

## URUGUAY

Law No. 16.811<sup>1, 2</sup>

## TITLE I

## NATIONAL SEEDS INSTITUTE

## CHAPTER I

## DECLARATION OF NATIONAL INTEREST

Article 1

The breeding, production, distribution and marketing of seeds and phylogenetic creations, both within the country and abroad, are hereby declared to be in the national interest.

## CHAPTER II

## CREATION

Article 2

The National Seeds Institute is hereby created as a non-government legal entity under public law.

Article 3

The objectives of the National Seeds Institute shall be the following:

(A) To promote the production and use of the best seed, of proven identity and superior quality as a means of furthering the development of the national seed industry.

(B) To support the breeding and use of new national phylogenetic material, and also such material of foreign origin when it conforms to the conditions prevailing within the country.

(C) To protect phylogenetic creations and discoveries by granting the appropriate property titles.

(D) To encourage the exportation of seed.

(E) To verify compliance with the prevailing legal provisions in the area concerned.

(F) To propose the enactment of provisions on the production, certification, marketing, exportation and importation of seed, and also on the protection of phylogenetic creations and discoveries.

Article 4

The Executive shall be competent to determine national seeds policy according to the objectives provided for in the foregoing Article, and shall be given advice and assistance by the Institute in that connection. The Institute shall conduct its action according to that national policy.

The Institute shall be linked and coordinated with the Executive through the Ministry of Livestock, Agriculture and Fisheries.

## CHAPTER III

## ADMINISTRATION

Article 5

The organs of the Institute shall be the Board of Directors, the Executive, the National Seeds Council and the Users' Commission.

Article 6

The Board of Directors shall be the supreme authority of the Institute, and its Members shall be persons of

<sup>1</sup> Published in the *Diario Oficial* of Uruguay of February 28, 1997.

<sup>2</sup> Translated by the Office of the Union.

recognized integrity in matters pertaining to seeds, which fact they shall attest with the appropriate testimonials.

The Board shall be composed of:

- one representative from the Ministry of Livestock, Agriculture and Fisheries, who shall preside;
- one representative of seed producers;
- one representative of seed traders;
- two representatives of the farmers who use the seed.

The representative of the Ministry of Livestock, Agriculture and Fisheries shall have sound training in agricultural science.

The representatives of producers and traders shall be designated by the Executive on a proposal from the corresponding associative bodies, and the representatives of farmer-users on a proposal from the Users' Commission.

The Executive shall, when enacting the Regulations under this Law, specify the criteria for the selection of representatives of the private sector.

The designation of titular members of the Board of Directors shall include that of the corresponding alternates.

#### Article 7

The term of office of members of the Board of Directors shall be three years, and they may be re-elected for a second, consecutive term.

Outgoing members shall remain in office until the designated new members have taken up their duties.

#### Article 8

The monthly remuneration of the Chairman of the Board of Directors shall correspond to that of an Under-Secretary of State.

The other titular members shall be remunerated according to a system of attendance fees.

The value of the attendance fee referred to in the foregoing paragraph is set at the equivalent of one-twelfth of

the monthly remuneration of the Chairman, with a minimum of four and a maximum of seven monthly sessions.

#### Article 9

The Board of Directors shall determine its own program of sessions.

Resolutions shall be adopted by majority consent.

In the event of equally divided votes, the Chairman shall have a casting vote.

#### Article 10

There shall be a Managing Director designated by the majority of the Board of Directors, confirmed by the concurrent vote of the Chairman.

He shall be a person pursuing a recognized career and having sound training in the sciences that pertain to seed production and quality control.

The Managing Director shall attend the sessions of the Board of Directors with the right to speak but not to vote.

#### Article 11

The Director shall be under contract for renewable periods of three years. A majority vote of the Board of Directors, including that of the Chairman thereof, shall be required for his removal or for the non-renewal of his contract.

#### Article 12

The National Seeds Council shall be composed of one representative from each of the following institutions: Agricultural Science Faculty, National Institute of Agriculture and Livestock Research, Association of Agricultural Engineers, National Farm Board, Institute of Agricultural and Livestock Planning, National Honorary Commission for the Citrus Growing Plan, National Institute of Vine and Wine Growing, and it shall act in plenary with the Members of the Board of Directors and the Managing Director.

The Regulations under this Law and any amendments thereto may alter the membership of the aforesaid Council by increasing the number of members.

The Council may be convened at the request of either the Board of Directors or three of its own members.

#### Article 13

The Users' Commission shall be composed of one delegate each from the following institutions: Rural Federation, Federated Farm Cooperatives, National Commission of Rural Development, Rural Association of Uruguay, Association of Rice Growers, National Association of Milk Producers, Farmers' Confederation of Uruguay, Uruguayan Federation of CREA Groups, Association of Agricultural Producers of Canelones. It shall hold sessions at least every four months.

The Executive shall regulate the procedure according to which the Users' Commission selects its representatives, and in doing so shall seek to ensure that the various entities are represented by at least one of the persons selected.

The Regulations under this Law may amend the membership of the Commission by increasing the number of members.

The Commission may be convened either by the Members of the Board of Directors or at the request of one-third of its own Members.

