



Ministry Of Science and Technology



New Plant Variety Protection Work in Lao PDR

Plant Varieties Division, Department of Intellectual Property



Outline

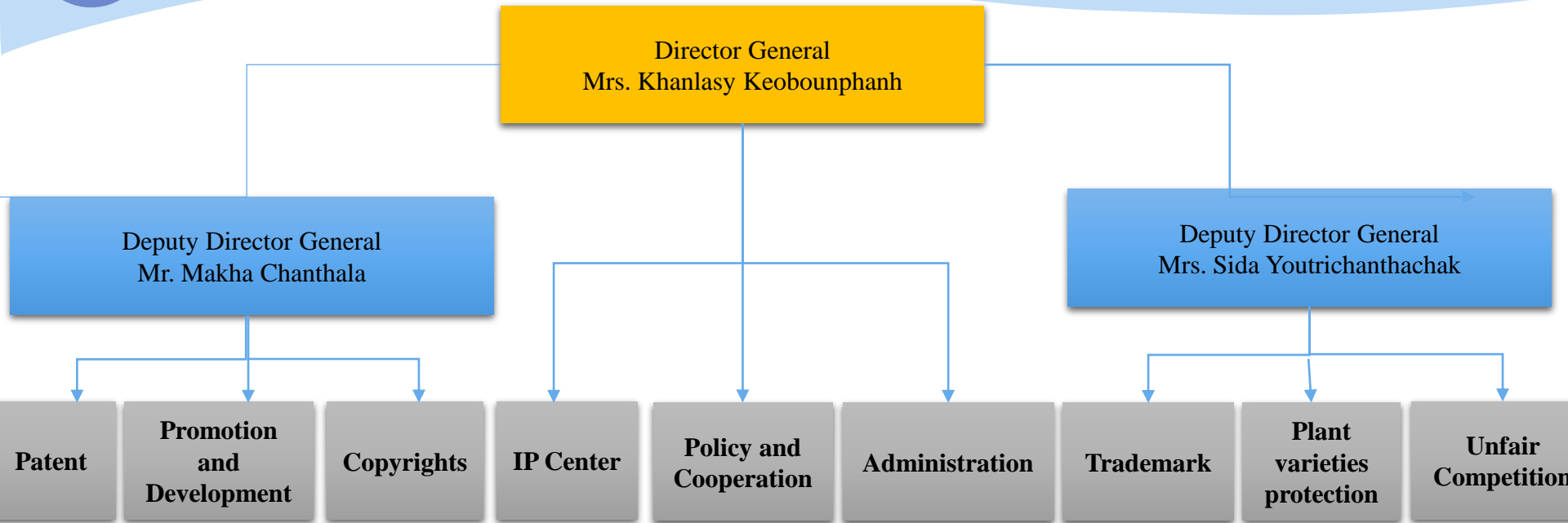
- I. Background
- II. Legislations related to new plant protection
- III. Implementation
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I. Background

- ❖ The Department of Intellectual Property has a role ,which serves as the secretariat to the board of directors of the Ministry to determine the policies, macro management strategy. In relation to patent, pretty patent, industrial design, trademark, trade secret, geographical indication, layout-design or integrated circuit, new plant variety, copyright and related right, including the promotion and development, service, protection and settlement of intellectual property disputes across the country regarding the work at the Ministry of Science and Technology.

