

THE STATE PRESIDENT

**ORDER No. 03/2004/L-CTN OF APRIL 5, 2004
ON PROMULGATION OF THE ORDINANCE OF
THE NATIONAL ASSEMBLY STANDING
COMMITTEE**

**THE STATE PRESIDENT OF THE SOCIALIST
REPUBLIC OF VIETNAM**

*Pursuant to Articles 103 and 106 of the 1992
Constitution of the Socialist Republic of Vietnam,
which was amended and supplemented under
Resolution No. 51/2001/QH10 of December 25,
2001 of the Xth National Assembly, the 10th session;*

*Pursuant to Article 19 of the Law on Organization
of the National Assembly;*

*Pursuant to Article 51 of the Law on
Promulgation of Legal Documents,*

PROMULGATES:

the Ordinance on Plant Varieties,

which was passed on March 24, 2004 by the
Standing Committee of the XIth National Assembly
of the Socialist Republic of Vietnam.

***State President of the Socialist
Republic of Vietnam
TRAN DUC LUONG***

ORDINANCE ON PLANT VARIETIES

(No. 15/2004/L-UBTVQH)

*Pursuant to the 1992 Constitution of the Socialist
Republic of Vietnam, which was amended and
supplemented under Resolution No. 51/2001/QH10
of December 25, 2001 of the Xth National Assembly,
the 10th session;*

*Pursuant to Resolution No. 21/2003/QH11 of
November 26, 2003 of the XIth National Assembly,
the 4th session, on the 2004 law- and ordinance-
making program;*

This Ordinance provides for plant varieties.

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Ordinance provides for the management
and conservation of plant gene sources; the
research into, selection, creation, assay, expertise,
test, recognition and protection of, new plant
varieties; the evaluation, selection and recognition
of maternal plants, initial plants, variety gardens,
variety forests; the production and trading of plant
varieties; and the management of quality of plant
varieties.

Article 2.- Subjects of application

This Ordinance shall apply to Vietnamese
organizations and individuals, foreign organizations
and individuals operating in the domain of plant
varieties in the Vietnamese territory.

Where international agreements which the
Socialist Republic of Vietnam has signed or

acceded to contain provisions different from those of this Ordinance, such international agreements shall apply.

Article 3.- Interpretation of terms

In this Ordinance, the following terms are construed as follows:

1. A plant variety means a grouping of plants which are uniform and of a certain economic value, recognizable by the expression of the characteristics mandated by a genotype and distinguishable from any other plant groupings through the expression of at least one of the said characteristic, and heritable through repeated propagation.

Plant varieties used in agricultural production, forestry and aquaculture include seeds, tubers, fruits, roots, trunks, branches, leaves, saplings, grafts, buds, flowers, tissues, cells, spores, spawns, weeds, algae and microalgae.

2. A new plant variety means a plant variety newly selected, created or imported for the first time, which is distinct, uniform and stable but not yet on the list of plant varieties permitted for production and trading.

3. A protected new plant variety means a new plant variety which is granted the new plant variety protection title.

4. Plant gene source means whole living plants or living parts thereof carrying hereditary information, able to create, or take part in creating, new plant varieties.

5. Assay of a new plant variety means the process of monitoring and assessing under given conditions and for a given period in order to determine the distinctness, uniformity, stability, the value of cultivation and use of a plant variety.

6. Trial production means the process of

producing a new plant variety which has been assayed and permitted for production in a given area under mass production conditions.

7. Expertise of a plant variety means the process of examining the quality of the plant variety batch under production right on fields or gardens in order to identify the variety properness, hereditary purity and the level of mixture with another variety or plant species.

8. Test of a plant variety means the process of analyzing the quality criteria of the variety samples in laboratories.

9. Pure seeds means seeds which retain stable hereditary characteristics through repeated propagation.

10. Authored seeds mean pure seeds selected and created by an author.

11. Super-prototypal seeds mean seeds propagated from authored seeds or restored from seeds which are produced according to the super-prototypal seed-restoring process and satisfy the prescribed quality standards.

12. Prototypal seeds mean seeds propagated from super-prototypal seeds and satisfying the prescribed quality standards.

13. Certified seeds mean seeds propagated from prototypal seeds and satisfying the prescribed quality standards.

14. Restoration of super-prototypal seeds means the process of selecting individuals, propagating and selecting the typical lines of a variety, ensuring its hereditary purity satisfying the standards of super-prototypal seeds.

15. Maternal plants means the best forest plants selected from natural forests, planted forests, variety forests or variety gardens for propagation.

16. Initial plants of perennial industrial plants,

fruit trees or forest plants mean plants of a yield, quality, and resistance markedly higher than those of other plants of a variety grouping, which have been evaluated, selected and recognized for vegetative propagation.

17. Gardens of initial plants of perennial industrial plants, fruit trees, forest plants mean gardens vegetatively propagated from initial plants in service of variety production.

18. Gardens of forest plant varieties mean variety gardens planted according to a given plan with vegetative lines or nursed from seeds of the selected and recognized maternal plants.

19. Variety forests mean forests of variety plants propagated from maternal plants and grown not according to a given plan or transformed from natural forests or planted forests already evaluated, selected and recognized.

20. Varieties of genetically modified plants mean plant varieties bearing a new combination of genomes (ADN) obtained through the use of modern biological technologies.

21. Major plant varieties mean varieties of plant species commonly planted in big quantities and of a high economic value, which need to be strictly managed.

22. Counterfeit varieties mean varieties not true to the variety names, origins and grades inscribed on their labels; with their labels being identical or similar to those of other law-protected plant varieties, thereby causing confusion.

23. Propagating materials mean whole plants, weeds, algae, micro-algae or parts thereof such as seeds, tubers, fruits, roots, trunks, branches, leaves, saplings, grafts, buds, flowers, tissues, cells, spores, spawns, to be used for production of new plants.

24. Commercial novelty of plant varieties is understood as that such plant varieties have not

yet been traded in the Vietnamese territory for one year, outside the Vietnamese territory for six years, for groups of timber trees and grapes, or for four years, for other plants, before the date of submission of protection registration applications.

25. Duplicates of new plant-variety protection titles mean second copies granted to the owners of new plant varieties in cases where the titles of protection of new plant varieties are lost for plausible reasons. Duplicates have the same contents and validity as the granted new plant variety protection titles.

Article 4. - Principles for activities related to plant varieties

1. The formulation of plant variety development strategies, plannings and plans must be in line with the overall socio-economic development plannings of the whole country and each locality.

2. The State protects the ownership and copyright over new plant varieties, promotes the autonomy and equality rights, protects the legitimate rights and interests of organizations and individuals engaged in plant variety-related activities.

3. To strictly manage the production and trading of major plant varieties.

4. To vigorously step up the socialization of plant variety-related activities; ensure sufficient good-quality varieties to meet the production development demands; ensure human health and protect the environment and the eco-system.

5. To apply scientific and technological advances to the research into, selection, creation, production and preservation of plant varieties; to combine modern technologies with people's experiences.

6. To conserve and rationally exploit plant gene sources; ensure bio-diversity; harmoniously combine short-term with long-term benefits, ensure common interests of the entire society.

Article 5.- The State's policies towards plant varieties

1. To ensure the development of plant varieties along the direction of industrialization and modernization on the basis of the plant variety development strategies, plannings and plans.

2. To prioritize investment in the following activities:

a/ Researching into, selecting and creating new plant varieties, preserving authored seeds;

b/ Conserving maternal plants, initial plants, variety gardens and variety forests;

c/ Investigating, collecting and conserving gene sources of precious and rare plants.

3. To encourage and support organizations and individuals engaged in agricultural production, forestry or aquaculture to use new plant varieties of high yield, good quality and resistance to pests and unfavorable production conditions, and satisfying market demands.

4. To encourage and create conditions for organizations and individuals to invest in collecting and conserving gene sources, researching into, selecting, creating, assaying, expertising, testing, producing, and trading in, plant varieties.

