



ADMINISTRATIVE ARRANGEMENT 2021/0001 (AA) ON

TRILATERAL COOPERATION BETWEEN

The DEVELOPMENT CENTER OF SCIENCE AND TECHNOLOGY, MINISTRY OF AGRICULTURE AND RURAL AFFAIRS, Nongfeng Building, No. 96, Dongsanhuan Nanlu, Chaoyang District, 100122, Beijing, P. R. China, (hereinafter referred to as "**DCST**" of "the PRC Side")

AND

The SCIENCE AND TECHNOLOGY DEVELOPMENT CENTER, NATIONAL FORESTRY AND GRASSLAND ADMINISTRATION, Hepingli East Street 18, Doncheng District, 100741, Beijing, P. R. China, (hereinafter referred to as "**STDC**" of "the PRC Side" and together with the DCST 'the PRC Sides')

AND

The COMMUNITY PLANT VARIETY OFFICE, 3 Boulevard du Maréchal Foch, 49101 Angers, France, (hereinafter referred to as "**CPVO**")

Hereinafter collectively referred to "**the Sides**"

Recalling that:

- (1) the DCST is the Agency under the Ministry of Agriculture and Rural Affairs (MARA) responsible for registering plant variety rights, inter alia, for agricultural and vegetable crops and for fruit (except nut), non-woody ornamental plants, tea shrubs, grass and green manure, herbaceous medicinal plants and tropical crops such as rubber in the People's Republic of China (PRC);
- (2) The STDC is the Agency of the National Forestry and Grassland Administration (NFGA) responsible for registering plant variety rights, inter alia, for forest trees, bamboo, woody vines, woody ornamental plants, dry fruit trees (nuts), woody medicinal plants and woody plants for oil, beverage, condiment production in the People's Republic of China (PRC);
- (3) the CPVO is the European Union Agency responsible for registering plant variety rights in the European Union.

CONSIDERING that:

- (1) the Sides operate in the field of plant variety protection (PVP) with similar operational structures and a comparable volume of applications to be processed;

- (2) the Sides entered into an Administrative Arrangement in November 2017 (hereinafter referred to as "AA 2017") for a duration of three years, and that the AA 2017 expired in 2020;
- (3) the Sides consider the implementation of AA 2017 a success and now want to continue to cooperate;
- (4) the involvement of Intellectual Protection technical cooperation programmes (IPKey) has contributed to the success in implementing AA 2017;
- (5) the Sides are ready and willing to continue to develop cooperation activities whilst respecting their autonomy and specificities;
- (6) the cooperation activities to be performed under the AA would contribute to creating synergies between the Sides in different operational and administrative areas;
- (7) the exchange of best practice and technical information will encourage breeders to make new varieties available and will offer farmers and consumers a better access to adapted varieties meeting their needs;
- (8) the cooperation activities would involve Distinctness, Uniformity, Stability (DUS) test facilities and their staff in the PRC and in the EU, i.e. the DUS Test Centres for Plant New Variety Protection, MARA and NFGA and their affiliated DUS tests agencies in the PRC and entrusted examination offices in the EU.

In the light of the above, the Sides agree as follows:

1 – Purpose

The purpose of this updated administrative arrangement (hereinafter the "AA") is to enhance the environment for breeders to acquire PVP in the EU and in the PRC through the establishment of wide-ranging and flexible mechanisms for guiding and furthering mutual cooperation in the areas indicated under Point 2 (Scope of cooperation). The AA is also intended for the CPVO to share experiences of a PVP system implementing the 1991 International Convention for the Protection of New Varieties of Plants (UPOV '91).

2 – Scope of cooperation

The Sides hereby envisage to cooperate on administrative, operational and training activities of common interest such as and without limitation to:

- i. Enhancing the PVP system in the PRC in terms of the scope of protection;
- ii. Streamlining the PVP application procedure in PRC;
- iii. Training activities and exchange of experience in PVP administration, DUS examination and use of relevant IT-tools and technical protocols;
- iv. Explore and share enforcement-related practice;
- v. Determining the crops covered by the cooperation, with each activity being agreed upon in annual work programmes.



3 – Implementation

1. Activities within the scope indicated in Point 2, above, under this AA will be agreed upon in annual work programs following the procedure applied by IPKey .

Further implementation plans, established as appropriate, may be approved by the Sides, by the three coordinators appointed under Point 3(2). They should include at least the activities to be carried out by the Sides, and their duration. Further requirements (such as, staffing, cost estimates, sources of funding, and terms of implementation or conditions not set out in this AA) may be included, as appropriate.