### **CHAPTER IV**

#### **DUTIES AND POWERS**

#### Article 14

The Institute shall have the following duties:

(A) To promote the development of seed activities at all stages.

(B) To monitor the production and marketing of seed, and at the same time to ensure compliance with the provisions laid down by this Law and the Regulations under it; to that end it shall be empowered to:

- (1) sample, inspect, analyze and test seed in the process of production, transportation, sale and offering or display for sale, in any place and at any time, in order to ascertain whether legal and regulatory provisions have been met;
- (2) have access to places in which commercial or certified seed is located or is in the process of being produced;

(3) effect the withdrawal from sale of any seed that does not meet the requirements of this Law;

(4) seek the assistance of the forces of law and order where necessary.

(C) To assist the Executive in matter of seed policy by issuing opinions prior and fundamental to the enactment of provisions related to seed activities.

(D) To keep the National Register of Cultivars and the General Register of Nurseries and Seed Producers and Traders.

(E) To maintain the Register of Cultivar Ownership and grant the appropriate titles in accordance with national provisions and bilateral or multilateral international agreements.

(F) To effect the national and international certification of seed, subject to observance of bilateral or multilateral international agreements.

(G) To maintain the country's official seeds laboratory by carrying out analytical work and also issuing the corresponding certificates, subject to observance of bilateral or multilateral international agreements.

(H) To authorize and advise private seed testing laboratories as provided in the applicable provisions.

(I) To process and implement arrangements for the importation and exportation of seed.

(J) To carry out, either by itself or through third parties, such investigations of technical character as it may consider necessary for the fulfillment of its duties and functions, and also such consultations or verifications as may have to be made with foreign organizations of the same kind.

(K) To enter into relations of mutual cooperation and agreements with public or private bodies, either national or foreign, and also with international or regional organizations.

(L) To promote the training and further training of officials concerned with the relevant sector, in coordination with national research and technical assistance bodies.

(LL) To set prices for:

- entries in the National Register of Cultivars, the General Register of Nurseries and Seed

Producers and Traders and the Register of Cultivar Ownership;

- annual fees for the maintenance of entries in the aforementioned registers;
- labels for the various categories of seed;
- seed testing;
- applications and annual fees for authorization of seed testing laboratories, processing plants and other service providers associated with seeds;
- seed certification;
- applications for cultivar property titles and processing and grant thereof;
- any other service provided by the Institute in accordance with the provisions governing matters within its jurisdiction; the prices set shall be in strict proportion to the cost of the services provided;

(M) To decide on and apply the appropriate sanctions for violations of the regulatory provisions established by this Law and the Regulations under it, and to set the amounts of the corresponding fines.

(N) To enforce the sanctions imposed by it, for the purposes of which the records of its final resolutions shall constitute the titles of enforcement; those rulings shall be considered final that are expressly or tacitly accepted by the recipient of the sanctions and also those that deny leave to appeal under Article 22 of this Law.

(Ñ) To enter into agreements on payment for the sanctions imposed by it, where it sees fit.

#### Article 15

The Board of Directors, in its capacity as supreme administrative body of the institute, shall have the following duties:

- (A) To draft the general rules of the Institute and submit them to the and submit them to the Ministry of Livestock, Agriculture and Fisheries for approval.
- (B) To approve the Institute's staff regulations within six months of their installation; those regulations shall be governed by the rules of private law where not provided for.

(C) To appoint, transfer and dismiss the staff.

(D) To set the prices to be charged under the provisions of Article 14(LL) of this Law.

(E) To approve its budget and present it to the Executive, together with its program of activities.

(F) To approve plans, programs and special projects.

(G) To present the annual report and balance sheet of the Institute.

(H) To manage the resources and assets of the Institute.

(I) To acquire, encumber and dispose of property of all kinds; in the case of real property, decisions shall be passed by a special majority of at least four members.

(J) To delegate such powers as it considers appropriate by a reasoned decision passed by a majority of its members.

(K) In general, to engage in all civil and commercial acts, order acts of internal administration and carry out the material operations to which its general powers of administration give rise, due regard being had to the commitments and specialized concerns of the Institute.

#### Article 16

The Managing Director shall have the following responsibilities:

(A) To comply and ensure compliance with the provisions in force in the Institute's area of competence;

(B) To implement the plans, programs and resolutions approved by the Board of Directors.

(C) To carry out all tasks pertaining to staff administration and the internal organization of the Institute.

(D) To promote the establishment of relations with national bodies concerned with seed activity in general.

(E) To promote the strengthening of international technical cooperation, with special emphasis on coordination with the Institutes of other countries.

(F) Any other responsibility that the Board of Directors may entrust or delegate to it.

#### Article 17

The National Seed Council, in its capacity as advisory body to the National Seeds Institute, shall do the following:

- (A) Advise on the drafting of the General Rules of the Institute.
- (B) Advise on the drafting of plans and programs prior to the approval thereof.
- (C) Advise on any matter on which the Board of Directors approaches it.
- (D) Express its views on any other seed-related matter where it sees fit.

#### Article 18

The Users' Commission shall nominate two of the members of the Board of Directors. It shall act as the reference and advisory body for the representatives proposed by it.