5. To encourage agricultural forestry and fishery promotion activities in order to quickly transfer plant variety-related technical and technological advances; to link research to production.

6. To support investment in material foundations and techniques in service of propagation and preservation of super-prototypal varieties, prototypal varieties, maternal plants, initial plants, forest plant variety gardens and variety forests.

Article 6.- Genetically modified plant varieties

The research into, selection, creation,

experimentation, production, trading, use, international exchange of, and other activities related to, genetically modified plant varieties shall comply with the Government's regulations.

Article 7.- Responsibilities for State management over plant varieties

1. The Government performs the uniform State management over plant varieties.

2. The Ministry of Agriculture and Rural Development has the responsibility to perform the State management over agricultural and forest plant varieties nationwide.

The Ministry of Fisheries has the responsibility to perform the State management over aquatic plant varieties nationwide.

3. The ministries and ministerial-level agencies, within the scope of their tasks and powers, have the responsibility to coordinate with the Ministry of Agriculture and Rural Development or the Ministry of Fisheries in performing the State management over plant varieties.

4. The People's Committees at all levels have the responsibility to organize the performance of the State management over plant varieties in their localities.

Article 8.- Commendation

1. Organizations and individuals that record achievements in plant variety-related activities or record merits in detecting or stopping acts of violation of the law provisions on plant varieties shall be commended and/or rewarded according to the law provisions on emulation and commendation.

2. The State shall honor organizations and individuals that record outstanding achievements in the selection or creation of new plant varieties.

Article 9.- Prohibited acts

1. Trading in counterfeit varieties or plant varieties not up to the quality standards.

2. Producing, and trading in, varieties not on the list of plant varieties permitted for production and trading.

3. Destroying or misappropriating plant gene sources, illegally exporting gene sources of precious and rare plants.

4. Experimenting pests in areas under production of plant varieties.

5. Obstructing lawful activities of researching into, selecting, creating, assaying, expertising, testing, producing, or trading in, plant varieties.

6. Importing gene sources, producing, trading in, plant varieties which cause harms to production, human health, the environment and ecosystem.

7. Publicizing untrue quality standards of, misleading advertisements for, or false information on, plant varieties.

8. Infringing upon the rights and legitimate interests of plant variety authors or owners of new plant variety protection titles.

9. Other acts as provided for by law.

Chapter II

MANAGEMENT AND CONSERVATION OF PLANT GENE SOURCES

Article 10.- Management of plant gene sources

1. Plant gene sources constitute a national asset uniformly managed by the State.

2. Where there are demands for exploiting or using of the plant gene sources in the State's conservation zones, the permission of the Ministry of Agriculture and Rural Development or the

Ministry of Fisheries must be obtained.

3. Organizations, individuals shall have to participate in managing plant gene sources in localities.

Article 11.- Contents of conservation of plant gene sources

1. Investigating, collecting gene sources suitable to the nature and characteristics of each plant species.

2. Conserving for a long time and safely gene sources already determined to be suitable to the specific biological characteristics of each plant species.

3. Evaluating gene sources according to biological criteria and use value.

4. Building databases and system of information on plant gene sources.

Article 12.- Collection and conservation of precious and rare plant gene sources

1. The State shall invest in and support the collection and conservation of the gene sources of precious and rare plants; the building of establishments for storing the gene sources of precious and rare plants; and the conservation of the gene sources of precious and rare plants in localities.

2. Organizations, individuals shall have to conserve the gene sources of precious and rare plants according to the provisions of this Ordinance and other relevant law provisions.

3. The Ministry of Agriculture and Rural Development, the Ministry of Fisheries shall periodically announce the lists of the gene sources of precious and rare plants to be protected.

Article 13.- Exchange of gene sources of precious and rare plants

gene sources of precious and rare plants in service of research into, selection, creation, production or trading of, new plant varieties according to the regulations of the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. The international exchange of gene sources of precious and rare plants must be permitted by the Minister of Agriculture and Rural Development or the Minister of Fisheries.

Chapter III

RESEARCH INTO, SELECTION, CREATION, ASSAY, RECOGNITION OF, NEW PLANT VARIETIES, EVALUATION, SELECTION AND RECOGNITION OF MATERNAL PLANTS, INITIAL PLANTS, FOREST PLANT VARIETY GARDENS, VARIETY FORESTS

Article 14.- Research into, selection, creation of new plant varieties

1. Vietnamese organizations and individuals, foreign organizations and individuals may research into, select and create new plant varieties in the Vietnamese territory.

The research into, the selection, creation of, new plant varieties must comply with the provisions of this Ordinance, the legislation on science and technology, and other relevant law provisions.

2. The Ministry of Agriculture and Rural Development, the Ministry of Fisheries shall identify the scientific and technological tasks relating to research into, selection, creation of, new plant varieties, which meet the requirements of each period in order to raise the productivity, quality and competitiveness of farm, forest and aquatic goods.

Article 15.- Assay of new plant varieties

1. New plant varieties which are selected,

created or imported but not yet named in the list of plant varieties permitted for production and trading shall be put on this list only after they have been assayed and recognized.

2. Assay of new plant varieties may take the following forms:

a/ National assay of new varieties of plants on the list of major plant varieties which have been selected and created in Vietnam and of imported varieties not yet on the list of plant varieties permitted for production and trading.

b/ Assay by authors themselves who bear responsibility for the results of assaying other plant varieties.

3. An assay covers the following contents:

a/ Assay of distinctness, uniformity and stability (DUS assay);

b/ Assay of the value of cultivation and use (VCU assay).

4. A national assay shall follow the following order and procedures:

a/ Organizations, individuals wishing to have new plant varieties assayed shall submit assay registration dossiers to the assaying establishments accredited by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

An assay registration dossier consists of an assay registration application and the plant variety dossier clearly stating the name of the plant variety, its origin, quantity, techno-economic norms and cultivation process and techniques;

b/ Organizations, individuals wishing to have new plant varieties assayed shall sign contracts with the accredited assay establishments as prescribed in Clause 1, Article 16 of this Ordinance.

5. Where authors conduct assays by themselves, they must observe the assay

regulations promulgated by the Ministry of Agriculture and Rural Development, the Ministry of Fisheries or sign contracts with the accredited assay establishments as prescribed in Clause 1, Article 16 of this Ordinance.

6. Organizations, individuals being owners of new plant varieties registered for assay must bear all assay costs.

7. The Ministry of Agriculture and Rural Development and the Ministry of Fisheries shall issue lists of major plant varieties and lists of plant varieties permitted for production and trading.

Article 16.- New plant variety-assaying establishments

1. To be accredited by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries, new plant variety-assaying establishments must fully satisfy the following conditions:

a/ Having registered plant variety-assaying activities;

b/ Having locations suitable to the assay requirements and the growth and development requirements of each plant species, compliant with the law provisions on environmental protection, fisheries, and plant protection and quarantine;

c/ Possessing specialized equipment and facilities satisfying the assay requirements for each plant species;

d/ Having standard varieties of plant varieties of the same species for use as control varieties in DUS assays.

e/ Employing or hiring technicians who have been trained in plant variety assay;

2. New plant variety-assaying establishments must observe the assay regulations for each plant species, which are promulgated by the Ministry of Agriculture and Rural Development or the Ministry

of Fisheries, and take responsibility for the obtained assay results.

Article 17.- Naming of new plant varieties

1. Each new plant variety shall have only one appropriate name. After being recognized, such name shall become the sole official name to be used in activities related to such plant variety.

2. The name of a variety must be easily distinguishable from the names of other plant varieties of the same species.

3. The following naming cases shall not be accepted:

a/ Consisting of numerals only;

b/ Violating social ethics;

c/ Easily causing misunderstanding with the properties, characteristics of the plant variety concerned;

d/ Being identical or similar to the protected trademarks or goods origin appellations of the products or to the harvested products of the plant variety concerned.