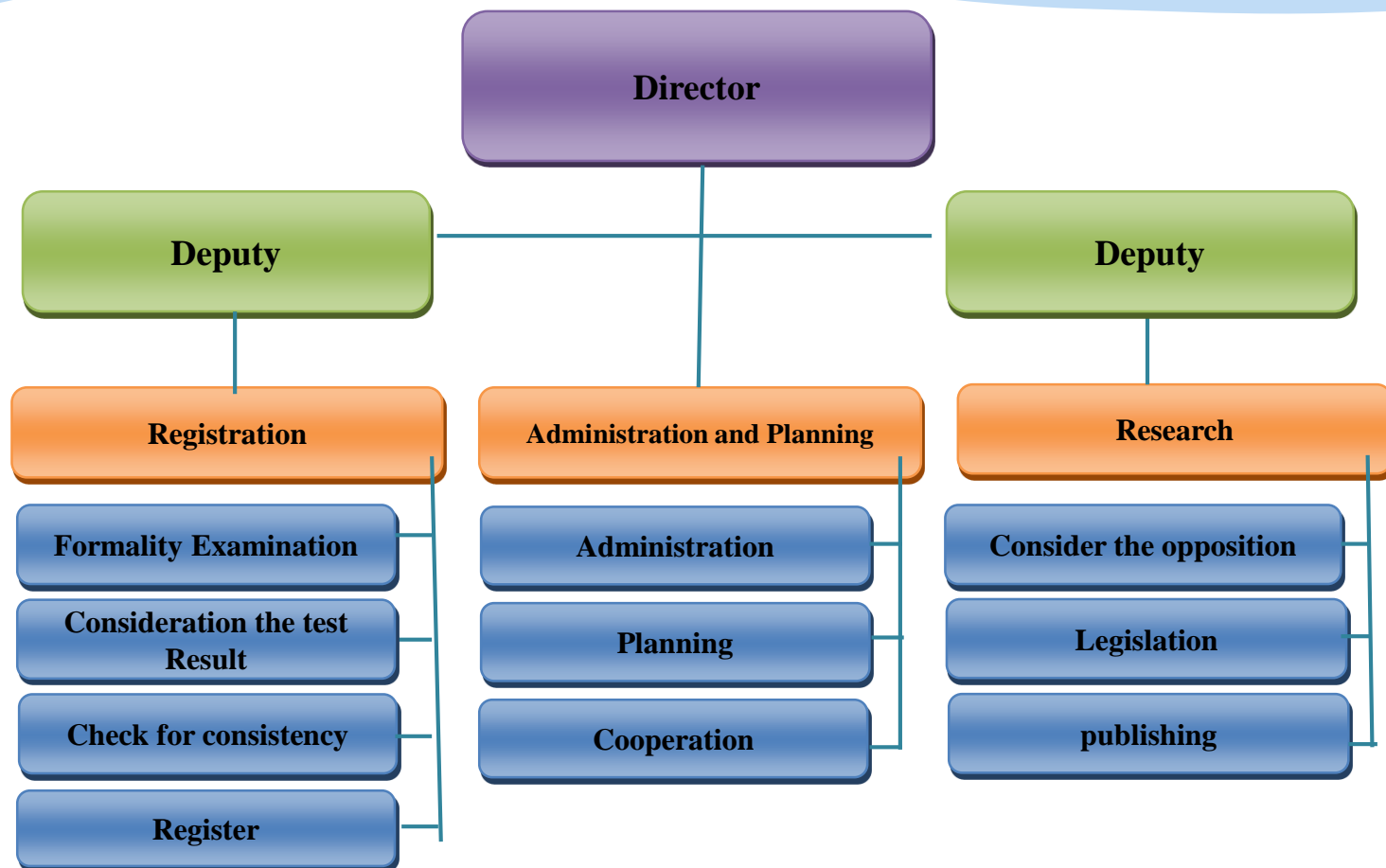


Structure of Department



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- ❖ Plant Variety Protection Division was established in 2015, which was established as a director of the Department of Intellectual Property, whose role was to perform the management, administration and promotion of new plant varieties protection.

Structure of Division



New Plant Varieties

- ❖ Means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated unchanged;



The source of new plant varieties



**Commonly
grown plants
have developed
to become a new
plant variety**



**Natural
discovery of
variety has
developed into a
new variety**

II. Legislation related to new plant protection

- Law on Intellectual Property (Amended),
No. 38/NA ,Date: 15/11/2017;
- Law includes 170 provisions, the provision related to new plant varieties protection from 69 to 91;
- Ministerial Decision on New Plant Varieties Protection (Draft) ;
- Preparing a guidebook for technical officer and operational use.



III. Implementation

Requirements for Registration of New Plant Varieties

❖ The registration of a new plant variety shall meet all the following requirements:

1. New;
 2. Distinct;
 3. Uniform;
 4. Stable;
- the variety must designated a distinctive denomination (For registration).

1. Novelty

- ❖ A variety shall be deemed to be new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the variety has not been sold or otherwise disposed of to others, by or with the consent of the breeder, for purposes of exploitation of the variety within the time period:
 - Less than one year before the date of filing of the national
 - Earlier than four years, or in the case of trees or vines, earlier than six years before the said date in any other territory.

2. Distinctness

- ❖ The variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application.



3. Uniformity

- ❖ The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.