For the better achievement of its aims it shall set up regional advisory commissions by area or group of areas, the membership and operating regime of which shall be determined by the Ministry of Livestock, Agriculture and Fisheries, which shall take due account of the opinion of the Commission itself and shall seek to achieve the greatest participation of basic entities.

### **CHAPTER V**

#### **FINANCIAL REGIME**

#### Article 19

The resources of the Institute shall consist of the following:

- (A) Charges made for services rendered under the provisions of Article 14(LL) of this Law.
- (B) An annual State subsidy, to be charged to general revenue, in an amount at least equivalent to 20,000 UR (readjustable units); the Executive may

adjust this amount according to developments in the Institute's income.

(C) Bequests, legacies and donations accepted by the Institute.

(D) Property or securities that are assigned to the Institute on whatever ground.

(E) The product of any fines and other sanctions imposed.

(F) Any other funds collected through application of the prevailing legislation.

### **CHAPTER VI**

#### **SUPERVISION AND APPEALS**

#### Article 20

The administrative supervision of the Institute shall be exercised by the Executive, acting through the Ministry of Livestock, Agriculture and Fisheries.

The said supervision shall relate to opportuneness or appropriateness as well as legal correctness.

To that end, the Executive may convey to it such comments as it may consider relevant, and also propose the suspension of the acts commented on and any corrective action or dismissals that it may consider appropriate.

#### Article 21

The Internal Audit Office of the Nation shall exercise control over the financial management of the Institute, and the accounts and balance sheet reflecting the application of the budget shall be submitted to it within 90 days following the close of each accounting period.

The Regulations under this Law shall determine the forms and dates for accounts and the closing thereof and the manner in which they are to be publicized. The provisions of Article 100 of Law No. 16.134 of September 24, 1990, shall likewise be applicable.

#### Article 22

Decisions of the Board of Directors shall be subject to appeal for review, which shall be lodged within 20 working days from the day following that on which the record

of the decision was notified to the person concerned. Once the appeal has been lodged, the Board of Directors shall have 30 working days within which to investigate and settle the matter.

Where the appeal for review is rejected, the appellant may, on grounds of legality only, file an application for annulment of the decision objected to with the Court of Civil Appeals that was sitting on the date on which the decision was pronounced.

The filing of the aforementioned application shall take place within a period of 20 working days following the notification of the express refusal or, failing that, from the time at which the implicit refusal is deemed to have been pronounced.

The application for annulment may only be filed by a person having a subjective right or a direct, personal and legitimate interest that has been violated or prejudiced by the act objected to. The court shall rule in the final instance.

#### Article 23

Where the resolution issues from the Managing Director at the same time or subsidiarily to the appeal for review, an appeal to higher authority may be lodged with the Board of Directors.

This appeal for review shall be lodged and settled within the periods provided for in the foregoing Article, which shall likewise apply, as appropriate, to the settlement of the appeal to higher authority and to the subsequent jurisdictional examination.

### **CHAPTER VII**

#### **GENERAL PROVISIONS**

#### Article 24

The Institute shall be exempt from tax of all kinds other than social security contributions. Where not specifically provided for in this Law, its operating regime shall be the same as for private activity, especially with regard to accounting, staff status and any contracts that it may conclude.

#### Article 25

The assets of the Institute shall be unattachable and its credits, regardless of origin, shall benefit from the privilege provided for in Article 1732(6) of the Code of Commerce.

#### Article 26

The technical and specialist staff of the Institute shall be selected in a competition in which shall be adversarial, on merit or adversarial and on merit, as the case may be, with a view to the award of contracts for periods of no more than five or less than two years, which shall be renewable in the manner laid down in the staff regulations referred to in Article 15(B) of this Law. The remainder of the staff shall be contracted for by the selection system provided for in the same statutes, due regard being had to the characteristics of each category.

#### Article 27

Information obtained in the course of the day-to-day operation of the Institute shall be treated in special and strict confidence. The Board of Directors shall enact provisions on the procedures for the disclosure of information.

### **CHAPTER VIII**

#### **TRANSITIONAL PROVISIONS**

#### Article 28

The legal entity that is created shall succeed to the responsibilities and duties assigned to the Seeds Office of the Ministry of Livestock, Agriculture and Fisheries (Article 3 of Decree-Law No. 15.173 of August 13, 1981), it being for the Executive to issue the appropriate regulations within 90 days following the installation of the Board of Directors.

The movable and real property assigned to the Seeds Office shall pass as of right to the National Seeds Institute in so far as it is relevant, under the regulations, to the responsibilities and duties transferred.

#### Article 29

The public officials budgeted or contracted for who, on the date of this Law, are engaged in inspection assignments for the Office referred to in Article 28, and preferably those concerned with the subject of seeds, may be

engaged to carry out tasks within the Institute or, failing that, may be reassigned to other departments of the public administration.