Article 18.- Recognition of new plant varieties

1. New plant varieties used in agriculture and/or forestry shall be recognized if they meet the following requirements:

a/ Having the assay results of the new plant variety-assaying establishments;

b/ Having their trial production results, which have been accepted for mass production by the provincial/ municipal Agriculture and Rural Development Services of the localities of trial production;

c/ Having appropriate names as prescribed in Article 17 of this Ordinance;

d/ Having their assay results and trial production results already evaluated and proposed for

recognition by the specialized scientific council set up by the Minister of Agriculture and Rural Development.

2. New plant varieties used in the fisheries domain shall be recognized if they meet the following requirements:

a/ Having the assay results of the new plant variety-assaying establishments;

b/ Having appropriate names as prescribed in Article 17 of this Ordinance;

c/ Having their assay results already evaluated and proposed for recognition by the specialized scientific council set up by the Minister of Fisheries.

3. Based on the proposals of the specialized scientific council, the Minister of Agriculture and Rural Development or the Minister of Fisheries shall consider and decide to recognize new plant varieties.

New plant varieties may be proposed for exceptional recognition without having to go through trial production if their assay results show that they are particularly outstanding.

4. New plant varieties, after being recognized, shall be put on the list of plant varieties permitted for production and trading.

Article 19.- Evaluation, selection, recognition of maternal plants, initial plants, forest plant variety gardens, variety forests

1. The recognition of maternal plants, initial plants, forest plant variety gardens, variety forests shall be effected through evaluation and selection.

2. The Ministry of Agriculture and Rural Development shall organize the evaluation, selection and recognition of forest plant variety gardens.

3. The provincial Agriculture and Rural Development Services shall organize the

evaluation, selection and recognition of maternal plants, initial plants and variety forests within their provinces; oversee, evaluate and guide the use and rational exploitation of the recognized maternal plants, initial plants, forest plant variety gardens and variety forests.

4. Organizations and individuals registering for evaluation and selection of maternal plants, initial plants, forest plant variety gardens and variety forests must pay charges according to the law provisions on charges and fees.

Chapter IV

PROTECTION OF NEW PLANT VARIETIES

Article 20.- Principles of protection of new plant varieties

1. The State protects the ownership, copyright over new plant varieties in the form of granting new plant variety protection titles.

2. The Ministry of Agriculture and Rural Development is the agency performing the State management over the protection of new plant varieties nationwide.

3. The protection of new plant varieties must comply with the provisions of this Ordinance, the legislation on intellectual property and other relevant law provisions.

Article 21.- Conditions for new plant varieties to be protected

1. Being on the list of State-protected plant varieties, promulgated by the Ministry of Agriculture and Rural Development.

2. Being distinct, uniform and stable.

3. Being commercially novel.

4. Having appropriate names as prescribed in

Article 17 of this Ordinance.

Article 22.- Subjects entitled to apply for new plant variety protection titles

1. Organizations that select, create new plant varieties with the State budget capital or with capital of other sources.

2. Individuals who select, create new plant varieties with their own efforts and/or capital or with capital of other sources.

3. Contract owners that hire organizations, individuals to select, create new plant varieties, unless otherwise agreed upon in the contracts.

4. Organizations or individuals that have sufficient grounds to prove that they are the first to select, create the new plant varieties in cases where many organizations or individuals submit dossiers on the same day for the same new plant varieties; where it is impossible to determine the organization or individual that is the first to select, create such new plant variety, the involved parties may reach agreement on jointly submitting the dossier or on one party submitting the dossier, if they cannot reach such agreement, the New Plant Variety Protection Office shall be entitled to reject their dossiers.

5. Organizations, individuals being the first to submit dossiers in cases where many organizations or individuals apply for new plant variety protection titles to the same new plant varieties.

Article 23.- Dossiers of application for new plant variety protection titles

1. To apply for new plant variety protection titles, organizations and individuals must directly submit, or authorize organizations or individuals to act as their representatives to submit, dossiers to the New Plant Variety Protection Office.

2. A dossier of application for a new plant variety

protection title consists of:

a/ The application for a new plant variety protection title;

b/ A written description of the plant variety, made according to a set form, together with photos.

Dossiers must be made in Vietnamese. Where foreign organizations or individuals apply for new plant variety protection titles, they must submit the Vietnamese-language dossiers together with the English-language dossiers.

3. Where a dossier of application for a new plant variety protection title complies with the provisions of Clause 2 of this Article, the New Plant Variety Protection Office must give certification of the date of submission of the dossier, clearly writing the dossier's serial number.

Article 24.- Order and procedures for granting new plant variety protection titles

1. The New Plant Variety Protection Office shall evaluate the dossiers, organize the evaluation of the new plant varieties applied for protection titles according to the provisions of Articles 25 and 26 of this Ordinance, and propose the Minister of Agriculture and Rural Development to grant new plant variety protection titles.

2. The Minister of Agriculture and Rural Development shall consider and decide to grant new plant variety protection titles when such new plant varieties fully satisfy the conditions specified in Articles 21, 22, 23, 25 and 26 of this Ordinance.

At the requests of the owners of new plant variety protection titles, the Minister of Agriculture and Rural Development shall consider and grant duplicates of their new plant variety protection titles.

Article 25.- Evaluation of dossiers of application for new plant variety protection titles

1. Within fifteen days as from the date of receiving the dossiers of application for new plant variety protection titles, the New Plant Variety Protection Office must certify the validity of such dossiers; where a dossier is not valid, it must notify the submitter thereof. Within thirty days as from the date of receiving the notice that his/her/its dossier is not valid, the submitter must complete his/her/its dossier as required; if such dossier remains invalid, the New Plant Variety Protection Office shall refuse to accept it. The date of submission of a valid dossier is the date the New Plant Variety Protection Office accepts to receive the dossier.

2. The New Plant Variety Protection Office must complete the evaluation of dossiers within ninety days as from the date the valid dossiers of application for new plant variety protection titles are submitted.

The evaluation of a dossier covers:

- a/ Determining the eligibility of the dossier submitter;
- b/ Determining the compatibility of the new plant variety with the list of State-protected plant varieties as prescribed in Clause 1, Article 21 of this Ordinance;
- c/ Determining the compliance of the new plant variety to be protected in Vietnam with international agreements which Vietnam has signed or acceded to;
- d/ Determining the compliance of the new plant variety with the law provisions on protection of State secrets;
- e/ Determining the commercial novelty of the plant variety;
- f/ Determining the appropriateness of the plant variety's name as prescribed in Article 17 of this Ordinance.

3. In the course of evaluating the dossiers, the

New Plant Variety Protection Office may request the dossier submitters to correct mistakes; if the dossiers are not corrected, the New Plant Variety Protection Office may reject them.

4. After evaluating the dossiers, if finding that they are valid the New Plant Variety Protection Office shall accept them in writing, notify such acceptance in a specialized journal and to the submitters for carrying out the procedures for new plant variety assay and evaluation as prescribed in Article 26 of this Ordinance.

Article 26.- Assay, evaluation of new plant varieties applied for new plant variety protection titles

1. Within fifteen days as from the date of receiving the New Plant Variety Protection Office's notices on its acceptance of the valid dossiers, the submitters of the dossiers of application for new plant variety protection titles must submit the variety samples to the new plant variety-assaying establishments.

2. The new plant variety-assaying establishments must assay the distinctness, uniformity and stability (DUS) of the new plant varieties according to the assay regulations on each plant species, promulgated by the Ministry of Agriculture and Rural Development.

3. The New Plant Variety Protection Office shall evaluate the DUS assay results of the new plant variety-assaying establishments.

