

PERU⁴**SUPREME DECREE N° 035-2011-PCM APPROVING THE REGULATIONS FOR THE PROTECTION OF THE RIGHTS OF BREEDERS OF NEW PLANT VARIETIES**

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The Trade Promotion Agreement between Peru and the United States of America was approved by Legislative Resolution No. 28766;

Chapter 16 of the above-mentioned Agreement sets out provisions relating to intellectual property [rights] and Peru's undertaking to accede to the International Convention for the Protection of New Varieties of Plants (1991 UPOV Convention), which was adopted by Congress of the Republic through Legislative Resolution No. 295957;

Decision 345 of the Commission of the Cartagena Agreement lays down provisions governing the protection of the rights of breeders of new plant varieties at Andean Community level;

The promotion and protection of the rights of breeders of new plant varieties are mechanisms that promote and encourage technological development and agricultural research with the aim of consolidating a sustainable production system;

It is necessary to create a regulatory framework governing provisions relating to the protection of the plant varieties contained in Decision 345, the Common Regime for the Protection of the Rights of Breeders of New Plant Varieties and in the 1991 UPOV Convention, so as to facilitate access to the protection of *plant varieties* and in turn stimulate and standardize formalities established to this end in an attempt to produce effective procedures to enable the protection of those rights.

Consequently, it is necessary to approve and issue regulations that lay down rules for implementing the above-mentioned measures so as to be able to rely on a consolidated set of regulations that facilitate the provision of access to the protection of the rights of breeders of plant varieties;

In accordance with paragraph 8 of Article 118 of the Political Constitution of Peru and Law No. 29158 – the Organic Law of the Executive Branch;

DECREES:

Article 1 Adoption of the Regulations for the Protection of the Rights of Breeders of New Plant Varieties

The Regulations for the Protection of the Rights of Breeders of New Plant Varieties, consisting of six (6) chapters, thirty-eight (38) articles and two (2) final supplementary provisions, attached hereto and which form an integral part hereof, shall be adopted.

⁴ The Supreme Decree N° 035 – 2011 PCM was adopted on April 14, 2011 and published in the Official Gazette "El Peruano" on April 15, 2011.

Article 2 Publication

This Supreme Decree shall be published in the Official Gazette "El Peruano". These Regulations shall be posted on the website of the Presidency of the Council of Ministers (<http://www.pcm.gob.pe>) on the same day it is published in the Official Gazette "El Peruano".

Article 3 Repeal

Supreme Decree No. 008-96-ITINCI and other legal rules that run contrary to the regulations adopted pursuant to Article 1 shall be repealed.

Article 4 Endorsement

This Supreme Decree shall be endorsed by the President of the Council of Ministers, the Minister of Agriculture and the Minister of Foreign Trade and Tourism.

Given at Government House, Lima, on the fourteenth day of April 2011.

ALAN GARCÍA PEREZ
Constitutional President of the Republic

ROSARIO DEL PILAR FERNÁNDEZ FIGUEROA
President of the Council of Ministers of Justice

RAFAEL QUEVEDO FLORES
Minister of Agriculture

EDUARDO FERREYROS KUPPERS
Minister of Foreign Trade and Tourism

REGULATIONS FOR THE PROTECTION OF THE RIGHTS OF BREEDERS OF NEW PLANT VARIETIES

CHAPTER I SCOPE

Article 1 Scope

The scope of these Regulations shall encompass all botanical genera and species insofar as the cultivation, possession and use are not prohibited on the basis of human, animal or plant health.

Article 2 Definitions

For the purposes of these Regulations:

2.1 "Breeder" means

- (a) the person who bred, or discovered and developed, a variety,
- (b) the person who is the employer of the aforementioned person or who has commissioned the latter's work, or
- (c) the successor in title of the first or second aforementioned person, as the case may be;

2.2 It should be specified that discovery is not a mere find. Rather, it refers to the selection process within the natural variation in a population of plants and the development is the process of reproduction or propagation and evaluation.

2.3 "Variety" means a plant grouping within a set of cultivated botanical individuals which, irrespective of whether or not the conditions for the grant of a breeder's right are fully met, may be:

- (a) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
- (b) distinguished from any other plant grouping by the expression of at least one of the said characteristics, and
- (c) considered as a unit with regard to its suitability for being propagated unchanged.