To that end, within the 60 days following the establishment of the Institute, the Ministry of Livestock, Agriculture and Fisheries shall order the transfer of the said staff for six months, renewable for the same amount of time, at the end of which the Institute shall use objective criteria to select those persons whom it intends to employ, observing the following rules for the purpose:

- The officials selected may choose between assignment to tasks within the Institute and reassignment. In the latter case the Ministry of Livestock, Agriculture and Fisheries may reassign them within its own executive units or declare them supernumerary for reassignment according to the provisions of Articles 15 to 31 of Law No. 16.127 of August 7, 1990.
- Where the official selected agrees to be incorporated in the Institute, he shall sign the corresponding employment contract according to the statutes referred to in Article 15(B) and shall renounce his status as public official.
- Nevertheless, he may seek a license without benefit of pay for up to six months in public office and sign a probationary contract with the Institute for the same period, at the end of which, if his incorporation therein and his renunciation of public office is not agreed to, he shall lose the status of selected candidate and shall continue to carry out duties as a public servant.
- Once the official has been finally incorporated in the Institute, his contractual responsibilities or functions shall automatically cease.

## TITLE II

### SEED

#### CHAPTER I

##### OBJECT

###### Article 30

The object of this Title shall be to regulate the production, certification, marketing, exportation and importation of seed, and to assure agricultural producers of the identity and quality thereof.

## CHAPTER II

### GENERAL PROVISIONS

###### Article 31

Seed that is produced, marketed or transported within the country shall be described as certified or commercial. It shall be defined by and brought into conformity with the regulations enacted by the Executive with respect to its production, marketing and quality standards.

###### Article 32

The regulations under this Law shall lay down the provisions to which field and processing plant trials, the taking of samples, subsequent checks and seed evaluation have to conform.

###### Article 33

The procedures for determining tolerances, the tolerances allowed, the certification that seed sellers have to deliver to purchasers, the packaging conditions and the characteristics of labels and seals shall be provided for in the regulations where not provided for in this Law.

###### Article 34

The National Seeds Institute is empowered to authorize and supervise private seed testing laboratories, processing plants and other firms or technical operatives providing seed-related services, which it shall do in accordance with the provisions of the regulations, and the latter shall also specify the operating standards and conditions to which such activities have to conform.

###### Article 35

The only batches of seed produced in the country that may be marketed are those that have been previously sampled and tested by authorized or official seed testing laboratories whose test findings show that the seed meets prevailing quality standards.

The Executive shall, on regulating this provision, set the date of the entry into force thereof.

Article 36

The tests and testing periods used shall conform to the international rules on seed testing of the International Seed Testing Association and any alternative or complementary provisions that may be enacted by the Ministry of Livestock, Agriculture and Fisheries on proposals from the National Seeds Institute.

Article 37

Where the test findings fall short of those prescribed by purity regulations, the seed shall, in order to be offered for sale, be reclassified under the control of the National Seeds Institute with a view to the achievement of acceptable values.

Where reclassification is not appropriate, the National Seeds Institute may order its use as a consumer product or in industrial processes or its destruction.

Article 38

The seed institutions that produce seed shall be responsible when dealing with third parties and the National Seeds Institute, for the conformity of the seed to the quality standards laid down in this Law and the Regulations under it, and for the accuracy of the information given on the labels and packaging of the seed when the said seed is sold and offered for sale by them, or when it is sold or offered for sale by third parties, and the liability of the said seed institutions shall be verified. In other cases the trader selling the seed shall be liable.

Article 39

In exceptional cases, in consideration of the practical possibility that the requirements laid down in the provisions of this Title cannot be met, and for substantiated reasons, the Ministry of Livestock, Agriculture and Fisheries, acting on a proposal from the National Seeds Institute, may defer application of the said requirements either entirely or in part.

Article 40

Where the consumer has doubts concerning the genuineness, purity, germination or treatment specified on the labels of seed bought by him, he may seek official confirmation from the National Seeds Institute according to a procedure laid down in the relevant regulations.

Complaints concerning purity, germination and processing shall be made within the 30 days following receipt of the consignment and prior to sowing. Where they relate to genuineness, complaints may be made for as long as harvesting has not taken place.

If it is found that the complaint is justified, the seller shall be obliged to repay the price of the seed and freight charges to the buyer, without prejudice to the sanctions provided for in this Law.

The buyer shall be obliged to return the seed that he has not sown with the corresponding packaging, any expenses associated with the return being payable by the seller.

**CHAPTER III****PROHIBITIONS**Article 41

It shall be prohibited to market any seed:

- (1) In bulk, after processing.
- (2) Whose germination testing has exceeded the periods provided for in the relevant provisions.
- (3) Together with information on the packaging or labels that is not expressly allowed by prevailing regulations.
- (4) With a label or notice that in one way or another misleads as to the properties and condition of the seed or does not conform to prescribed standards.
- (5) That does not conform to the requirements and tolerances and other specific conditions laid down to that end by the provisions of this Law.

The National Seeds Institute shall regulate the conditions in which seed in any of the hypothetical situations provided for in this Article is transported.

Article 42

The following shall likewise be prohibited during the process of marketing or transport of seed:

- (1) The removal, alteration, mutilation or destruction of any label affixed in accordance with this Law.



- (2) The use on any label or in notice of the term "type" in conjunction with the name of the seed.
- (3) The moving, manipulation or disposal of batches of seed withdrawn from sale, or the labels thereof, without written authorization from the National Seeds Institute.