4. After receiving the assay results, the New Plant Variety Protection Office shall have the following responsibilities:

a/ To notify its intention to grant new plant variety protection titles in a specialized journal for three successive issues;

b/ Within thirty days as from the date the notice on its intention to grant new plant variety protection titles is published for the last time in the specialized

journal, if there is no written protest, to carry out the procedures to propose the Minister of Agriculture and Rural Development to grant new plant variety protection titles. Where there is a protest, within thirty days as from the date of receiving the protest, the New Plant Variety Protection Office must look into it and make conclusions thereon;

c/ In cases of refusing to grant new plant variety protection titles, to notify such and clearly state the reasons therefor to the dossier submitters; and at the same time notify its refusal in the specialized journal for three successive issues.

5. Within thirty days as from the date of receiving the notices stated at Point b, Point c, Clause 4 of this Article, the dossier submitters may send written complaints to the Minister of Agriculture and Rural Development about not being granted the new plant variety protection titles.

6. After the Minister of Agriculture and Rural Development issues decisions to grant new plant variety protection titles, the New Plant Variety Protection Office shall notify the new plant varieties granted the new plant variety protection titles in the specialized journal.

Article 27.- Rights of owners of new plant variety protection titles

1. To allow or disallow the use of propagating materials of the protected plant varieties, the products harvested from the cultivation of propagating materials of the protected plant varieties in the following activities:

- a/ Variety production or propagation;
- b/ Variety processing;
- c/ Sale offer;
- d/ Sale or other forms of exchange;
- e/ Export;

f/ Import;

g/ Storing for the purposes of carrying out the activities stated at Points a, b, c, d and e of this Clause.

2. To request competent bodies to handle acts of infringing upon their ownership of the new plant varieties already granted the new plant variety protection titles.

3. Apart from the rights defined in Clause 1 and Clause 2 of this Article, the owners of new plant variety protection titles shall also enjoy benefits in the following cases:

a/ Plant varieties created by anyone from their protected varieties provided that their protected varieties are not created from other protected plant varieties;

b/ Plant varieties created by anyone, which are not clearly distinct from their protected plant varieties;

c/ Plant varieties created by anyone, the production of which requires the use of propagating materials of their protected plant varieties;

d/ Using the propagating materials of their protected varieties for producing varieties for commercial purposes in other countries where such plant varieties are not yet protected.

4. To exploit by themselves or transfer under contracts the right to exploit new plant varieties to other organizations and individuals. Contracts on transfer of the right to exploit new plant varieties must be made in writing and registered at the New Plant Variety Protection Office.

5. To bequeath or transfer the right to own new plant variety protection titles according to law provisions in cases where they are concurrently authors; to transfer the right to own new plant variety protection titles in cases where they are not

concurrently authors.

Article 28.- Restriction of the rights of owners of new plant variety protection titles

1. The owners of new plant variety protection titles may exercise the right to commercially exploit the new plant varieties when such plant varieties are on the list of plant varieties permitted for production and trading.

2. For the interests of the nation or community, the Minister of Agriculture and Rural Development shall issue decisions to force the transfer of the protected new plant varieties and add the names of such plant varieties to the list of plant varieties permitted for production and trading if such plant varieties are not yet included in this list.

Organizations, individuals being transferees of the right to exploit new plant varieties must pay royalties as contracted to the owners of new plant variety protection titles.

Article 29.- Cases where royalties are not required to be paid to owners of new plant variety protection titles

1. Organizations, individuals using the protected plant varieties shall not have to pay royalties to the owners of new plant variety protection titles in the following cases:

a/ Using them for hybridization to create new plant varieties or for scientific research;

b/ Using for personal needs for non-commercial purposes;

c/ The new plant varieties or propagating materials thereof have been sold on the market by the owners of new plant variety protection titles.

2. Households, individuals using the propagating materials of the protected plant varieties for propagation for subsequent crops in

the land or water surface areas under their use right.

Article 30.- Obligations of owners of new plant variety protection titles

1. To preserve directly or through other authorized persons, the propagating materials of the protected varieties and supply such propagating materials at the request of competent State bodies.

2. To pay charges and fees for new plant variety protection according to the law provisions on charges and fees.

3. To pay remunerations to the authors in cases where the authors are not also owners, unless otherwise agreed upon by the owners and authors. Where the owners of new plant variety protection titles are foreign organizations or individuals having registered for protection in Vietnam, the payment of remunerations to authors shall comply with the laws of the countries of such foreign organizations or individuals.

Article 31.- Rights and obligations of authors of new plant varieties

1. The authors of new plant varieties who are also owners of the protection titles of such new plant varieties shall have the following rights and obligations:

a/ To have their names inscribed in the new plant variety protection titles;

b/ To enjoy the rights of new plant variety protection title owners as prescribed in Article 27 of this Ordinance;

c/ To fulfill the obligations of new plant variety protection title owners as prescribed in Clause 1 and Clause 2, Article 30 of this Ordinance.

2. The authors of new plant varieties, who are not concurrently owners of the protection titles of such new plant varieties, shall have the following

rights and obligations:

a/ To have their names inscribed in the new plant variety protection titles;

b/ To receive remunerations paid by the owners of the new plant variety protection titles as prescribed in Clause 3, Article 30 of this Ordinance;

c/ To request competent bodies to handle infringements of the rights prescribed at Point a, Point b of this Clause;

d/ To assist the owners of new plant variety protection titles in performing the obligation of preserving the propagating materials of the protected new plant varieties.

Article 32.- Priority right to determine the date of submission of valid dossiers

1. If the owners of new plant varieties, that have submitted dossiers of registration for protection of such new plant varieties in the countries which have, together with Vietnam, signed or acceded to the international agreements on protection of new plant varieties, submit, within twelve months as from the date of submission of dossiers in the foreign countries, dossiers of registration for protection of such plant varieties in Vietnam, they shall enjoy the priority right to determine the date of submission of valid dossiers.

The date of submission for the first valid dossiers in foreign countries is accepted as the date of submission of valid dossiers in Vietnam.

2. Within ninety days as from the date of submission of dossiers in Vietnam, the owners of new plant varieties must submit the copies of the first dossiers of registration for protection in foreign countries, with the certification of the dossier-receiving agencies, and the samples of the plant varieties as evidences to prove that the new plant varieties in the two dossiers are the same. The dossiers of registration for protection of new plant

varieties in Vietnam must contain the request to enjoy the priority right to determine the date of submission of valid dossiers.

Article 33.- Duration of protection of new plant varieties

1. The duration of protection of new plant varieties is twenty years for timber trees and twenty five years for grapes.

2. Protection shall start from the date the dossiers of application for new plant variety protection titles are accepted as being valid by the New Plant Variety Protection Office.

Article 34.- Suspension of new plant variety protection titles

1. The Minister of Agriculture and Rural Development may suspend new plant variety protection titles.

2. New plant variety protection titles shall be suspended in one of the following cases:

a/ The plant varieties no longer satisfy the uniformity and stability standards as when being granted the protection titles;

b/ The owners of new plant varieties fail to supply documents and propagating materials necessary for the preservation and storage of such new plant varieties at the requests of competent State bodies;

c/ Past three months counting from the prescribed date of subsequent payment of fees, the owners of new plant variety protection titles fail to pay fees for maintaining the validity of their new plant variety protection titles.

3. In the duration when their new plant variety protection titles are suspended, the owners of new plant varieties shall not have the rights prescribed in Article 27 and Clause 1, Article 28, of this Ordinance.

4. The new plant variety protection titles shall be considered for validity resumption when their owners remedy the causes of suspension prescribed in this Article.

Article 35.- Cancellation of new plant variety protection titles

1. The Minister of Agriculture and Rural Development may cancel new plant variety protection titles.

2. New plant variety protection titles shall be cancelled in one of the following cases:

a/ The owners of new plant variety protection titles do not uniformly propose the cancellation;

b/ There are evidences to prove that the owners of new plant variety protection titles are not eligible for being granted the new plant variety protection titles as prescribed by law;

c/ The plant varieties are not commercially novel, not distinct as determined at the time of being granted the new plant variety protection titles.