2.4 For the purposes of the provisions of Article 27 of Decision 345 of the Commission of the Cartagena Agreement (hereinafter Decision 345), "material" means, in relation to a variety,

- (a) Propagating material of any kind,
- (b) Harvested material, including entire plants and parts of plants, and
- (c) Any product made directly from the harvested material.

CHAPTER II COMPETENT AUTHORITY

Article 3 Competent Authorities

The Directorate of Inventions and New Technologies of the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) is the competent national authority responsible for the administrative functions contained in Decision 345 establishing Common Provisions on the Protection of the Rights of Breeders of New Varieties of Plants and these Regulations, and the Sub-Directorate for Genetic Resources and Biotechnology of the National Institute for Agricultural Research (INIA) is the body responsible for performing the technical functions contained therein.

Article 4 Functions of the Directorate of Inventions and New Technologies

The functions of the Directorate of Inventions and New Technologies shall be:

- (a) to receive and process applications for breeder's certificates;
- (b) to examine novelty on breeder's certificates applications filed with the Office of Inventions and New Technologies;
- (c) to set and collect, in coordination with the Sub-Directorate for Genetic Resources and Biotechnology, fees for services related to the protection of varieties, pursuant to INDECOPI's Sole Text of Administrative Procedures;
- (d) to open and maintain a National Register of Protected Plant Varieties;
- (e) to publish monthly in the Gazette of Intellectual Property all legal acts related to the protected plant varieties that are being registered;
- (f) to inform the Andean Community General Secretariat of the granting of breeder's certificates within a period not exceeding five (5) working days, from the date on which the resolution granting the Breeder's Certificate is authorized;
- (g) to inform the Board of the Cartagena Agreement of the termination of breeder's certificates within a period of twenty-four (24) hours from the time of issuance of the corresponding pronouncement;

- (h) to grant breeder's certificates;
- (i) to carry out registrations, cancellations and annulments of breeder's certificates, and record them in the National Register of Protected Plant Varieties;
- (j) to register license contracts granted, upon request of the holder of the breeder's certificate or of the licensee;
- (k) to prepare and execute the agreements with international organizations or other countries that may be established for the protection of new plant varieties;
- (l) to maintain, in coordination with the Sub-Directorate for Genetic Resources and Biotechnology, relations with international organizations or of other countries with which Peru has entered into agreements for the protection of new plant varieties, carrying out mutually agreed upon activities, except where the general legislation of the Peruvian State establishes other channels;
- (m) to meet the requirements set by judicial authorities as to disputes that may arise concerning the protection of new plant varieties;
- (n) to exercise other administrative powers granted under Decision 345.

Article 5 Functions of the Sub-Directorate for Genetic Resources and Biotechnology

The Sub-Directorate for Genetic Resources and Biotechnology shall have the following functions:

- (a) to establish the criteria and procedures for conducting tests [to determine] distinctness, uniformity and stability of a variety, in coordination with the Directorate of Inventions and New Technologies;
- (b) to validate the tests conducted by the breeder, for distinctness, uniformity and stability of a variety, as well as issue technical concepts and establish, in coordination with the Directorate of Inventions and New Technologies, cooperation agreements with other national or foreign institutions for the purposes indicated in this subparagraph;
- (c) to validate, for the Directorate of Inventions and New Technologies, the deposit of live material in the breeder's field with a scientific institution, whether national or of another Andean Community Member Country, or of one that grants reciprocal treatment and has internationally recognized legislation on the protection of the rights of breeders of new varieties of plants;
- (d) to establish mechanisms for the standardization of tests *carried out* abroad to satisfy the requirements of distinctness, uniformity, and stability;
- (e) to maintain the Documentation Fund of the National Register of Protected Plant Varieties;
- (f) to issue a registration report;
- (g) to publish the Annual Journal of the National Registry of Protected Plant Varieties with information on applications for breeder's rights and the grant thereof, and the proposed and approved denominations.
- (h) Other technical powers granted under Decision 345.

