imposed under these Regulations shall become part of the assets of the Seed Committee concerned. These funds shall be exclusively used to develop the Seed Offices and Laboratories.

**Article 50.** – In cases not specified in these Regulations, the National Seed Directorate of the SNAG shall be empowered to issue the relevant administrative decisions.

### **Definitions and Terminology Used**

**Article 51.** – For the purposes of interpreting these Regulations on certification rules, standards and requirements, the following definitions shall apply:

1. **Batch of seeds:** Specific quantity of physically identifiable uniform seeds, for which a test certificate can be issued.
2. **Breeder:** Any natural or legal person who has created or discovered and developed a variety that is distinct from existing varieties, using several methods.
3. **Certified seed:** Seeds that have been handled in such a way that their identity and genetic purity have been properly maintained, under the Seed Certification process, from the field stage to the labelling stage, and divided into the following categories: basic, registered, certified and inspected.
4. **Collaborator:** Any producer who, under a contract with a nursery or seed producer, engages in the propagation of seeds.
5. **Conditioner:** any person or entity engaged in conditioning seeds.
6. **Consumer:** Any natural or legal person who buys seed for sowing or obtains it in any other way.
7. **Cultural value:** The percentage expression that defines the true value of the seed, obtained by multiplying the physical purity by the germination percentage divided by one hundred.
8. **Dealer:** Any natural or legal person engaged in buying and selling domestically produced and/or imported seeds.
9. **Genetic purity:** Number of individual examples that have the same genotype and phenotype characteristics.

10. **Germination percentage**: The number of normal seedlings obtained per one hundred seeds of the pure seed component during a germination test under the conditions and periods specified for each species.
11. **Hard seeds**: Seeds from plant species such as leguminosae, malvaceae, etc. which remain hard after germination because they have not absorbed water as their teguments are impermeable.
12. **Harmful weed seeds**: Weeds that are easily distributed, adapt easily, are aggressive and difficult to control in the field and constitute a serious risk in agricultural zones.
13. **Hybrid**: The first generation of cross-breeding under controlled conditions between progenitors with satisfactory genetic constitutions and variety purity.
14. **Inert matter**: Any foreign matter that is not a seed.
15. **Information**: The specifications, conditions, characteristics and other information on the seed, in addition to that shown on the label, and disseminated to the public and farmers by various means.
16. **Inspection**: The process of verifying the quality of seed by taking samples in the final packaging stage and/or during trading so as to ensure compliance with the regulations in force.
17. **Label**: Official printed indication showing the quality standards to be met by the seed in order to be marketed and/or distributed.
18. **Legal person**: A person, entity or partnership, corporation, company, physically or morally able to undertake duties and obligations. They are legal subjects in accordance with the country's laws.
19. **Mixture**: A combination of seeds of two or more species provided that none of them meets the minimum purity requirement established in the Regulations in order to be considered a single species.
20. **Officially recognized**: Recognized under the laws and regulations of Bolivia or by the government of any foreign country where the seed is produced.
21. **Origin**: Country, region or place where the seed is produced.
22. **Processing or conditioning**: Drying, cleaning, selecting, sorting, scarifying, applying chemical or physical treatments, packaging or any other operation intended to maintain and/or improve the quality of batches of seeds.
23. **Prohibited weed seeds**: Weed seeds with harmful characteristics which may not be included in batches of seeds for trading and/or distribution.
24. **Pure seeds**: Seeds of the predominant species in a sample undergoing quality testing after removing foreign and inert matter.

25. **Seed**: Any botanical structure of sexual or asexual origin intended for sowing, planting or propagation of a species.
26. **Seed certification**: Technical process for the official verification of quality, either in the field or in laboratories, carried out by Seed Offices and Laboratories.
27. **Seed nursery**: Area used to produce seeds of various categories.
28. **Seed of other crops**: Seeds of cultivated species other than the species being tested and present in the test sample.
29. **Seed producer**: Any properly registered natural or legal person who is directly engaged in or responsible for the propagation, conditioning and/or trading of seeds.
30. **Seed quality**: Seed of maximum physical and genetic purity, sanitary and physiological quality.
31. **Species**: Botanical group identified by a scientific name with specific morphological differences distinguishing it from others.
32. **Suspension of sales**: Administrative order by the competent authority halting the sale, use, distribution and movement of a specified quantity of seeds that do not meet the requirements laid down in the legislation and regulations in force.
33. **Tolerable or common weed seeds**: Any propagation structure whose presence in conjunction with seeds is permitted within the tolerance levels laid down in the Seed Standards.
34. **Treated seeds**: Seeds on which substances or processes have been used with the aim of encouraging germination and controlling certain pathogenic organisms, insects or other diseases which attack the seeds and/or seedlings.
35. **Variety**: A plant grouping within a single botanical taxon of the lowest known rank, which can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes and can be distinguished from any other plant grouping by the expression of at least one of the said characteristics. A particular variety may be represented by several plants, a single plant or one or more parts of a plant, provided that the said part or parts can be used to produce entire plants of the variety.
36. **Variety mixture**: Batch or content of a seed field which contains more than one variety of the same species.
37. **Weed**: Any plant that grows where it is not wanted.

**For registration, publication and enforcement.**

## DRAFT SECRETARIAT RESOLUTION

### WHEREAS:

Article Thirteen of Supreme Decree No. 23069 entrusts the National Secretariat of Agriculture and Livestock with implementation and regulation in order to protect new plant varieties;

The National Secretariat of Agriculture and Livestock has given effect to Decision No.345 of the Board of the Cartagena Agreement (JUNAC) in Secretariat Resolution No.064/96, enacted on August 9, 1996 for implementation and compliance;

The transitional Article of Decision No.345 of the JUNAC provides that varieties circulated before enactment of the Decision shall have fair treatment so that they may be used by farmers for the benefit of the country's agriculture and research in general and may have the economic advantage of developing sustainable research;

### DECIDES THE FOLLOWING:

**Article 1.** – Paragraph U of Article 15 of Secretariat Resolution No.064/96 of August 9, 1996 shall be replaced by the following:

A variety that was not new on the date on which the National Register for the Protection of New Plant Varieties came into force may be registered, notwithstanding the provisions of subparagraph (g)(i) of Secretariat Resolution No.069/96, if it meets the following requirements:

- (1) The application has been submitted within the year following the date of opening of the Register for the genus or species corresponding to the variety, the date of opening of the Register for the protection of a genus or species being deemed to be the date on which the first title of ownership of the genus or species concerned was granted.
- (2) The variety has been registered in a Register of Varieties in any of the member countries or in a Register of Protected Varieties in any country that has special legislation on the protection of plant varieties and which grants reciprocal treatment to the member country in which the application is filed.

The term of a breeder's certificate granted under this provision shall be proportional to the period that has already elapsed after listing or registration in the country referred to in subparagraph (2) above. If a variety is registered in several countries, the earliest listing or registration shall apply.

**Article 2.** – The National Seed Directorate and the Seed Offices and Laboratories shall be responsible for implementation, compliance and dissemination.

Done at La Paz on ..... August in the year one thousand nine hundred and ninety seven.