Chapter V

PRODUCTION, TRADING OF PLANT VARIETIES

Article 36.- Conditions for production, trading of major plant varieties

1. In order to produce major plant varieties for commercial purposes, organizations and individuals must fully satisfy the following conditions:

a/ Having the certificates of registration for plant variety business;

b/ Having locations for production of plant varieties, which are in line with the planning of the agriculture service or the fisheries service and suitable to the production requirements of each variety, each variety grade; ensure the environmental standards according to the law

provisions on environmental protection, plant protection and quarantine, and fisheries;

c/ Having material foundations and technical equipment suitable to the production process and techniques of each variety, each variety grade, promulgated by the Ministry of Agriculture and Rural Development, the Ministry of Fisheries;

d/ Having or hiring technicians who have been trained in techniques of cultivation, aquaculture, plant protection;

2. In order to trade in major plant varieties, organizations and individuals must fully satisfy the following conditions:

a/ Having the certificates of registration for trading of commodities including plant varieties;

b/ Having business locations, material and technical foundations suitable to the trading of each variety, each variety grade;

c/ Having technicians who are capable of identifying the traded varieties and firmly grasp the plant variety-preserving techniques;

d/ Having or hiring staff and equipment for testing the quality of the traded varieties.

3. Households and individuals producing and/or trading in major plant varieties, which are not required to make business registration, shall not have to comply with the provisions of Clause 1 and Clause 2 of this Article but they must ensure the plant variety quality and environmental sanitation standards according to the law provisions on plant protection and quarantine, environmental protection and fisheries.

Article 37.- Production of pure seeds

1. Pure seeds of major agricultural plants shall be produced in four grades: The grade of authored seeds, the grade of super-prototypal seeds, the grade

of prototypal seeds, and the grade of certified seeds. Seeds of a lower grade are propagated from seeds of a higher grade according to the process of production of seeds of each grade, promulgated by the Ministry of Agriculture and Rural Development.

Where there exist no authored seeds for propagation of super-prototypal seeds, the production of super-prototypal seeds shall comply with the process of restoring super-prototypal seeds.

2. The Ministry of Agriculture and Rural Development shall promulgate the standards of each grade of seeds and the process of restoring super-prototypal seeds.

Article 38.- Production of perennial industrial plants and fruit trees, forest trees, ornamental plants and other plants

1. Organizations and individuals producing perennial industrial plants and fruit trees, forest trees by the vegetative propagation method must propagate varieties from initial plants or from gardens of initial plants.

2. Organizations and individuals sowing and nursing forest trees must use seeds from maternal plants, variety gardens or variety forests, which have been evaluated, selected and recognized.

3. Organizations and individuals producing short-term industrial plants, fruit trees, ornamental plants and other plants by the vegetative propagation method must follow the process promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

Article 39.- Labels of plant varieties

1. For plant varieties put up in packings for trading, their packings must have labels containing the following details:

- a/ The name of the plant variety;
- b/ The name and address of the producing and/or trading establishment responsible for the plant variety;
- c/ The quantification of the plant variety;
- d/ Major quality standards;
- e/ The date of manufacture; the expiry date;
- f/ Preservation and use instructions;
- g/ The country of manufacture, for imported plant varieties.

2. For plant varieties not put up in packings or with their labels not fully inscribed with the details prescribed in Clause 1 of this Article, all of these details must be printed on paper sheets accompanying the plant varieties when sold out.

Article 40.- Export of plant varieties

1. Organizations and individuals may export plant varieties not on the lists of plant varieties banned from export, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. If organizations, individuals need to exchange with foreign countries plant varieties on the lists of plant varieties banned from export for scientific research or other special purposes, they must obtain the permission of the Minister of Agriculture and Rural Development or the Minister of Fisheries.

Article 41.- Import of plant varieties

1. Organizations and individuals may import plant varieties on the lists of plant varieties permitted for production and trading.

2. If organizations and individuals need to import plant varieties not yet on the list of plant varieties

permitted for production and trading for research, assay, trial production or in other special cases, they must obtain the permission of the Minister of Agriculture and Rural Development or the Minister of Fisheries.

Chapter VI

MANAGEMENT OF THE QUALITY OF PLANT VARIETIES

Article 42.- Principles of management of the quality of plant varieties

Organizations and individuals producing and/or trading in plant varieties must bear responsibility for the quality of the plant varieties they produce and/or trade in through publicizing the quality standards and the conformity of the quality of plant varieties with the standards.

Article 43.- Quality standards of plant varieties

1. The system of quality standards of plant varieties consists of:

- a/ Vietnamese standards;
- b/ Branch standards;
- c/ The unit's standards;
- d/ International standards, regional standards, foreign standards applied in Vietnam.

2. The competence to promulgate the lists of plant varieties subject to the application of standards is prescribed as follows:

a/ The Ministry of Science and Technology promulgate the list of plant varieties subject to the application of Vietnamese standards;

b/ The Ministry of Agriculture and Rural Development, the Ministry of Fisheries promulgate the lists of plant varieties subject to the application of branch standards.

Article 44.- Publicization of quality standards of plant varieties

1. Organizations and individuals producing and/or trading in plant varieties on the lists stated at Point a, Point b, Clause 2, Article 43 of this Ordinance must publicize the quality standards of the plant varieties which they produce and/or trade in; the publicized standards must not be lower than the standards prescribed at Point a, Point b, Clause 1, Article 43 of this Ordinance.

2. The State encourages organizations and individuals to voluntarily publicize the quality standards of plant varieties which are not on the lists stated at Point a, Point b, Clause 2, Article 43 of this Ordinance.

3. The order and procedures for publicizing the quality standards of plant varieties shall comply with the law provisions on goods quality.

Article 45.- Publicization of the quality standard conformity of plant varieties

1. Organizations and individuals producing and/or trading in plant varieties, when publicizing the quality standard conformity, must base themselves on the following grounds:

a/ The quality certification results of the expertising, testing establishments, for plant varieties on the lists of plant varieties subject to quality standard conformity certification prescribed in Clause 2, Clause 3 of this Article;

b/ The results of evaluation by the organizations, individuals themselves or the results of evaluation by the expertising, testing establishments, for plant varieties not on the list of plant varieties subject to quality standard conformity certification prescribed in Clause 2, Clause 3 of this Article.

2. The Ministry of Science and Technology shall

promulgate the list of plant varieties subject to certification of quality conformity with Vietnamese standards.

3. The Ministry of Agriculture and Rural Development, the Ministry of Fisheries shall promulgate the lists of plant varieties subject to certification of quality conformity with branch standards.

4. The order and procedures for publicizing the quality standard conformity of plant varieties shall comply with the law provisions on goods quality.

Article 46.- Expertising, testing of the quality of plant varieties

1. The expertising, testing of the quality of plant varieties shall be conducted by the establishments providing expertising, testing services.

2. The establishments providing plant variety quality-expertising, -testing services must fully satisfy the following conditions:

a/ Having adequately equipped expertising laboratories satisfying the plant variety-expertising, -testing requirements;

b/ Having equipment and facilities for controlling environmental conditions satisfying the plant variety-expertising, -testing requirements;

c/ Having or hiring technicians who have been granted the certificates of training in expertising, testing plant varieties.

3. The establishments providing plant variety quality-expertising, -testing services must bear responsibility for the results of expertise, tests conducted by themselves.

4. The expenses for expertising, testing shall be paid by the expertise-, testing-requesting

organizations, individuals.

5. The Ministry of Agriculture and Rural Development, the Ministry of Fisheries shall recognize and manage the establishments providing plant variety quality-expertising, -testing services.

Article 47.- Quarantine of plant varieties

Organizations and individuals selecting, creating, producing, trading in, and using plant varieties must comply with the law provisions on plant protection and quarantine.

Chapter VII

INSPECTION AND SETTLEMENT OF DISPUTES

Article 48.- Plant variety inspectorate

The plant variety inspectorate is a specialized inspectorate.

The organization and operation of the specialized plant variety inspectorate shall comply with the law provisions on inspection.