4. Stability

- ❖ The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

Denomination

1. Each variety shall be designated by a denomination which will be its generic designation. 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;
2. A proposed denomination must enable the variety to be identified. 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. It must be different from every denomination which designates, in the territory of the Lao PDR or any foreign country, an existing variety of the same plant species or of a closely related species;

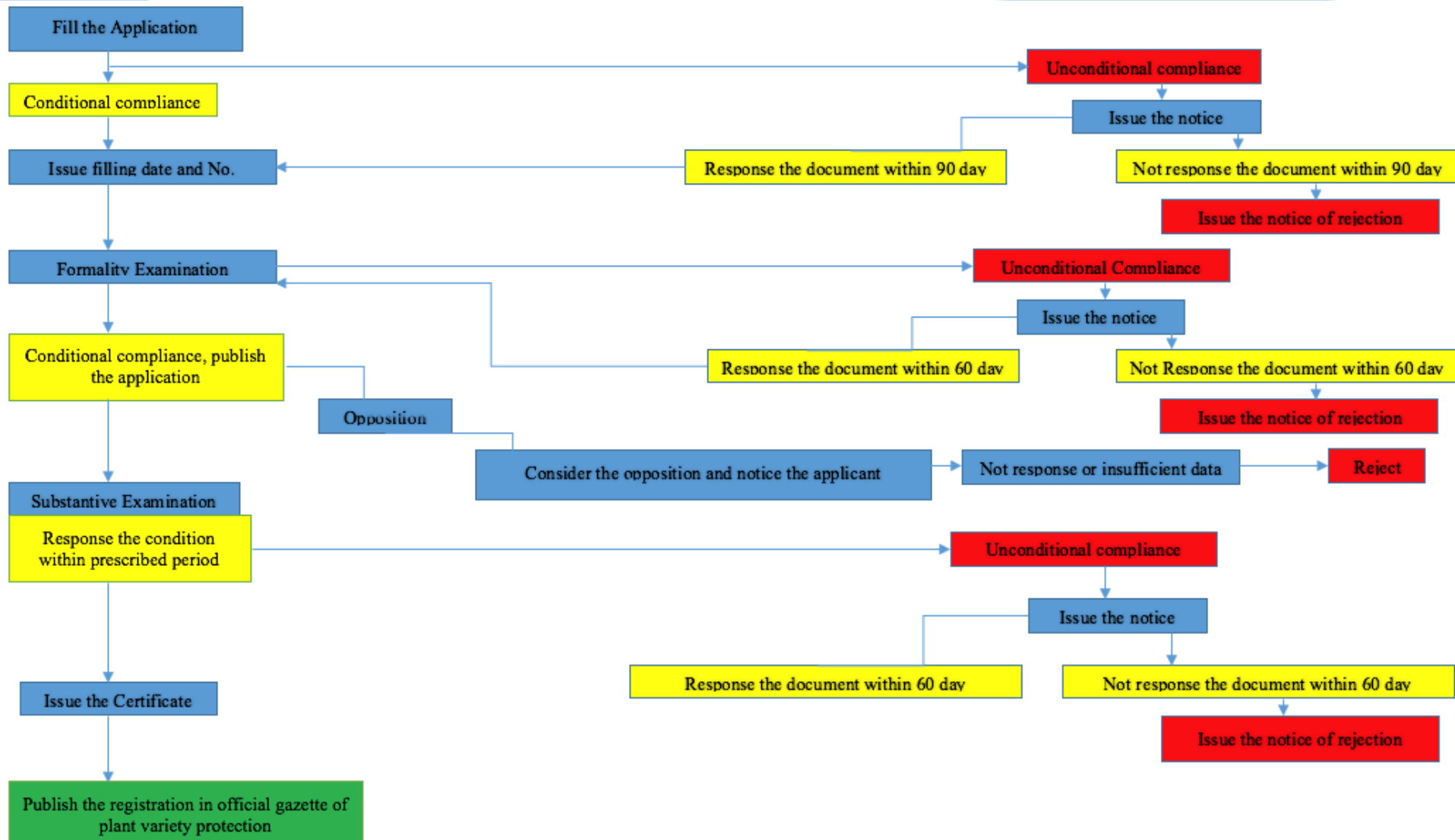
Denomination (Cont.)