- (6) be sponsored by an agricultural engineer or other professional of equivalent training, for the purposes of the national test data requirement, regulations issued by the National Seeds Institute shall specify the growing periods or cycles required according to the species concerned, and it may make exceptions for species in respect of which such testing is required.

#### CHAPTER IV

#### NATIONAL REGISTER OF CULTIVARS

##### Article 43

The National Register of Cultivars is hereby created and placed under the authority of the National Seeds Institute.

Only those cultivars that have been entered in the said Register may be certified and marketed in the country. Exceptions may be made by regulation for species that require entry in the Register for marketing.

Cultivars registered under Decree-Law No. 15.173 of August 13, 1981, its regulatory Decree 84/983 of March 24, 1983, and its amending Decrees 418/987 of August 12, 1987, and 519/991 of September 17, 1991, shall be considered entered in the Register created by this Article.

##### Article 44

Cultivars entered in the Register referred to shall:

- (1) possess a characterizing proper name that prevents them from being confused with another variety already registered or from misleading as to the properties of the seed;
- (2) retain their original names, in the case of foreign cultivars;
- (3) be capable of differentiation from other cultivars already registered;
- (4) be sufficiently uniform in their characteristics as a whole, according to their reproductive or vegetative propagation system, and present those conditions of stability that enable them to be identified;
- (5) be the subject of national test data;

##### Article 45

The testing of cultivars for the purposes of acceptance in the National Register of Cultivars shall be the responsibility of the National Seeds Institute, which may conduct technical examinations either direct or through other public or private national institutions. Technical examinations shall continue to be carried out by the National Institute of Farm and Livestock Research until such time as the National Seeds Institute can take charge of them, according to a resolution accompanied by a statement of reasons issued by the Ministry of Livestock, Agriculture and Fisheries.

##### Article 46

The National Seeds Institute shall specify what species are to be released for sale with a variety identification.

##### Article 47

An entry in the Register may be canceled:

- (1) where the cultivar is shown to have lost the characteristics on the basis of which it was registered;
- (2) for failure to pay the annual fee to the National Registry of Cultivars during a period of three months following a formal request for payment.

##### Article 48

The National Register of Cultivars shall be brought up to date annually.

##### Article 49

The National Seeds Institute shall issue a resolution with a statement of reasons refusing entry in the Register where the proposed cultivar might adversely affect the environment.

## CHAPTER VI

## IMPORTATION AND EXPORTATION

Article 50

Where external demand warrants such action, the National Seeds Institute may accord the status of "seed exclusively for export" to batches of seed of cultivars that are not entered in the National Register of Cultivars. It shall likewise specify the minimum requirements and equivalent properties that have to be fulfilled for seed of the cultivars to be produced within the country.

## CHAPTER V

## CERTIFIED SEED

Article 51

The National Seeds Institute shall be responsible for the certification of seed and shall have the following duties in that connection:

- (1) To supervise all stages of the certification process.
- (2) To oversee the production of seed either itself or through third parties.
- (3) To keep a register of seed in existence.
- (4) To design certification labels for the various varieties and categories, and to assign them to batches of seed that meet the prescribed conditions.
- (5) To verify the identify and varietal purity of the batches of the various categories of seed by the sowing of samples on test plots; the regulations under this Law shall lay down the general standards and procedures for the imposition of specific rules to be observed in the certification of seed.

Article 52

The certification of vegetative propagating material shall be carried out by the National Seeds Institute. To that end the National Seeds Institute may enter into agreements with other public or private national institutions.

Article 53

The importation of seed shall require prior authorization by the National Seeds Institute. The said requirement may be dispensed with by regulation for seed produced by countries with which the appropriate reciprocal arrangements have been made.

Article 54

The regulations shall lay down the requirements to be met by seed that is imported in accordance with the tolerances set for the domestic market and also international and regional agreements assigned by the country in that connection.

Article 55

Any seed intended for importation shall be accompanied by certificates of origin and plant health, and also by the information and labels specified by regulation.

Article 56

Permits for the dispatch of seed shall not be acted upon where the seed is presented with important declarations that provide no record of prior intervention in the dispatch permit on the part of the National Seeds Institute.

Article 57

Batches of seed may not be removed from customs premises without prior documentary verification by the National Seeds Institute of the quality certificates recognized as being valid under the applicable provisions or, failing that, without prior quality testing by the competent laboratory of the National Seeds Institute, subject to any exceptions that might be made in specific cases by virtue of the relevant regulations.

The National Customs Administration shall not undertake seed testing and shall rely on that carried out by the National Seeds Institute.

Article 58

The National Seeds Institute may authorize the dispatch of batches of seed that on arrival do not conform to the standards in force, provided that the persons concerned subject them to purification treatment in an establishment authorized by the National Seeds Institute and under the latter's control.

#### Article 59

The importation of seed for testing, study and experimentation shall be subject to special standards laid down by regulation.

#### Article 60

Products imported for industrialization, consumption or any other purpose other than sowing may not be used as seed or transferred for use as seed.