Article 49.- Settlement of disputes over copyright of plant varieties, protection of new plant varieties

Disputes over copyright of plant varieties, protection of new plant varieties shall be settled by People's Courts according to law provisions.

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 50.- Implementation effect

This Ordinance takes effect as from July 1, 2004.

Article 51.- Implementation guidance

of the Socialist Republic of Vietnam.

The Government shall detail and guide the implementation of this Ordinance.

**On behalf of the National Assembly
Standing Committee
Chairman
NGUYEN VAN AN**

**State President of
the Socialist Republic of Vietnam
TRAN DUC LUONG**

ORDINANCE ON LIVESTOCK BREEDS

(No. 16/2004/PL-UBTVQH11)

Pursuant to the 1992 Constitution of Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the 10th session of the Xth National Assembly;

Pursuant to Resolution No. 21/2003/QH11 of November 26, 2003 of the 4th session of the XIth National Assembly on the 2004 law- and ordinance-making program;

This Ordinance prescribes livestock breeds.

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Ordinance prescribes the management and conservation of livestock gene sources; research into, selection, creation, assay, testing and recognition of, new livestock breeds; production and trading of livestock breeds; management of the quality of livestock breeds.

Article 2.- Subjects of application

This Ordinance applies to Vietnamese

**ORDER No. 04/2004/L-CTN OF APRIL 5, 2004
FROMULGATING THE ORDINANCE OF THE
NATIONAL ASSEMBLY STANDING COMMITTEE**

**THE STATE PRESIDENT OF THE SOCIALIST
REPUBLIC OF VIETNAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the 10th session of the Xth National Assembly;

Pursuant to Article 19 of the Law on Organization of the National Assembly;

Pursuant to Article 51 of the Law on Promulgation of Legal Documents,

HEREBY PROMULGATES:

The Ordinance on Livestock Breeds

which was adopted on March 24, 2004 by the Standing Committee of the XIth National Assembly

organizations and individuals, foreign organizations and individuals, that are engaged in the field of livestock breeds in the Vietnamese territory.

In cases where international agreements which Vietnam has signed or acceded to contain provisions different from those of this Ordinance, such international agreements shall apply.

Article 3.- Interpretation of terms

In this Ordinance, the terms below are construed as follows:

1. *Livestock breed* means a population of livestock of the same species and the same stock, having similar appearance and genetic structure, having been generated, consolidated and developed by human manipulations; a livestock breed must have a certain number of individuals for multiplication and inheritance of its characteristics by offspring generations.

Livestock breeds include cattle, poultry, bee, silkworm and aquatic animal breeds and their breeding products such as sperms, embryos, breeding eggs, larva and breeding genomes.

2. *Purebred livestock breed* means a breed stable in terms of genetics and productivity; identical in terms of genotype, appearance and disease resistance.

3. *Prototypal breed stock* means a stock of purebred domestic animals or a stock already selected, created or reared for production of grandparental stocks.

4. *Grandparental breed stock* means a stock of domestic animals multiplied from prototypal stock for production of parental stocks.

5. *Parental breed stock* means a stock of domestic animals multiplied from grandparental stock for production of commercial stocks.

6. *Nucleus stock* used in large-scale cattle

breeding means the best stock, with a clear source and origin, reared and selected according to a certain process in order to obtain a high genetic advance, for the purpose of producing breeding stocks.

7. *Breeding stock* used in large-scale cattle breeding means the stock descended from nucleus stock for production of commercial breeds or selected for addition to nucleus stock.

8. A *commercial breed* means a stock of domestic animals descended from parental stock or breeding stock.

9. *Fake breeds* mean breeds inconsistent with labeled breed names.

10. *Breed selection* means the use of technical measures to select and keep as breeds individuals having favorable properties which satisfy human requirements.

11. *Breed creation* means the selection and cross-breeding or use of other genetic technical measures to create a new breed.

12. *Breed improvement* means the change of one or many characteristics of existing breeds by means of cross-breeding to obtain better corresponding characteristics.

13. *Inspection of individual productivity* means the assessment of productivity and quality of breed animals before putting them into use.

14. *Zygote* means a cell formed by the union of a spermatozoon and an egg.

15. *Embryo* means a zygote already developed through different stages.

16. *Livestock gene source* means whole living animals and their breeding products carrying genetic information, capable of creating or taking part in creating new livestock breeds.

17. *Conservation of livestock gene sources* means the protection and maintenance of livestock

gene sources.

18. *Assay of livestock breeds* means the tending, rearing and monitoring under certain conditions and within a given duration new livestock breeds imported for the first time or new livestock breeds created at home, in order to determine their distinctness, stability and uniformity in productivity, quality and disease resistance, and assess their harms.

19. *Testing of livestock breeds* means the rechecking and reassessment of productivity, quality and disease resistance of livestock breeds after they are put to production or serves as basis for announcing that the quality of such breeds conforms with the standards.

20. *Genetically modified livestock breeds* mean those bearing a new combination of genomes (ADN) received through the use of modern biological technology.

21. *Cloned livestock breeds* mean those created by cloning techniques from a vegetal cell.

22. *New livestock breeds* mean new breeds created or imported for the first time but not yet on the list of livestock breeds permitted for production and trading.

Article 4.- Principles for activities related to livestock breeds

1. The elaboration of strategy, planning and plans on development of livestock breeds must be in line with the overall socio-economic development planning of the whole country and each locality.

2. Close management of livestock breed production and trading by production and/or business establishments of all economic sectors.

3. Assurance of good quality of livestock breeds, which can satisfy the production development

demands, food hygiene and safety and environmental and ecological protection.

4. Application of scientific and technological advances to the research into, selection, creation and production of livestock breeds; combination of modern technologies and people's experiences.

5. Promotion of autonomy, guaranty of equality and legitimate interests of organizations and individuals in livestock breed-related activities.

6. Conservation and rational exploitation of livestock gene sources; assurance of biological diversity; combination of immediate interests and long-term interests, guaranty of the entire society's common interests.

Article 5.- The State policies on livestock breeds

1. To ensure the development of livestock breeds along the direction of industrialization and modernization on the basis of livestock breed development strategy, planning and plans.

2. To prioritize investment in activities of collecting and conserving precious and rare livestock breeds; to research into, select, create, assay and test new livestock breeds and keep purebred livestock breeds, prototypal, grandparental and nucleus breed stocks with high productivity and quality.

3. To encourage and support organizations and individuals tasked to multiply or raise purebred livestock breeds, prototypal, grandparental and nucleus breed stocks.

4. To encourage organizations and individuals to invest in, conduct scientific researches into, and apply scientific and technological advances to livestock breeds; to construct infrastructure and develop human resources for livestock breed activities.

5. To encourage organizations and individuals to produce and use new livestock breeds; or

participate in insurance for livestock breeds.

6. To support the restoration of livestock breeds in cases where natural disasters or enemy sabotages cause serious consequences.

Article 6.- Genetically modified livestock breeds and cloned livestock breeds

The research into, selection, creation, experimentation, production, trading, use, international exchange of genetically modified livestock breeds and cloned livestock breeds and other activities related thereto shall comply with the Government's regulations.

Article 7.- Responsibility for State management over livestock breeds

1. The Government shall exercise the uniform State management over livestock breeds.

2. The Ministry of Agriculture and Rural Development shall be responsible for performing the State management over agricultural livestock breeds nationwide.

The Ministry of Fisheries shall be responsible for performing the State management over aquatic livestock breeds nationwide.

3. The ministries and ministerial-level agencies shall, within the ambit of their respective tasks and powers, have to coordinate with the Ministry of Agriculture and Rural Development and the Ministry of Fisheries in performing the State management over livestock breeds.

4. The People's Committees of all levels shall be responsible for organizing the State management over livestock breeds in their respective localities.

Article 8.- Commendation

1. Organizations and individuals that record

achievements in livestock breed-related activities or make merits in detecting and preventing acts of violating law provisions on livestock breeds shall be commended and/or rewarded according to the law provisions on emulation and commendation.