2. Each Side will appoint a coordinator, who will be responsible for following up on the implementation of the cooperation activities arising from this AA. This may include review and evaluation of such cooperation activities. These coordinators are:

For the CPVO: Mr. Gerhard SCHUON,

For the DCST, MARA: Ms. YANG Yang,

For the STDC, NFGA: Mr. CHEN Guang

3. The provisions of this AA take precedence over those of the implementation plans. Implementation plans may not go beyond the scope of this AA.

4 – Disclosure and Protection of information

1. Any disclosure or transfer of information or documents by any Sides to the others will be in compliance with the applicable EU and PRC laws, including but not limited to, the applicable EU and PRC laws on the protection of confidential information and business secrets, duty of secrecy and personal data.
2. The Sides will use the information obtained during the course of the implementation of the AA exclusively amongst them. The Sides may also use such information for reporting to their supervisory bodies. The written prior consent of the Sides providing information is required when one Side wishes to use such information for other purposes.
3. The Sides may publish information concerning the cooperation under this AA through official publications or on their websites. Each Side will inform the other Sides before such publication. The other Sides has two weeks from receipt of the information to require changes before publication.
4. The Sides will not transmit or disclose to third parties any documents, information and other knowledge whether or not such information constitutes confidential nature or business secrets, or covered by the duty of secrecy or is personal data, acquired during the implementation of this AA and obtained during the implementation of this AA without the prior written consent of the other Sides and in compliance with the applicable EU legislation, if any. In this respect, it is acknowledged that the CPVO is bound by the provisions of the relevant Union legislation



including, but not limited to, Regulation No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.¹

5. The present AA does not imply any transfer of Intellectual Property Rights (IPR) among the Sides. The IPRs of each Side that existed prior to this AA, or are developed outside its scope, and any enhancements, modifications and/or derivatives thereof, should remain exclusively the property of that Side.
6. All IPRs relating to any work performed under this AA are vested in the author(s) of the work, subject to the Sides' regulations, if any, governing the ownership of IPRs created by their employees in the course of their duties. The Sides grant each other a non-exclusive, non-transferable right to use work performed in implementing this AA, unless they arrange otherwise in writing.

5 – Financing

1. The AA does not provide for any transfer of financial resources between the Sides.
2. Each Side will bear its own costs arising from any activity implemented under this AA, unless otherwise arranged separately by the Sides in writing.
3. The Sides may source funding from suitable support programs, such as the IPKey.

6 - Review and evaluation

1. Each Side will be responsible for its own reporting.
2. The Sides may decide to review the cooperation activities arising from this AA and to evaluate their implementation. The evaluation may include identifying areas in which cooperation should be strengthened, improved, suspended or terminated and new areas for joint action.

7 - Disagreements

Any disputes arising in connection with the interpretation or implementation of this AA should be resolved by mutual agreement between the Sides. Without prejudice to Point 8.2 and 8.3, each Side may terminate this AA with immediate effect by letter to the other Sides if no mutual agreement can be reached.

8 - Duration

1. The present AA will become operational as from 26 May 2021, for a term of five years. It may be extended for a period to be agreed upon by written consent of all three Sides;

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43–48).



2. The AA may be discontinued by mutual consent, or by either Side giving six months' written notice to the other Sides;
3. If this AA is discontinued early by the DCST or the STDC, the CPVO may agree to continue cooperation activities already initiated with the other PRC Side. The details of such continuation will be determined in writing between the CPVO and the PRC Side that continues the cooperation activities.

9 – Amendments

This AA may be modified by written amendment at any time in the light of experience and technical developments, by mutual consent of the Sides.

This AA does not intend to modify or create any legal obligations for either Side under international or domestic law and is limited to working arrangements. The Sides should however make their best efforts to achieve its stated objectives.

10 - Documentation

This AA is signed in one English and one Chinese version with neither version being more prominent than the other. Each version is provided in three originals, each Side holding one original of each language version.

For the Community Plant Variety Office

For the Development Center of Science and Technology, Ministry of Agriculture and Rural Affairs, PRC

For the Science and Technology Development Center, National Forestry and Grassland Administration, PRC

Date: 26-5-2021

Date: 2021.5.26

Date: 2021.5.26

Place: Angers, France

Place: Beijing, China

Place: Beijing, China

Represented by: Martin Ekvad, CPVO President

Represented by: YANG Lisheng, Vice Director General of DCST, MARA

Represented by: LONG Sanqun, Deputy Director General of STDC, NFGA

Signature:

Signature:

Signature:

