



MALAYSIA'S EXPECTATION ON HARMONISATION OF PVP SYSTEM IN LINE WITH UPOV SYSTEM

PRESENTED BY:

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National Seminar on Benefit of The Plant Variety Protection System, Philippines

TRIPS Agreement [Article 27(3)(b)]



MALAYSIA a member of WTO



“ Malaysia is signatory to the TRIPS Agreement which, stipulates that member countries shall provide for the protection of plant varieties either by a **patent** or by an effective **sui generis** system or by a **combination of both** ”.

PNPV ACT

TRIPS
WTO

= Trade-related Aspects Of Intellectual Property Rights
= World Trade Organization

IP PROTECTION IN MALAYSIA

Malaysia Intellectual Protection Organisation (MyIPO)

- **TRADEMARK**
- **COPYRIGHT**
- **TRADE SECRET**
- **PATENT**
- **GEOGRAPHICAL
INDICATION**
- **INDUSTRIAL DESIGN, ETC**

DEPARTMENT OF AGRICULTURE (DOA)

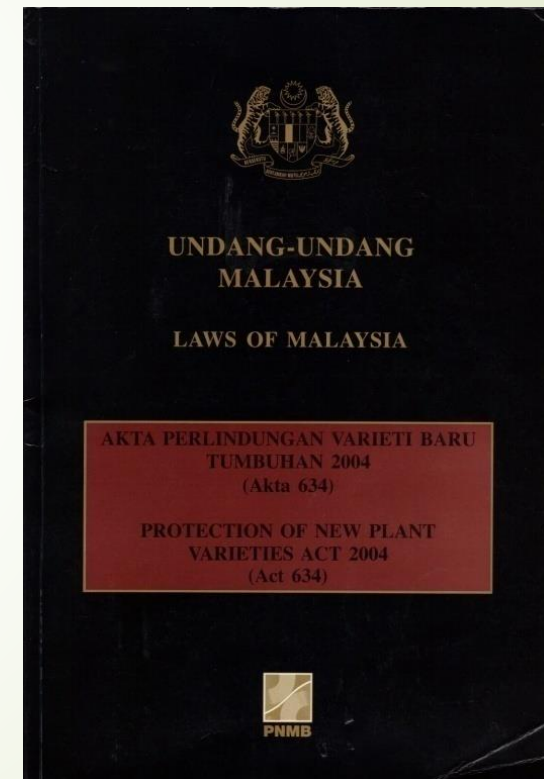
- **PLANT VARIETY
PROTECTION
(PLANT BREEDER'S
RIGHT)**

1994 – 2004 (DRAFTING OF PNPV ACT)

1994 – drafting of PNPV Act

2004 – Gazette of MALAYSIAN
PROTECTION OF NEW PLANT VARIETIES
ACT 2004

- modeled after
 - UPOV model law 1978;
 - provision of CBD; and
 - IPR system of other countries
(India, Thailand and Japan)
- *Sui Generis*
- Implemented – 20 Oct 2008
- Non-UPOV member



PROTECTION OF NEW PLANT VARIETIES REGULATIONS 2008

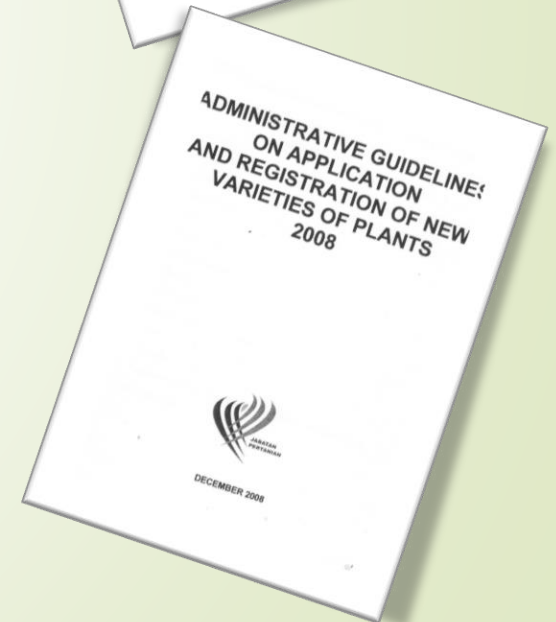
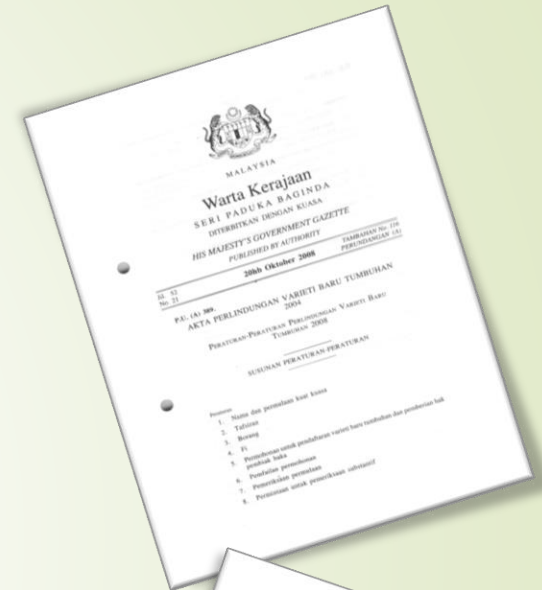
: Gazette – 20 Oct. 2008