CHAPTER III RECOGNITION OF BREEDER'S RIGHTS AND REGISTRY OF PROTECTED PLANT VARIETIES

Article 6 Issuance of the Breeder's Certificate

A 'Breeder's Certificate' shall be issued to natural or legal person who has created a plant variety, provided it complies with the conditions laid down in Article 7 of Decision 345

and the plant variety is designated by a denomination in accordance with the provisions of Article 7 of these Regulations.

Article 7 Denomination of the Variety

Natural or legal persons living abroad must designate a representative whose domicile is in Peru.

7.1 Designation of varieties by denominations; use of the denomination. The variety shall be designated by a denomination which shall be its generic designation. Subject to paragraph 7.4 below, no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the breeder's right.

7.2 Characteristics of the denomination. The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in the territory of any member of the International Convention for the Protection of New Varieties of Plants (hereinafter UPOV Convention), an existing variety of the same plant species or of a closely related species.

7.3 Registration of the denomination. The denomination of the variety shall be submitted by the breeder to the Directorate of Inventions and New Technologies. If it is found that the denomination does not satisfy the requirements of paragraph 7.2 above, the Directorate of Inventions and New Technologies shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period.

7.4 Prior rights of third persons. Prior rights of third persons shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph 7.7 below, is obliged to use it, the Directorate of Inventions and New Technologies shall require the breeder to submit another denomination for the variety.

7.5 Same denomination in all members of UPOV. A variety that is the subject of an application for the issuance of a breeder's right must be submitted to all members of UPOV under the same denomination. The Directorate of Inventions and New Technologies shall register the denomination so submitted, unless it considers the denomination unsuitable within its territory. In the latter case, it shall require the breeder to submit another denomination.

7.6 Information concerning variety denominations. The Directorate of Inventions and New Technologies shall ensure that the authorities of all the members of UPOV are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any authority may address its observations, if any, on the registration of a denomination to the Directorate of Inventions and New Technologies which communicated that denomination.

7.7 Obligation to use the denomination. Any person who, within the territory of the Republic of Peru, offers for sale or markets propagating material of a variety protected within said territory shall be obliged to use the denomination of that variety, even after the expiration of the breeder's right in that variety, except where, in accordance with the provisions of paragraph 7.4 above, prior rights prevent such use.

7.8 Indications used in association with denominations. When a variety is offered for sale or marketed, it shall be permitted to associate a trademark, trade name or other

similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

Article 8 Representatives of the Persons Domiciled Abroad

Natural or legal persons living abroad must designate an authorized representative who resides in Peru.

Article 9 Action for Recovery

If the application for a Breeder's Certificate relates to a variety that has been unlawfully obtained from the breeder or from his or her successor in title, or if by virtue of contractual or legal obligations the holder of the Breeder's Certificate is a person other than the applicant, anyone with a legitimate interest may claim the status of true owner before the Directorate of Inventions and New Technologies at any time and up to three years after the Certificate has been granted.

Article 10 Claiming Priority

If priority has been claimed, [the applicant] must, within three (3) months from the date of filing the application, file the following with the Directorate of Inventions and New Technologies:

- a copy of the documents which constitute the first application, certified to be a true copy by the authority with which the application was filed; and
- samples or any other evidence that the variety which is the subject matter of both applications is the same.

Notwithstanding the provisions of Article 20 of these Regulations, the breeder shall be allowed a period of up to two years after the expiration of the period of priority provided for in Article 18 of Decision 345 or, where the first application is rejected or withdrawn, an appropriate time after the date of such rejection or withdrawal, in which to furnish, to the Directorate of Inventions and New Technologies, any [necessary] information, documents or material required for purpose of the examination,

Article 11 Technical Advice

In the cases considered relevant, the Directorate of Inventions and New Technologies, in coordination with the Sub-Directorate for Genetic Resources and Biotechnology, may entrust other national or foreign institutions with the responsibility of formulating the technical concept.

If this concept is favorable and the application complies with the other requirements, the Directorate of Inventions and New Technologies shall grant the Breeder's Certificate and register it with the corresponding denomination.

Article 12 The National Registry of Protected Plant Varieties

The National Registry of Protected Plant Varieties shall contain a description of the protected variety, the number of the breeder's certificate, the denomination of the variety, the identification of the holder of a protection right and of the person who bred or discovered and developed a variety, where the person is a person other than the breeder and any legal act that affects the breeder's rights and has been made known to the Directorate of Inventions and New Technologies.