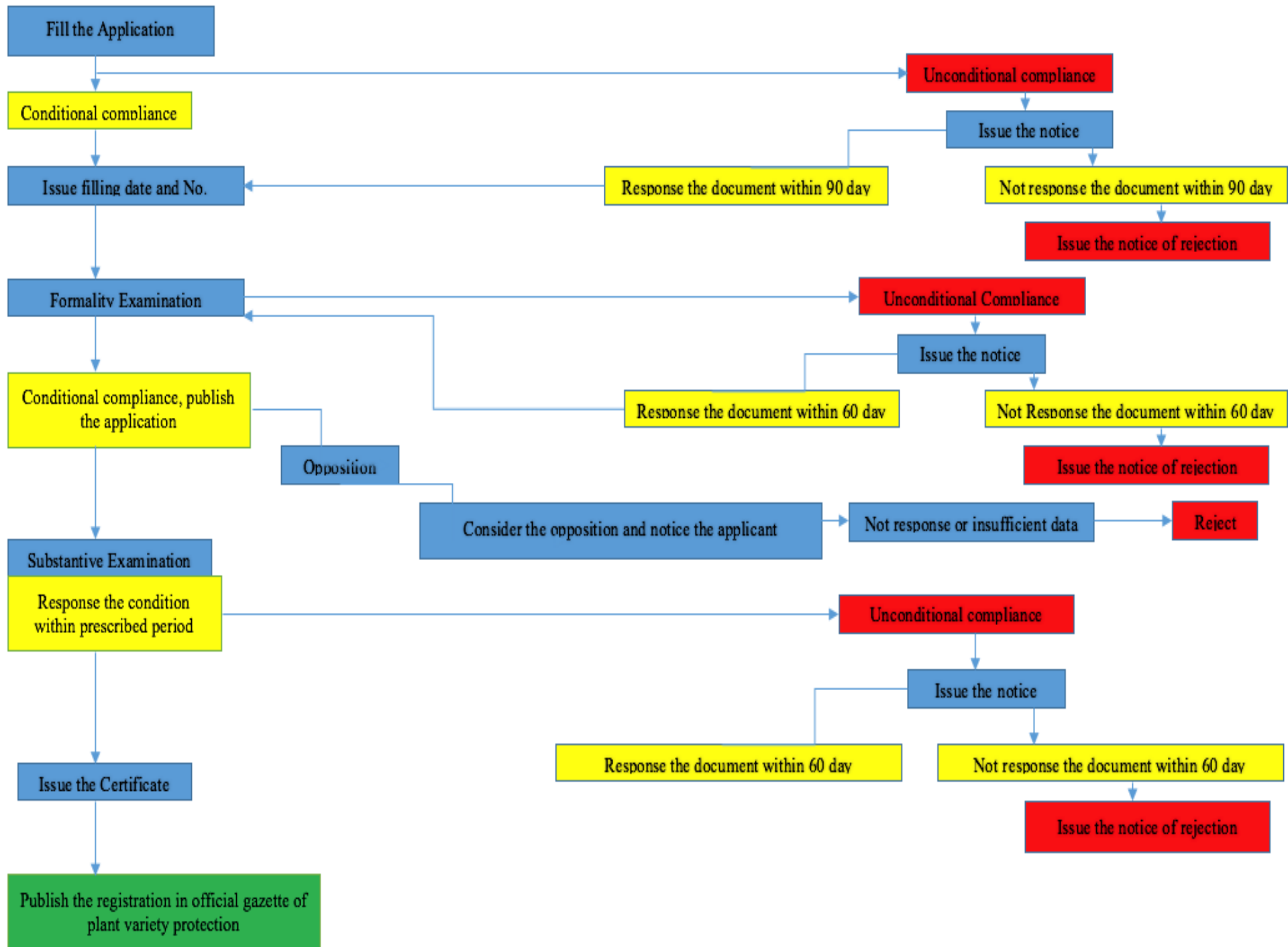
3. The denomination shall be registered at the same time as the breeder's right is granted in accordance with requirements set forth in the Regulations.
4. Any individual, legal entity or organization who, within the territory of the Lao PDR, offers for sale or markets propagating material of a variety protected within the 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 prior rights prevent such use;
5. 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.

Application for Registration

- ❖ Such application shall include the following elements:
 1. request for plant breeder's right;
 2. if represented, a power of attorney and the name and address of the representative;
 3. proposed new denomination;
 4. description of the variety setting forth its distinctiveness, uniformity, and stability and a description of the genealogy and breeding procedure;
 5. a viable sample of the propagating material of the new variety or statement related to propagating material;
 6. Testing report of DUS and Environmental impact;
 7. receipt for payment of the applicable fee.

Procedure for registration;





Rights of the Plant Variety Owner

1. to prevent individual, legal entity or organization:
 - production or reproduction;
 - conditioning for the purpose of propagation;
 - offering for sale;
 - selling or other marketing;
 - exporting, importing;
 - stocking for any of the purposes mentioned in items above.
2. to make his authorization subject to conditions and limitations;
3. to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] rights to compensation from damages caused by others.