: forms, fees, etc.

PROTECTION OF NEW PLANT VARIETIES REGULATIONS (PRESCRIBED SIZE OF A HOLDING) 2008

: Gazette – 20 Oct. 2008

: size of small farmer's holding



OBJECTIVES



- To provide protection of the rights of breeders of new plant varieties;
- To provide recognition and protection of contribution made by farmers, local communities and indigenous people towards the creation of new plant varieties; and
- To encourage investment in and development of the breeding of new plant varieties in both public and private sectors.

A decorative green wreath made of various shades of green leaves and small white flowers, framing the text. The wreath is composed of several layers of leaves, some solid and some semi-transparent, creating a lush, natural look. Small white flowers with yellow centers are scattered throughout the foliage.

CURRENT SCENARIO OF PVP SYSTEM IN MALAYSIA

**To encourage more
foreign companies
in new variety
release.**

**To raise awareness
of PVP among local
breeders, growers
and consumers.**

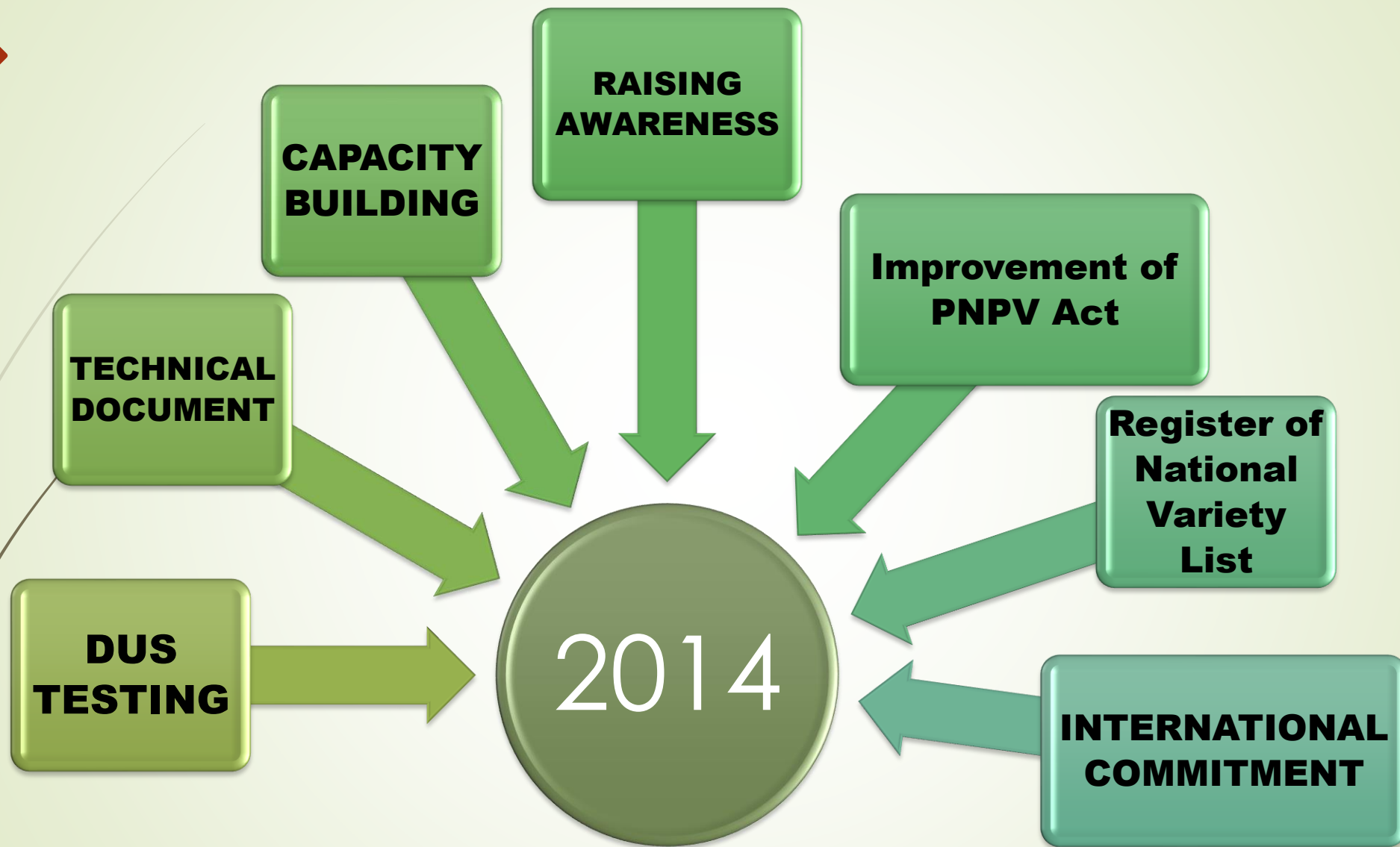
PVP Registration Office

CURRENT FOCUS



**To fast track PBR
granting process.**

**To align the system
to be harmonised
with neighbouring
countries.**



STRENGTHS

- ➡ Legislation in place
- ➡ Internal readiness
 - ➡ e.g. Plant Variety Board, workforce, facilities & infrastructure etc.
- ➡ Established network





WEAKNESSES

- ➡ **Partial non-compliance with UPOV Convention**
- ➡ **Key personnel & Staff subjected to transfers**
- ➡ **Repeated DUS Testing**
- ➡ **Dependent on Government financial support**

