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Morocco

Trade Policy Monitoring

New IPR Protection For Plant Breeders

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Report Highlights:

Morocco recently implemented a law to protect plant breeders' rights, which should provide U.S. seed exporters with a better environment to export plant genetic material to Morocco.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Rabat [MO1], MO

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Morocco is implementing its intellectual property right (IPR) law for protecting new plant varieties. The basic 9/94 IPR law was published by the government in 1997, but has been effectively implemented since October 28, 2002 with the publication of various implementing orders.

The IPR law is patterned after the 1991 UPOV (International Union for the Protection of New Varieties of Plants) Convention and should provide adequate protection of breeders' rights and allow plant breeders to reap fair returns from their investment. The law will also allow Moroccan agriculture to benefit from new developments in plant breeding.

General

Protection of new varieties is not mandatory. The Moroccan law provides breeders from other countries reciprocal treatment. That is, the protection is granted if the country of origin provides at least the same protection to Moroccan breeders. Protection is granted to the breeder if the variety is deemed new, distinct, uniform, stable, and has the appropriate denomination.

A variety is considered new if, at the implementation date, the material to protect has not been sold or given to third parties for use for over 1 year in Morocco and for 4 years abroad (for trees and vineyards, 6 years). The variety has to be distinguishable from any commonly known variety, sufficiently uniform in its relevant characteristics, and have stable characteristics even after repeated propagation. The Ministry of Agriculture has established a list of organizations (local and foreign) that are able to evaluate the variety to protect.

Currently, the Ministry of Agriculture has published a list of 76 species and genera for which the breeders' rights can be protected. The list establishes also, for each species and genera, the elements that can be protected. As required by the UPOV convention, the list is expected to be extended to all species and genera within 10 years.

Procedure to obtain Breeder's Rights in Morocco

The breeder (or if not based in Morocco, its local representative) files an application for protection and provides information about the company, the species and the variety, as well as a statement that the variety is new. The breeder also provides preset size samples to the Ministry of Agriculture by a specified time of the year. Finally, the breeder must pay all the fees related to the protection of the variety to the government.

The Ministry of Agriculture publishes the breeder's application on the Bulletin of Protection of Breeder's Rights. A three month period is allowed for public comments on the application and the applicant is given one month to respond to these comments. The Ministry of Agriculture reviews the application and examines if the variety is new, distinct, homogenous and stable, and then notifies the applicant of the results of the examination. The applicant has then two months to comment on the results of the examination. The Ministry of Agriculture can then decide 1) to deliver the Certificate Of Breeder's Rights, 2) reject the breeder's application, or 3) require additional testing under conditions and a deadline set by the Ministry. The Ministry's decision

must be justified.

The Certificate of Protection is granted to the breeder by the Minister of Agriculture on the advice of the Consultative Committee for Protection of Plant Breeders. The Certificate is recorded on the National Register for Breeders' Rights Certificates and published in the Bulletin of Protection of Breeder's Rights. In case the applicant is not the breeder, the name of the latter must be mentioned on the certificate.

Consultative Committee for Protection of Plant Breeder's Rights

The committee advises the Minister of Agriculture on all issues related to the protection of plant breeders' rights and is chaired by the Head of Plant Protection Directorate. The Committee must gather at least twice a year (April and September) and, if necessary, upon call of the Chairman. The Committee is made of 12 representatives of various divisions of the Ministry of Agriculture, research institutes, and private sector organizations and can, if their expertise is deemed necessary, include other members.

Scope of the Protection

Breeders' rights apply to 1) the protected variety, 2) all varieties that are not clearly distinguishable from the protected variety, 3) varieties essentially derived from the protected variety when the latter is not essentially derived, and 4) all varieties that require repeated use of the protected variety (i.e., hybrids).

Once breeders are entitled to a certificate of plant variety protection, their authorization is required for the production, reproduction, conditioning for the purpose of propagation, offering for sale, selling or other marketing export, and import of the protected variety. The breeder can exercise his rights both on the multiplication and reproductive material and on the harvested and processed products issuing from the protected material.

Like the UPOV convention, the Moroccan law exempts from the grant of protection:

- 1) Private non commercial acts
- 2) Experimental acts
- 3) Acts to create new varieties provided that a) the protected variety is not repeatedly used to produce the new variety, b) the new variety is not essentially derived from the protected variety when the latter is not itself essentially derived, and
- 4) acts accomplished by farmers for reproduction or multiplication, on their own farm, using the product of the protected variety except in the case of trees, ornamental, and floral crops.

Duration of Breeder's Rights Protection

For each species the duration of the protection is set by the Ministry of Agriculture. It cannot be less than 20 years for all field crops, 25 years for trees and vineyards, and 30 years for date palms.

As a temporary measure, and for a period of one year (October 28, 2002 - October 27, 2003) breeders might apply for protection of the varieties that have been marketed in Morocco and abroad before the implementation of the law. If the protection is granted, its period validity (see Table 1) is diminished by the time between it first was put on the market and the time of application. For example, grapevines can be protected for 25 years (see attached table), but if a breeder applies before October 2003 to protect a variety that has been marketed since 1990, the Ministry of Agriculture can issue protection until 2015.

List of Regulations

- 1) Law of Protection of Breeders' Rights 9/94 of January 21, 1997. (Official Bulletin 4482 of May 15, 1997, page 523).
- 2) Decree 2-01-2324 of March 12, 2002, implementing the 9/94 Breeders' Rights Protection Law. (Official Bulletin 4988 of March 21, 2002, page 157).
- 3) Decision 1576-02 of September 16, 2002 of the Ministry of Agriculture and Ministry of Finance setting fees to be paid to the GOM for protection of property right. (Official Bulletin 5054 of November 7, 2002, page 1292).
- 4) Decision 1577-02 of September 16, 2002 of the Ministry of Agriculture setting the list of species, varieties, and part of plant that can be protected and the duration of the protection period (Official Bulletin 5054 of November 7, 2002, page 1294).
- 5) Decision 1578-02 of September 16, 2002 of the Ministry of Agriculture setting the time of the year by which samples of breeding/multiplication material to be protected can be dropped at the Ministry of Agriculture and the size of the samples (Official Bulletin 5054 of November 7, 2002, page 1297).
- 6) Decision 1579-02 of September 16, 2002 of the Ministry of Agriculture listing the members, attributions of the Consultative Committee of Plant Breeders' Rights Protection (Official Bulletin 5054 of November 7, 2002, page 1297).
- 7) Decision 1580-02 of September 16, 2002 of the Ministry of Agriculture listing the information to indicate the National Register of the Plant Breeders Certificate (Official Bulletin 5054 of November 7, 2002, page 1302).
- 8) Decision 1581-02 of September 16, 2002 of the Ministry of Agriculture listing the information to indicate on the National Register of Application of Plant Breeders Certificate (Official Bulletin 5054 of November 7, 2002, page 1302).
- 9) Decision 1582-02 of September 16, 2002 of the Ministry of Agriculture setting the periodicity and the content of the Bulletin of Breeders' Rights Protection listing (Official Bulletin 5054 of November 7, 2002, page 1302).

Key Contact in Morocco for Protection of Plant Breeders' Rights

Ministere de l'Agriculture - DPVCTRF
Direction de la Protection des Vegetaux, Controle Technique et Repression des Fraudes
Service de Controle des Semences et Plants
Zankat Sid El Hafiane Cherkaoui, B.P.1308, Guich, Souissi, Rabat, Morocco
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List of Genders and Species of Protectable Varieties,
Element on Which the Protection Applies,
and Period of Protection.

Gender and Specie of the protectable varieties (Latin Name)	Parts/Material Protected	Protectio n Duration
1) Cereals Durum Wheat (<i>Triticum durum Desf</i>) Wheat (<i>Triticum aestivum L.</i>) Barley (<i>Hordeum vulgar L.</i>) Oats (<i>Avena sativa L.</i>) Oats nude (<i>Avena nuda L.</i>) Rye (<i>Secale Cereale L.</i>) Triticale (<i>X Triticosecale</i>) Corn (<i>Zea Mays L</i>)	Reproduction idem idem idem idem idem idem idem	20 years idem idem idem idem idem idem idem
2) Pulses Broadbeans (<i>Vicia faba L. var Major Harz</i>) Lentils (<i>lens culinaris Medik</i>) Chick Peas (<i>Cicer Arietinum L.</i>) Peas (<i>Pisum Sativum L. Partim</i>) Beans (<i>Phaseolus vulgaris L.</i>)	Reproduction idem idem idem idem	20 years idem idem idem idem
3) Feed Crops Thickbeans (<i>Vicia faba L. var Minor Harz</i>) Horsebeans (<i>Vicia faba L. var equina</i>) Feed Peas (<i>Pisum sativum L. partim</i>) Vetch Common (<i>Vicia sativa L.</i>) Vetch Woollypod (<i>Vicia Villosa L.</i>) Vetch Narbor (<i>Vicia Narboransis L.</i>) Alfalfa perenial (<i>Medicago sativa L.</i>)	Reproduction idem idem idem idem idem idem	20 years idem idem idem idem idem idem
4) Industrial Crops Sunflowerseed (<i>Helianthus annuus L.</i>) Rapeseed (<i>Brassica napus L. ssp oleifera mtzg Sinsk</i>) Flaxseed (<i>Carthamus tinctorius</i>) Cotton (<i>Gossypium barbadense L.</i>) Cotton (<i>Gossypium hirsutum L.</i>) Soybean (<i>Glycine max (L) Mersill</i>) Flaxseed (<i>Linum usitatissimum L.</i>)	Reproduction idem idem idem idem idem idem	20 years idem idem idem idem idem idem
5) Vegetables Tomatoes (<i>Lycopersicon lycopersicon (L) Karst. ex Farwell</i>) Melon (<i>Cucumis melo L.</i>) (<i>Melo Sativus Sarg</i>)	Reprod.& Vegetative idem	20 years idem
6) Potatoes (<i>Solanum tuberisum L.</i>)	Vegetative	20 years
7) Strawberries (<i>Fragaria ananassa Duch</i>)	Vegetative	20 years