#### Article 61

The Executive shall be authorized to do the following:

(A) Grant total or partial exemption from tax on seed imports, without prejudice to the application of the provisions of Article 2(a) and (c) of Law No. 12.670 of December 17, 1959, in relation to competing nationally-produced products, and also from the application of Article 40(a) of Title VI of the 1979 consolidated text as amended by Decree-Law No. 15.132 of May 7, 1981.

(B) Grant seed subsidies where it considers such grant appropriate within the framework of the World Trade Organization agreements approved by Law No. 16.671 of December 13, 1994.

#### Article 62

The Executive is authorized, through the agency of the Ministry of Livestock, Agriculture and Fisheries and in consultation with the National Seeds Institute, to suspend seed exports temporarily when the needs of the country are at stake.

## CHAPTER VII

### GENERAL REGISTER OF NURSERIES, SEED PRODUCERS AND TRADERS

#### Article 63

The activities described in Article 82(9) of this Law, and also the production for commercial purposes, processing, storage, distribution, sale, importation and exportation of seed may only be carried out by those who have been entered in the General Register of Nurseries, Seed Producers and Traders that is kept for the purpose by the National Seeds Institute.

Those registered under Decree Law No. 15.173 of August 13, 1981, and the regulations under it, Decree 84/983 of March 24, 1983, and its amending Decrees 418/987 of August 2, 1987, and 519/991 of September 17, 1991, shall be considered entered in the Register created by this Article.

#### Article 64

The Executive shall enact provisions on the operating conditions of persons, whether natural persons or legal entities who devote themselves to the creation, improvement and introduction of phylogenetic material and also to the production, testing, processing, storage, distribution, sale, importation and exportation of seed.

#### Article 65

Nurseries, seed producers, seedsmen, seed laboratories and seed processors, importers and exporters shall conduct their activities under the technical responsibility of an agricultural engineer or other professional of equivalent background, who shall be registered with the National Seeds Institute.

## TITLE III

### PROPERTY RIGHTS IN NEW PLANT VARIETIES

#### CHAPTER I

#### OBJECT

#### Article 66

The object of this Title is to regulate the protection of property rights in new cultivars.

## CHAPTER II

### REGISTER OF CULTIVAR OWNERSHIP

#### Article 67

The National Seeds Institute shall keep the Register of Cultivar Ownership, the purpose of which shall be to recognize and guarantee rights to the breeder of a new plant variety by means of the grant and registration of a title of ownership in accordance with the International Convention for the Protection of New Varieties of Plants signed in Paris on December 2, 1961, and amended by additional Acts signed in Geneva on November 10, 1972, and October 23, 1978, as approved by Law No. 16.580 of September 21, 1994.

The owners of property rights granted and registered under Decree-Law No. 15.173 of August 13, 1981, and its regulatory Decree 84/983 of March 24, 1983, and its amending Decrees 418/987 of August 12, 1987, and 519/991 of September 17, 1991, shall be considered entered in the register created by this Article, and the continuity of their rights shall be assured.

#### Article 68

The regulations under this Law shall provide for the standards, periods and procedures to which applications for protection, variety proving trials and the grant and registration of provisional and final titles of ownership have to conform.

## CHAPTER III

### CONDITIONS REQUIRED OF THE CULTIVAR

#### Article 69

For a cultivar to qualify for protection, it shall meet all of the following requirements:

(A) It shall be new, in the sense that it shall not have been offered for sale or marketed with the consent of the breeder,

(1) within the Republic, before the filing date of the application for protection;

(2) outside the Republic, for more than six years in the case of vines and trees, or more than four years in the case of all other plants;

it shall not be considered prejudicial to the novelty of a cultivar that it has been offered for sale or marketed in the country, with the consent of the breeder, for a period of up to four years prior to the decision according to which this species to which the cultivar belongs qualifies for protection, provided that the application for protection is filed before the expiration of a period of up to four months following the said decision by the National Seeds Institute.

(B) It shall be clearly differentiated from any cultivar the existence of which is a matter of common knowledge on the filing date of the application for protection by at least one morphological, physiological, cytological, chemical or other important characteristic, shall fluctuate little and be capable of precise description and recognition.

(C) It shall be sufficiently uniform in its characteristics as a whole according to its system of reproductive or vegetative propagation.

(D) It shall remain stable in its essential characteristics, in the sense that, at the end of each cycle of multiplication carried out in the manner specified by its breeder, it shall retain the characteristics by which the said breeder defined it.

(E) It shall have been given a denomination that is acceptable to the Registry in accordance with the provisions of the regulatory texts.

## CHAPTER IV

### SCOPE OF PROTECTION

#### Article 70

The owners of property rights in cultivars entered in the Register of Cultivar Ownership shall enjoy the rights and powers corresponding to the rights of ownership governed by the Civil Code, without prejudice to the provisions of Article 73 of this Law.

Transactions that entail modifications to or otherwise affect the rights in registered cultivars shall themselves be entered in the Register in order to be binding on third parties.