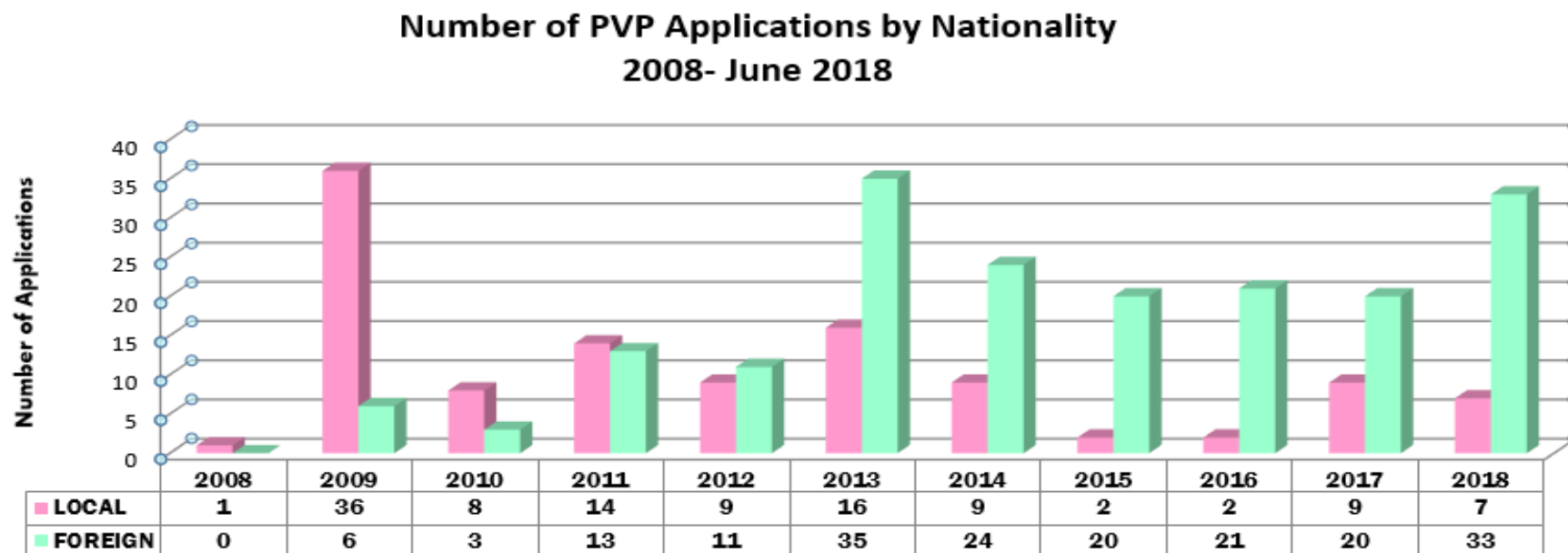
FACTORS OF JOINING UPOV



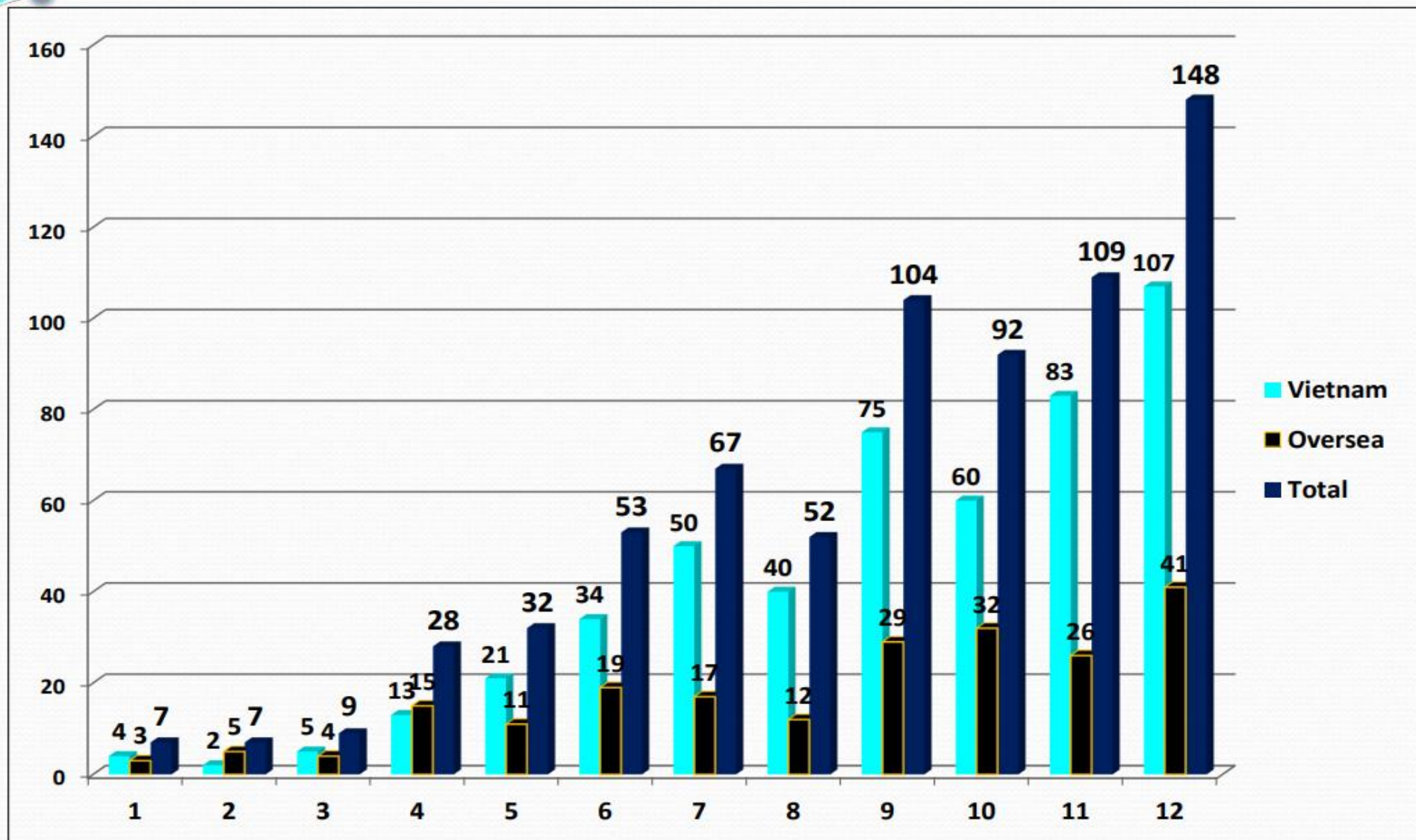


1. Easier access to improved varieties of crops &PGR

NATIONALITY	APPLICATIONS BY YEAR											CURRENT TOTAL
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	APPLICATIONS
LOCAL	1	36	8	14	9	16	9	2	2	9	7	113
FOREIGN	0	6	3	13	11	35	24	20	21	20	33	186
TOTAL	1	42	11	27	20	51	33	22	23	29	40	299