2. The State honors organizations and individuals that record outstanding achievements in selecting and creating new livestock breeds.

Article 9.- Prohibited acts

1. Producing and trading in fake livestock breeds, livestock breeds not up to the quality standards, and/or breeds not on the list of livestock breeds permitted for production and trading.

2. Sabotaging and misappropriating livestock gene sources, illegally exporting precious and rare livestock gene sources.

3. Experimenting new disease germs, veterinary drugs, growth stimulants and livestock feeds in the livestock breed production areas.

4. Obstructing lawful activities of researching into, selecting, creating, assaying, testing, producing and trading in livestock breeds.

5. Producing and trading in livestock breeds harmful to human health, livestock gene sources, environment and ecological system.

6. Announcing quality standards, making advertisements and/or supplying information which are untrue to livestock breeds.

7. Other acts prescribed by law.

Chapter II

MANAGEMENT AND CONSERVATION OF LIVESTOCK GENE SOURCES

Article 10.- Management of livestock gene sources

1. Livestock gene sources constitute a national property uniformly managed by the State.

2. When arise demands for exploitation and use of livestock gene sources in the State's conservation zones, the permission of the Ministry of Agriculture and Rural Development or the Ministry of Fisheries is required.

3. Organizations and individuals shall have to participate in the management of livestock gene sources in their localities.

Article 11.- Contents of conservation of livestock gene sources

1. Investigating, surveying and collecting livestock gene sources suitable to characteristics and properties of each livestock species.

2. Conserving for a long term and in a safe manner the gene sources already determined being compatible with specific biological characteristics of each livestock strain.

3. Assessing gene sources according to the biological criteria and use value.

4. Establishing the database and system of information and documents on livestock gene sources.

Article 12.- Collection and conservation of precious and rare livestock gene sources

1. The State shall invest in and render support for the collection and conservation of precious and rare livestock gene sources; build establishments for keeping precious and rare livestock gene sources; and preserve precious and rare livestock gene sources in localities.

2. Organizations and individuals shall have to conserve precious and rare livestock gene sources according to the provisions of this Ordinance and

other relevant law provisions.

3. The Ministry of Agriculture and Rural Development and the Ministry of Fisheries shall periodically publicize the list of precious and rare livestock gene sources which need to be conserved.

Article 13.- Exchange of precious and rare livestock gene sources

1. Organizations and individuals are allowed to exchange precious and rare livestock gene sources in service of research into, selection and creation of new livestock breeds, and produce and trade in them according to the regulations of the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. The international exchange of precious and rare livestock gene sources must be permitted by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

Chapter III

RESEARCH INTO, SELECTION, CREATION, ASSAY AND RECOGNITION OF NEW LIVESTOCK BREEDS

Article 14.- Research into, selection and creation of, new livestock breeds

1. Vietnamese and foreign organizations and individuals are allowed to research into, select and create new livestock breeds in the Vietnamese territory.

The research into, selection and creation of, new livestock breeds must comply with the provisions of this Ordinance, the legislation on science and technology and other relevant law provisions.

2. The Ministry of Agriculture and Rural

Development and the Ministry of Fisheries shall determine scientific and technological tasks regarding livestock breeds suitable to requirements of each period, in order to raise productivity, quality and competitiveness of products of the husbandry and fishery branches.

Article 15.- Assay of new livestock breeds

1. New livestock breeds shall be recognized and put on the lists of livestock breeds permitted for production and business promulgated by the Ministry of Agriculture and Rural Development and the Ministry of Fisheries only after they are assayed with results as required.

2. Assay contents include:

a/ Determination of distinctness, stability and uniformity in productivity, quality and disease resistance of new livestock breeds;

b/ Assessment of harms of breeds.

3. Organizations and individuals that have new livestock breeds shall have to compile and send dossiers of application for assay to the Ministry of Agriculture and Rural Development or the Ministry of Fisheries. Each assay application dossier comprises:

a/ An application for assay;

b/ Files on livestock breed, clearly inscribed with the breed name, breed quality and grade, origin, quantity, econo-technical criteria and technical process for tending and rearing breeds;

c/ The projected assay establishment.

4. The Ministry of Agriculture and Rural Development or the Ministry of Fisheries have responsibility:

a/ To receive and examine dossiers;

b/ To reply in writing about the acceptance of assay within 15 days after receiving the valid

dossiers. In case of refusal, the reasons therefor must be clearly stated.

5. Organizations and individuals having new livestock breeds shall choose by themselves the assay establishments accredited under the provisions of Clause 1, Article 16 of this Ordinance to sign assay contracts and shall bear assay expenses.

Article 16.- Establishments for assaying new livestock breeds

1. Establishments for assaying new livestock breeds shall be accredited by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries if they satisfy the conditions prescribed in Clause 2 of this Article.

2. Establishments for assaying new livestock breeds must fully meet the following conditions:

a/ Having already registered activities of assaying livestock breeds with competent State agencies;

b/ Having locations suitable to the planning and ensuring veterinary and environmental sanitation according to the law provisions on veterinary medicine, fisheries and environmental protection;

c/ Having material foundations and technical equipment and facilities compatible with the assay of each livestock breed and each quality grade of breeds.

d/ Having or hiring technicians specialized in husbandry and veterinary medicine or aquaculture.

3. Establishments for assaying new livestock breeds have the responsibility:

a/ To organize the assay of new livestock breeds according to the assay process applicable to each livestock species and each quality grade of breeds, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries;

b/ To bear legal liability for results of assays already conducted.

Article 17.- Naming of new livestock breeds

1. Each livestock breed shall be given only one appropriate name.

2. The following cases of naming new livestock breeds shall not be accepted:

a/ Being identical or similar to existing breed names;

b/ Consisting of only numerals;

c/ Violating social ethics;

d/ Being easily confused with properties and characteristics of such livestock breeds.

Article 18.- Recognition of new livestock breeds

1. New livestock breeds shall be recognized only when they satisfy the following requirements:

a/ Having assay results obtained from establishments for assaying new livestock breeds;

b/ Having their assay results assessed by a specialized scientific council, which is set up by the Minister of Agriculture and Rural Development or the Minister of Fisheries and proposes the recognition of the new livestock breeds.

2. The Minister of Agriculture and Rural Development or the Minister of Fisheries shall consider and decide on the recognition of new livestock breeds and incorporate them in the list of livestock breeds permitted for production and trading.

Chapter IV

LIVESTOCK BREED PRODUCTION AND TRADING

Article 19.- Conditions for producing and trading in livestock breeds

1. Organizations and individuals that producing and/or trading in livestock breeds must fully satisfy the following conditions:

a/ Having certificates of registration of business in livestock breeds;

b/ Having locations for producing and/or trading livestock breeds suitable with the planning of the agriculture or fisheries sectors, and ensuring the standards of veterinary sanitation and environmental protection according to the law provisions on veterinary medicine, fisheries and environmental protection;

c/ Having material foundation and technical equipment and facilities compatible with the production and trading of each livestock species and each quality grade of breeds;

d/ Having or hiring technicians trained in husbandry and veterinary or aquaculture techniques if they produce or trade in parental breed stocks or commercial breeds;

e/ Having or hiring technicians possessing university degrees in husbandry or veterinary medicine or aquaculture if they produce or trade in purebred livestock breeds, prototypal breed stocks, grandparental breed stocks, nucleus breed stocks;

f/ Having dossiers for monitoring breeds;

g/ Carrying out the technical process for producing livestock breeds, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. Households and individuals that produce and trade in livestock breeds in traditional forms and are not subject to business registration shall not have to comply with the provisions in Clause 1 of this Article, but must ensure the veterinary sanitation and environmental protection standards according to the law provisions on veterinary medicine, fisheries and environmental protection.

Article 20.- Production of, and trading in,

sperms, embryos, breeding eggs and larva

1. Organizations and individuals that produce and/or trade in breeding sperms for artificial fertilization and embryos must satisfy the following requirements:

a/ The conditions prescribed at Points a, b, c, e and f, Clause 1, Article 19 of this Ordinance;

b/ Having or hiring technicians already granted diplomas or certificates of training in artificial fertilization and embryo-implanting techniques;

c/ Breeding males and females which give embryos must originate from breeding establishments, which have gone through individual productivity inspection, quarantine, have clear backgrounds and been registered with competent State agencies;

d/ Not exploiting or using sperms of breeding males and eggs of breeding females in epidemic-stricken areas;

e/ Embryos shall only be exploited from purebred livestock breeds, prototypal breed stocks, grandparental breed stocks, nucleus breed stocks;

f/ Complying with the regulations on management, exploitation and use of sperms and embryos and environment for preservation and preparation of sperms and embryos, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. Households and individuals trading in breeding male buffaloes, bulls, boars, goats, sheep and horses for direct breeding, or breeding male and female aquatic animals must satisfy the following requirements:

a/ Breeding male buffaloes, bulls, boars, goats, sheep and horses must be registered by such households and individuals with the commune-level People's Committees;

b/ Breeding male buffaloes, bulls, boars, goats,

sheep and horses, or breeding male and female aquatic animals must have clear origin and have been given veterinary quarantine;

c/ Complying with the regulation on management, exploitation and use of breeding male buffaloes, bulls, boars, goats, sheep and horses; or breeding male and female aquatic animals, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

3. Organizations and individuals producing and/or trading in breeding eggs and larva must satisfy the following requirements:

a/ The conditions prescribed at Points a, b, c and e, Clause 1, Article 19 of this Ordinance;

b/ Breeding eggs and larva shall only be exploited from purebred livestock breeds, prototypal breed stocks, grandparental breed stocks, parental breed stocks;

c/ Having or hiring technicians already granted diplomas or certificates of training in incubation techniques or breeding technologies;

d/ Comply with the regulation on management, exploitation and use of breeding eggs and larva promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

Article 21.- Livestock breed labels

1. Livestock breeds contained in packages, when being traded, must be labeled with the following contents:

a/ Names of livestock breeds;

b/ Names and addresses of production and/or trading establishments;

c/ Quantification of livestock breeds;

d/ Major quality standards;

e/ Date of production, use expiry date;

f/ Preservation and use instructions.

2. Livestock breeds not contained in packages must be accompanied with breeding dossiers, clearly stating their names, origins, econo-technical criteria, technical process for tending and rearing them.

Article 22.- Export of livestock breeds

1. Organizations and individuals may export livestock breeds not on the list of livestock breeds banned from export promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. Organizations and individuals that exchange with foreign countries precious and rare livestock breeds on the list of livestock breeds banned from export for scientific research or other special purposes must be permitted by the Minister of Agriculture and Rural Development or the Minister of Fisheries.

Article 23.- Import of livestock breeds

1. Organizations and individuals shall only be permitted to import livestock breeds on the list of livestock breeds permitted for production and trading.

The import of sperms and embryos must be permitted by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. Organizations and individuals that import livestock breeds not yet on the list of livestock breeds permitted for production and trading for the purposes of research, assay, inspection or in other special cases must obtain permission of the Minister of Agriculture and Rural Development or the Minister of Fisheries.

Chapter V

MANAGEMENT OF QUALITY OF LIVESTOCK BREEDS

Article 24.- Principles for management of quality of livestock breeds

Organizations and individuals producing and/or trading in livestock breeds must be responsible for the quality of livestock breeds they produce and/or trade in through the announcement of quality standards and quality of livestock breeds in conformity with such standards.

Article 25.- Livestock breed quality standards

1. The system of livestock breed quality standards consists of:

a/ The Vietnamese standards;

b/ The branch standards;

c/ The establishments' standards;

d/ International standards, regional standards, foreign standards permitted for application in Vietnam.

2. Competence to promulgate the list of livestock breeds subject to the application of standards is prescribed as follows:

a/ The Ministry of Science and Technology shall promulgate the list of livestock breeds subject to the application of the Vietnamese standards;

b/ The Ministry of Agriculture and Rural Development and the Ministry of Fisheries shall promulgate the lists of livestock breeds subject to the application of their respective branch standards.

Article 26.- Announcement of livestock breed quality standards

1. Organizations and individuals producing and/or trading in livestock breeds on the list mentioned at Points a and b, Clause 2, Article 25 of this Ordinance shall have to announce quality standards of livestock breeds they produce and/or trade in; the announced standards must not be lower than the standards prescribed at Points a and

b, Clause 1, Article 25 of this Ordinance.

2. The State encourages organizations and individuals to voluntarily announce quality standards of livestock breeds not on the lists mentioned at Points a and b, Clause 2, Article 25 of this Ordinance.

3. The order and procedures for announcing livestock breed quality standards shall comply with the law provisions on goods quality.

Article 27.- Announcement of livestock breed quality in conformity with standards

1. Organizations and individuals producing and/or trading in livestock breeds, when announcing the standard conformity quality, must base themselves on one of the following grounds:

a/ The results of quality certification by inspection establishments for livestock breeds on the list of livestock breeds subject to certification of standard conformity quality prescribed in Clauses 2 and 3 of this Article.

b/ The results of self-assessment by organizations and individuals or the results of assessment by inspection establishments regarding livestock breeds not on the list of livestock breeds subject to certification of standard conformity quality prescribed in Clauses 2 and 3 of this Article.

2. The Ministry of Science and Technology shall promulgate the list of livestock breeds subject to certification of quality conformity with the Vietnamese standards.

3. The Ministry of Agriculture and Rural Development and the Ministry of Fisheries shall promulgate the lists of livestock breeds subject to certification of quality conformity with the branch standards.

4. The order and procedures for announcing the livestock breed quality in conformity with the standards shall comply with the law provisions on goods quality.

Article 28.- Testing of livestock breeds

1. The testing of livestock breeds shall be conducted by testing establishments accredited by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries.

2. Livestock breed-testing establishments must fully meet the following conditions:

a/ Having certificates of registration of activities of testing livestock breeds, granted by competent State agencies;

b/ Having appropriate locations, ensuring veterinary sanitation and environmental protection according to the provisions of the legislation on veterinary medicine, the legislation on fisheries and the legislation on environmental protection;

c/ Having material foundations and technical equipment and facilities suitable for the testing of each livestock species and each quality grade of breeds;

d/ Having or hiring technicians specialized in husbandry and veterinary medicine or aquaculture.

3. Livestock breed-testing establishments have the responsibility:

a/ To organize the testing of livestock breeds according to the testing process applicable to each livestock species and each quality grade of breeds, promulgated by the Ministry of Agriculture and Rural Development or the Ministry of Fisheries;

b/ To be responsible for results of already conducted testing.

4. Testing expenses shall be paid by testing-requesting organizations and individuals. In cases where the testing establishments affirm that livestock breeds are inconsistent with the assay results or their quality does not conform with the announced breed quality, the assay establishments or organizations and individuals producing and/or trading in livestock

breeds must compensate for expenses for testing-requesting organizations and individuals.

Article 29.- Quarantine of livestock breeds

Organizations and individuals that select, create, produce, trade in and/or use livestock breeds must conduct the quarantine according to the law provisions on veterinary medicine.

Chapter VI

INSPECTION AND SETTLEMENT OF DISPUTES

Article 30.- Livestock breed inspectorate

The livestock breed inspectorate is a specialized inspectorate.

The organization and operation of the livestock breed specialized inspectorate shall comply with the law provisions on inspection.

Article 31.- Settlement of disputes over copyright of livestock breeds

Disputes over copyright of livestock breeds shall be settled by People's Courts according to law provisions.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 32.- Implementation effect

This Ordinance takes implementation effect as from July 1, 2004.

Article 33.- Implementation guidance

The Government details and guides the implementation of this Ordinance.

On behalf of the

National Assembly Standing Committee

Chairman

NGUYEN VAN AN