Article 13 The Protection Period

The term of protection for vine, forest trees, fruit trees, including their rootstocks shall be 25 years and 20 years for other species, in both cases effective from the date [protection] is granted.

CHAPTER IV BREEDER'S RIGHTS, EXCEPTIONS AND OBLIGATIONS*Article 14 Rights Derived from the Registration*

The breeder or anyone to whom he or she has transferred and/or assigned his or her rights to a protected variety, may prevent third parties from engaging without his or her authorization in acts covered by Article 24 of Decision 345, during the lifetime of the Breeder's Certificate. The breeder may make his or her authorization subject to conditions and limitations.

Article 15 Essentially Derived Varieties

The Breeder's Certificate shall also enable the holder to exercise the rights stipulated in Article 24 of Decision 345 in respect of varieties essentially derived from the protected variety, except where the protected variety is itself an essentially derived variety.

Essentially derived varieties may be obtained, for example, by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering

Article 16 The Storing and Sowing of Seeds for Own Use

"Anyone who stores and sows for his or her own use" as per Article 26 of Decision 345, shall mean anyone who stores and sows on his own holdings, within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder, the product of the harvest which he has obtained by planting, on his own holdings, the protected variety or a variety covered by Article 24 of Decision 345.

Article 17 The Obligation to Maintain and Replace a Live Sample

Upon the request of the Directorate of Inventions and New Technologies, the holder of a variety registered in the Register of Protected Plant Varieties shall have the obligation to maintain and replace the live sample of the variety during the entire lifetime of the Breeder's Certificate.

Article 18 Annuity Payments

Annuities shall be paid annually, in advance, commencing on the first anniversary of the granting of the Breeder's Certificate. The expiration date of each annuity shall be the last day of the month of the anniversary of the date on which the Breeder's Certificate was granted.

CHAPTER V FILING OF THE APPLICATION AND ITS ADMISSION OR REFUSAL*Article 19 Application Requirements*

Applications for the granting of a Breeder's Certificate shall be filed with the Directorate of Inventions and New Technologies and contain or attach, as the case may be:

- (a) the name, address and nationality of the applicant;
- (b) the common and scientific name of the species;

- (c) an indication of the generic denomination proposed;
- (d) the name of the person who has created or discovered and developed a variety if it is different from the person indicated in Article [19](a) above;
- (e) the most important morphological, physiological, sanitary, phenological and physical and chemical aspects, as well as industrial or technological characteristics, which allow the variety to be described;
- (f) the method and procedure for obtaining the new variety, as well as all information regarding any knowledge relating to the variety that may facilitate the inspection of the compliance with provisions of Article 7 of Decision 345 and ensure that the variety is designated by a denomination that is consistent with Article 5(a) of these Regulations;
- (g) if the application relates to a variety for which an application has been previously filed abroad, it should indicate:
 - the countries where protection has been requested,
 - the type of protection requested,
 - the relevant application number,
 - the filing date,
 - the status of the application,
 - the breeder or inventor's denomination or reference, in the case of a patent application for an invention, and
 - the registration date;
- (h) A resolution cancelling a trademark registration, if the denomination proposed by the applicant is registered in one of the Andean Community member countries as a trademark or service mark in his or her name for identical or similar goods in accordance with the provisions of applicable trademark legislation;
- (i) Proof of payment of the prescribed filing fee;
- (j) The Directorate of Inventions and New Technologies may request whatever additional information, documents or materials it deems necessary for purposes of examining compliance with the conditions set out in Article 7 of Decision 345 and ensuring that the variety is designated by a denomination that is consistent with Article 7 of these Regulations;
- (k) If applicable, power of attorney, assignment or any other additional document, in accordance with Article 5(2) of the 1991 Act of the UPOV Convention.

The application and the attached documents shall be drafted in Spanish.

Article 20 Examination of the Formal Requirements of the Application

Once the application is received, the Directorate of Inventions and New Technologies shall verify compliance with the formal requirements set out in the foregoing Article within a period of thirty (30) working days.

If the formal examination [of the application] reveals that the application does not meet the requirements set forth in subparagraphs (a), (b), (c), (d) and (i) of Article 19 above, the application shall be deemed not to have been filed for processing and shall not be assigned a filing date.