Article 71

The title of ownership duly entered in the Register of Cultivar Ownership shall entitle its owner to engage in all legally acceptable transactions concerning his property rights, and shall confer on the holder thereof the exclusive right to carry out himself, or to have carried out subject to this prior authorization, the introduction into the country, production for commercial purposes, placing on sale, marketing within the country and abroad or donation, in accordance with this Law and the Regulations under it, of the reproductive or vegetative propagating material of the cultivar in question.

**CHAPTER V****EXCEPTIONS TO PROTECTED RIGHTS**Article 72

The cultivar that is the subject of the title of ownership may be used without the holder thereof being granted any right to compensation where:

- (A) The product of cultivation is used or sold as a raw material or food.
- (B) Seed is set aside and sown for own use and not for commercial purposes.
- (C) Other breeders use it for experimental purposes or as a source of genetic material for the creation of new cultivars, on condition that the protected cultivar is not used repeatedly and systematically for the commercial production of other cultivars.

**CHAPTER VI****LIMITATION OF THE EXERCISE OF PROTECTED RIGHTS**Article 73

The Executive may declare a title of ownership to be "in the public interest" for a period not exceeding two years against adequate prior compensation of the owner where it considers that the availability of the product of cultivation of the crop concerned is in the general interest.

Article 74

The Executive may order the urgent procurement of the product of a cultivar declared to be "in the public interest" in accordance with the provisions of Article 19 of Decree-Law No. 15.173 of August 13, 1981. To that end the procedure provided for in Article 3 of Law No. 10.247 of October 15, 1942, shall be observed.

**CHAPTER VII****TERM OF PROTECTION**Article 75

The term of validity of the title of ownership shall run from the time of its provisional issue, and may not be less than 15 years or more than 20 years according to the species concerned and according to the provisions laid down in the Regulations.

**CHAPTER VIII****NATIONAL TREATMENT AND RIGHT OF PRIORITY**Article 76

Breeders resident abroad shall enjoy the same rights as breeders resident within the Republic in so far as the legislation of the country of residence recognizes and protects their rights as breeders.

Article 77

Where a breeder resident abroad wishes to register a cultivar, he shall:

- (A) elect legal domicile in Uruguay for the purpose, or appoint an authorized representative within the country;
- (B) submit with the relevant application duly authenticated official documentary evidence from the country of origin that attests his fitness to register the cultivar;
- (C) undertake to comply with all Uruguayan legal provisions and regulatory enactments on the ownership of cultivars.

Where a breeder resident abroad in a country that is party to a relevant bilateral or multilateral agreement with

Uruguay has filed one or more applications for the registration of a cultivar in one or more such States, he shall enjoy in the Republic a period of priority of 12 months counted from the filing date of the first application. The application in the Republic shall be regarded as if it has been filed on the filing date of that first application.

#### CHAPTER IX

##### REVOCAION OR LAPSE OF PROTECTED RIGHTS

###### Article 78

The title of ownership of a cultivar shall be revoked or shall be canceled, as the case may be, in the following circumstances:

- (A) At the request of the owner.
- (B) Owing to the expiration of the legal period of protection of ownership.
- (C) Where the characteristics of uniformity and stability provided for in Article 69(C) and (D) of this Law have ceased to be present.
- (D) Where the holder is not capable of supplying, at the request of the National Seeds Institute, propagating material with which the cultivar may be produced in the form in which it was defined at the time of the grant of the title.
- (E) Where it is shown that the title has been obtained by fraud on a third party.
- (F) Where the National Seeds Institute shows, on the basis of formal evidence, that the requirements laid down in Article 6(A) and (E) of this Law were not met at the time of the grant of the title of ownership of the cultivar.
- (G) For failure to pay the annual fee to the Registry of Cultivar Ownership after a period of three months following the normal invitation to pay.

###### Article 79

The cultivar covered by a title of ownership shall become available for public use when the said title lapses for the reasons specified in subparagraphs (A), (B), (F) and (G) of the foregoing Article and, where subparagraph (E) applies, if it is not legally possible to transfer the right to its lawful owner.

###### Article 80

No title of ownership shall be granted in respect of cultivars which, at the time of the application, are in public use.

#### CHAPTER X

##### ENFORCEMENT OF THE PROTECTED RIGHTS

###### Article 81

The provisions of Articles 311 *et seq.* of the General Code of Process and, where applicable, those of Articles 40 to 44 of Law No. 9.956 of October 4, 1940, on Trademarks and Agriculture, shall be applicable to the protection of the property rights of the breeders of new cultivars.

Any one who, without the authorization of the owner thereof, places on sale or markets in that capacity reproductive or vegetative propagating material of cultivars entered in the Register of Cultivar Ownership shall be punished with a fine equivalent to ten times the value of the sales effected by him.

Without prejudice to the foregoing, the offender shall be liable under civil law for the damages caused to the owner of the registered rights, according to the general provisions on civil liability.

#### TITLE IV

##### DEFINITIONS, SANCTIONS, APPLICABILITY AND REPEALS

#### CHAPTER I

##### DEFINITIONS

###### Article 82

For the purposes of the implementation of this Law and the regulations under it, unless specified otherwise, the following definitions shall apply:

- (1) "Seed" means any plant structure used for the purpose of sowing or propagation of a species.