Obligation of the New Plant Variety Owner

- ❖ An Plant Varieties owner has following obligations:
 1. to be responsible for the protection and management of its rights through monitoring and inspection of the use of the plant varieties as provided in the law;
 2. to be responsible to encourage and promote the use of its plant varieties by society based on mutual benefit;
 3. to be responsible for providing information about violations of its plant varieties to the state organizations responsible for such activities;
 4. to make financial obligations to the state pursuant to laws and regulations derived from the exploitation, leasing, transfer or inheritance of the plant varieties or arising from other benefits;
 5. to be responsible for coordinating the remedy of violations of its plant varieties.

Exceptions to the Breeder's Right

- The exceptions to the breeder's right are as follows:
 1. Acts done privately and for non-commercial purposes;
 2. Acts done for experimental purposes;
 3. Acts done for the purpose of breeding other varieties.

Nullity of the Breeder's Right

A breeder's right granted by the Lao PDR shall be nullified as following cases:

1. that the conditions laid down in Articles 70 (Novelty) or 71 (Distinctness) of the Law, are not complied with at the time of the grant of the breeder's right;
2. supply of the information and document that are inconsistent with the reality of the breeder to the Ministry of Science and Technology when considering the registration.
3. that the breeder's right has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled.

Cancellation of the Breeder's Right

A breeder's right granted by the Lao PDR may be canceled as following cases:

1. the conditions laid down in Articles 72 (Uniformity) or 73 (Stability) of this Law are no longer fulfilled;
2. after being requested to do so and within a prescribed period, the breeder does not provide the authority with the information, documents or material deemed necessary for verifying the maintenance of the variety;
3. the breeder fails to pay such fees as may be payable to keep his right in force;
4. the breeder does not propose another suitable denomination, where the denomination of the variety is cancelled after the grant of the right.

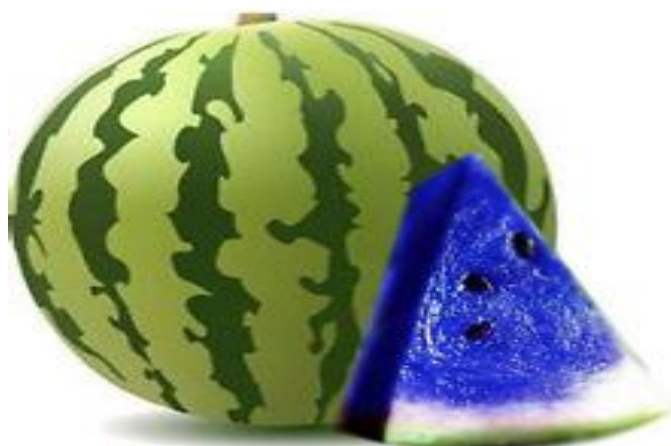
Restrictions Based on Public Interests

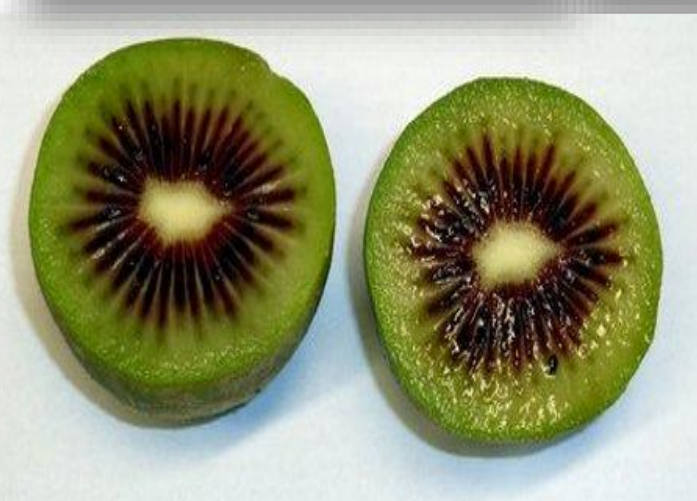
- ❖ Where it is necessary to meet an urgent public needs and to ensure food supply or to prevent commercial monopolies, the government can issue notifications allowing the exploitation of a protected variety without the authorization of the right owner. However, the owner of variety will receive equitable return.

Duration of New Plant Varieties Protection

- ❖ 25 years from the date of grant of the breeder's right for trees and vines.
- ❖ 20 years from the date of grant of the breeder's right for other varieties of plants.
- ❖ In order to maintain the term of protection, the new plant variety owner must pay an annual fees.

Sample Of New Plant Varieties





IV. Summary

- ❖ New plant protection is vital and necessary for Lao PDR.
- ❖ Plant variety protection is the protection of the rights and interests of breeder or the owner of the plant, especially, economic benefits.



Thank You

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