If the application does not include the documents specified in subparagraphs (f), (g), (h), and (j) of Article 19 above, the applicant shall be requested to complete the application within a period of thirty (30) working days from the date of receipt of the notification, renewable at the applicant's request, with the warning that if no reply is received, the application shall be deemed to have been abandoned.

Article 21 Publication

Upon the completion of the examination of the formal requirements of an application, the Directorate of Inventions and New Technologies shall issue an order of publication requiring publication of an excerpt of the description of the plant variety which is the subject of the application in the Official Gazette El Peruano. The applicant shall provide a copy of the relevant publication using extracted material to Directorate of Inventions and New Technologies within three (3) months of receipt of the order of publication.

Article 22 Third Party Observations

Within a period of thirty (30) working days from the date of publication, anyone with a legitimate interest may make one submission of substantiated observations contesting compliance with the conditions stipulated in Article 7 of Decision 345.

Article 23 Reply to the Observations

If, within the period prescribed in the preceding Articles, observations have been filed, the Directorate of Inventions and New Technologies shall notify the applicant so that he or she may submit, where appropriate, his or her arguments or documents within [a period of] thirty (30) working days from the date of notification. This period may only be extended once for a similar period.

Article 24 Substantive Examination of the Application

Examination of novelty, distinctness, uniformity and stability shall be conducted upon the expiration of the periods for the submission of observations or replies, as the case may be, provided in the previous Articles.

Article 25 Approval and Validation of Tests

The Sub-Directorate for Genetic Resources and Biotechnology, in coordination with the Directorate of Inventions and New Technologies, shall determine the cases in which it will be appropriate to validate the tests carried out by the breeder, as also those in which it will be appropriate to approve the tests carried out abroad to determine compliance with the requirements of distinctness, uniformity and stability.

Article 26 Competent Authority Opinion Deadline

The Directorate of Inventions and New Technologies shall issue its opinion on the conditions established in Article 7 of Decision 345 within a period of three (3) years for annual species and of five (5) years, exceptionally extendable to ten (10), for bi-annual and perennial species, as of the date of filing the application for protection.

Article 27 Evaluation in the Breeder's Field

Upon request of the breeder and subject to the approval of the Sub-Directorate for Genetic Resources and Biotechnology, in coordination with the Directorate of Inventions and New Technologies, the conditions laid down in Article 7 of Decision 345 may be assessed in the place or places where the breeder has developed his or her new variety.

Article 28 Application Abandonment

Except in cases where a different period is prescribed in this Decree, the application shall be deemed to have been abandoned if the corresponding file remains inactive for three (3) months due to the lack of a response by the applicant. There shall be no grounds for abandonment while the case is pending resolution.

The resolution declaring the abandonment of the application shall be notified to the person concerned. Abandonment shall not be lifted nor shall the fees paid be returned [to the applicant] when an application is declared abandoned.

Article 29 Nullity of the Breeder's Certificate

Under Article 33(b) of Decision 345, a breeder's rights shall be null and void if it is established that the granting of such rights was essentially based upon information and documents furnished by the breeder and the conditions of uniformity and stability are not complied with at the time of the grant of the breeder's right.

CHAPTER VI INFRINGEMENTS

Article 30 Actions for Infringement of Rights

Notwithstanding any admissible civil and criminal proceedings, the holder of a Breeder's Certificate may bring infringement proceedings against anyone who infringes his or her rights. The licensee of a Breeder's Certificate may file an action for infringement against anyone who infringes the rights of the holder of a Breeder's Certificate, so long as such right is provided for in the licensing contract and the holder has been notified accordingly. Actions for infringement shall also be brought when there is imminent danger that the holder's rights will be infringed.

Article 31 Requirements for Proceedings involving Infringement of Rights

The proceedings must be made in writing to the Directorate of Inventions and New Technologies and contain:

- (a) the indication of the protected plant variety that is the subject of the infringement [proceedings], or the target of an infringement threat;
- (b) a description of the facts that have caused the infringement;
- (c) the name and address or any other information that can be used to identify the infringer, or the place or means whereby the infringement is presumed to have taken place; and
- (d) any other information that would allow the authorities to put an end to the infringement.

Article 32 Precautionary Measures

The holder whose right has been infringed may request:

- (a) the cessation of infringing acts;
- (b) the seizure of reproduction or propagation or multiplication material of the protected variety, or of the product of the harvest;
- (c) the temporary closure of the infringer's business;
- (d) the adoption of the necessary measures so that customs authorities may prevent infringing products from entering the country;
- (e) the publication of the sentence at the expense of the infringer; and
- (f) in general, any necessary measures to prevent the infringement from taking place or continuing.

The Directorate of Inventions and New Technologies shall maintain a register of infringers.

Article 33 Time-Limit for the Suspected Infringer to Present his or her Arguments

Once the infringement action or denunciation has been filed by the holder, the Directorate of Inventions and New Technologies shall inform the presumed infringer so that he or she may, within a non-renewable period of fifteen (15) days, present such arguments and evidence as he or she may deem appropriate.

Article 34 Issuance of Resolution and Execution of Measures Ordered

Once the time-limit referred to in Article 33 above has expired, the Directorate of Inventions and New Technologies shall proceed to issue the corresponding resolution.

Once the resolution has been approved or confirmed at second instance, the Directorate of Inventions and New Technologies may seek the assistance of law-enforcement agencies to ensure that the measures mandated are carried out.

Article 35 Inspection and Adoption of Precautionary Measures

By filing an infringement action or denunciation, the plaintiff may request that, on his or her own behalf and at his or her own risk, an inspection visit be made to the premises where the infringement is known or presumed to be taking place, so that the necessary precautionary measures may be taken to prevent or stop the infringement.

Representatives of the Directorate of Inventions and of New Technologies and of the Sub-Directorate for Genetic Resources and Biotechnology shall appear at the designated premises and notify the alleged infringer of the infringement proceedings filed, then proceed to verify the facts denounced and hear the arguments of the person in charge of the premises, or in his or her absence, of whoever is there.

It is the responsibility of every individual to provide the necessary facilities so that the Directorate of Inventions and of New Technologies and the Sub-Directorate for Genetic Resources and Biotechnology may fulfill the inspection role described in this Article. Whoever is in the premises shall indicate the name or denomination of the business that operates there.

If during the course of the inspection, the infringement or imminent threat thereof is conclusively substantiated, the required measures shall be taken immediately, if necessary with the help of law-enforcement agencies, to prevent or stop the infringement, such as impoundment and immobilization of the reproduction or propagation or multiplication material for the variety or product of the harvest of the variety allegedly infringed; or the temporary closure of the premises.

If the infringement or threat thereof is not proven during the inspection, the Directorate of Inventions and of New Technologies may request the Sub-Directorate for Genetic Resources and Biotechnology for a technical opinion on the matter. A record shall be drawn up of everything carried out during the inspection visit, including goods impounded, a copy of which shall be delivered to the plaintiff or denouncer and the alleged infringer.

Article 36 Continuance, Modification or Cessation of Precautionary Measures

In the event that precautionary measures have been adopted, the resolution issued by the Directorate of Inventions and of New Technologies pursuant to Article 33, shall also decide on the continuation, modification or cessation of precautionary measures taken.

Article 37 Responsibility for Malicious or Negligent Acts or Denunciations

The plaintiff or denouncer shall be liable for damages caused to the alleged infringer, in case of malicious or negligent acts or denunciations. Public officials shall be accountable under the law.

Article 38 Damages

A holder whose rights have been infringed may only request compensation for damages by way of civil proceedings, once administrative remedies have been exhausted.

FINAL SUPPLEMENTARY PROVISIONS

First. For the purposes of these Regulations, the first administrative authority shall be deemed to be the Directorate of Inventions and of New Technologies and the second and final administrative authority shall be deemed to be the Tribunal for the Protection of Competition and Intellectual Property, pursuant to Legislative Decree No. 1033 and amendments thereto.

Second. The Republic of Peru shall be represented before the Sub-Regional Committee for the Protection of Plant Varieties of the Andean Group and before any other official international entity involved in this area, as a titular member, by a representative of the Directorate of Inventions and of New Technologies of the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI), and, as an alternate, by a representative of the Sub-Directorate for Genetic Resources and Biotechnology of the National Institute of Agrarian Innovation (INIA). Both entities shall decide the pertinence of their participation in terms of their roles.