- (2) "Species" means taxonomic units that incorporate individuals that are separated from others by reproductive barriers and in that way retain differentiated characteristics of their own, or population systems separated from each other by discontinuity in the type of variation, but which must have a genetic basis.
- (3) "Cultivar" denotes a grouping of cultivated plants that are distinguished from others of the same species by any characteristic (morphological, physiological, cytological, chemical or other), and which, on being sexually or asexually reproduced, retain the characteristics specific to them; the term "variety" is equivalent to "cultivar" when used to denote a cultivated variety.
- (4) "Hybrid" describes a cultivar resulting from a controlled crossing of parents that are sufficiently uniform for the production thereof to be systematically repeated without changes in its constitution.
- (5) "First-generation hybrid" means any cultivar resulting from the crossing of selected parent material from the first generation of which, due to the effect of "hybrid vigor," superior production is achieved but not maintained in subsequent generations owing to genetic segregation.
- (6) "Certification process" denotes the series of operations, overseen by the National Seeds Institute, that takes place in order to achieve the production of certified processed seed for sale with the prescribed technical checks.
- (7) "Seed certification" is the act of guaranteeing that the seed in question has completed the certification process, in accordance with the provisions of this Law and the Regulations under it, by means of which third parties are assured of the trueness to variety and quality of specific batches of seed.
- (8) "Commercial seed" is any seed that is offered for sale without having met or attained required standards for seed certification but which meets the conditions laid down by this Law and the regulations under it.
- (9) "Nursery" means any establishment that devotes itself to the creation, introduction, improvement or testing of species and cultivars with a view to the production and sale of seed.
- (10) "Breeder" means the person, whether natural person or legal entity, who has directed the process of creation of a new cultivar.
- (11) "Seed company" means any establishment that devotes itself to the multiplication and sale of seed.
- (12) "Batch" means a specific quantity of seed, identified by a number or a mark, that has been arranged in such a way that each portion is representative of the batch.
- (13) "Label" means the printed information on a fixed or loose label on or in the packaging, and the information printed on the packaging itself.
- (14) "Particulars" means all the specifications, conditions, characteristics and other details relating to the seed, in addition to those given on the label, which are conveyed to the public or to the consumer by various means.
- (15) "Treated" means that a substance or method has been applied to the seed to control or ward off disease, organisms, insects or other pests that attack plants, or that the seed has been given another treatment to improve its value for sowing.
- (16) "Mixture" means a quantity of seed of two or more species where none of the said species attains the minimum purity requirement imposed by current provisions for it to be considered a single species.
- (17) "Processing" means cleaning, classification, mixing, chemical or physical treatment, packaging or any other operations that may alter the purity or germination of the seed.

#### Article 83

With respect to aspects not provided for in the foregoing definitions, the criteria laid down by the International Seed Testing Association shall be observed.

## CHAPTER II

### INFRINGEMENTS AND SANCTIONS

#### Article 84

The Board of Directors of the National Seeds Institute shall be the agency responsible for the imposition of sanctions for violation of the current provisions on seeds

and plant variety protection, the enforcement thereof being the responsibility of the Managing Director of the National Seeds Institute.

The procedure applicable in such cases shall be provided for in the regulations.

#### Article 85

The violations referred to in the foregoing Article shall be punished with the following, according to the seriousness of the violation and the background of the violator:

- (A) Warning.
- (B) Fine from 20 to 2,000 UR (readjustable units).
- (C) Seizure of the merchandise or of the apparatus used to commit the violation.
- (D) Destruction of the merchandise where appropriate.
- (E) Suspension of the violator from the relevant register.
- (F) Temporary or permanent disqualification.
- (G) Partial or total, temporary or permanent closure of the premises of the company, whether owned by it or by third parties, and regardless of whether they are intended for storage, processing, marketing, laboratory analysis or any other activity associated with seed production and trading; where appropriate, closure may affect only such premises as are used for a specific activity.

The sanctions provided for above may be applied in combination and adapted to the seriousness of the violation, the value of the merchandise and the background of the offender.

#### Article 86

Agricultural engineers with technical responsibilities and other professionals with equivalent training as referred in Article 65 who violate the provisions laid down in this Law and the regulations under it shall be liable to the following sanctions:

- (1) Warning.
- (2) The fines provided for in the foregoing Article.

Suspension of their status as seed experts for up to one year.

Sanctions shall be graduated and applied with due regard to the nature and seriousness of the violations, the degree of guilt and similar acts previously committed by the offender. The National Seeds Institute shall keep a register of violators.

Companies shall be jointly liable for the monetary sanctions inflicted on their technical staff.



**CHAPTER III****APPLICABILITY AND REPEALS**Article 87

Until such time as the provisions of the Articles in Titles II, III and IV of this Law are approved, the provisions laid down by Decree 84/983 of March 16, 1983, and its amending Decrees 508/984 of November 14, 1984,

67/985 of February 6, 1985, 418/987 of August 12, 1987, 528/990 of November 14, 1990, and 519/991 of September 17, 1991, shall apply with the rank of regulatory provisions.

Article 88

Decree Laws Nos. 15.173 of August 13, 1981, and 15.554 of May 21, 1984, and also any other legal provision contrary to this Law, are repealed.