Number of Applications



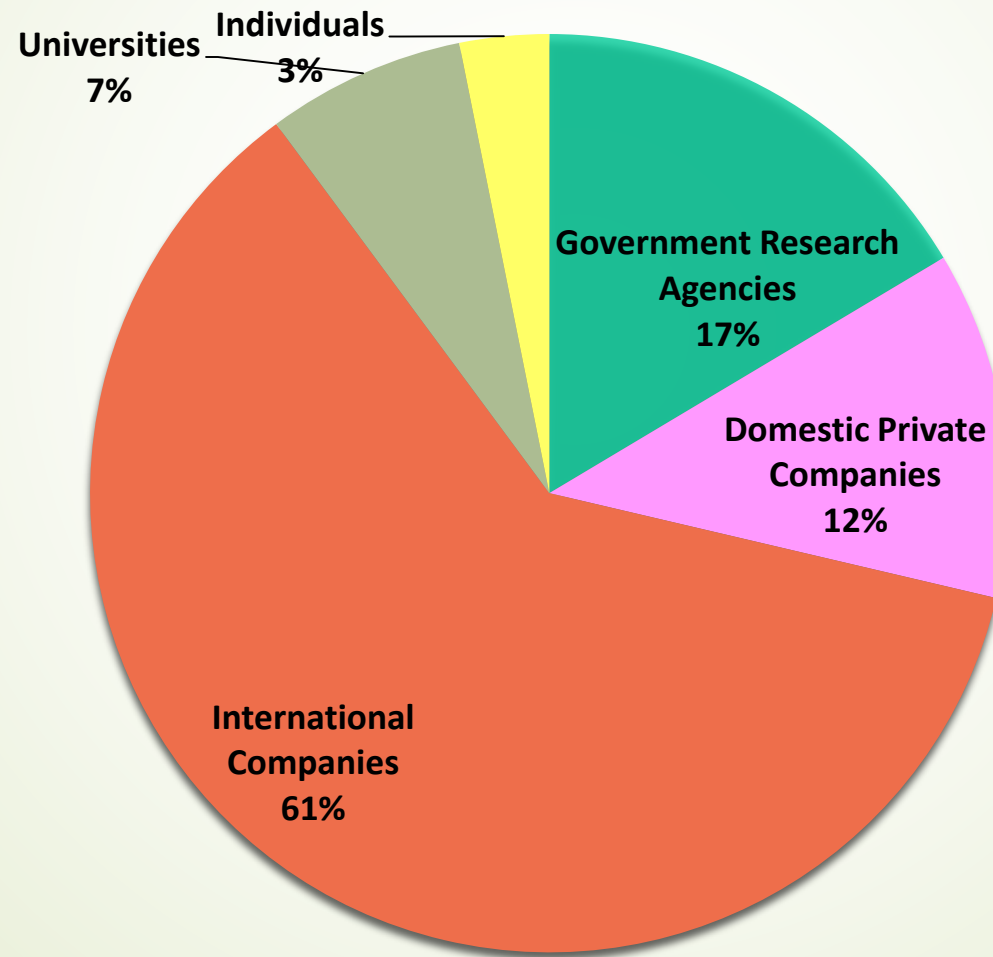
Source: Viet Nam's Country Report presented during the 9th EAPVP Forum Meeting



2. Enable further breeding locally

3. Increase in number and diversity of local breeders

PVP APPLICATION BY APPLICANT CATEGORIES (2008 – JUNE 2018)



Source: data from PVP Malaysia database



4. Better access to global market





- 5. Enable competitiveness**
- 6. Save cost and time in testing**
 - ➡ DUS Test, reports**
- 7. Increased confidence of investors**
- 8. Creating business opportunities**



9. Technology transfer to growers

10. Capacity Building through knowledge sharing

THREATS



- Membership fee
 - Sustained Government support needed
 - No clear direct benefit from UPOV

CONVERSION TABLE FOR UPOV MEMBERSHIP FEE

1 contribution unit = 53,641 Swiss Francs
1 swiss franc = RM3.58 (as per December 2014)

Contribution Unit	Membership Fee (Annual)		Working Capital Fund (One Time)		First Year	Subsequent Year	Member Countries
	A		B		(RM)	(RM)	
	Swiss Francs	RM	Swiss Francs	RM	A+B	A	
0.2	10,728.20	38,406.96	1,666.60	6,416.41	44,823.37	38,406.96	Singapore, Vietnam, ARIPO, Albania, Bolivia, Chile, Columbia, Costa Rica, Croatia, Dominican Republic, Ecuador, Georgia, Iceland, Morroco, Panama, Paraguay
0.25	13,410.25	48,008.70	2,083.25	8,020.51	56,029.21	48,008.70	Brazil, Bulgaria
0.5	26,820.50	96,017.39	4,166.50	16,041.03	112,058.42	96,017.39	Argentina, China, Czeh, Denmark, Hungary, Israel, Poland, Russian, Turkey
0.75	40,230.75	144,026.09	6,249.75	24,061.54	168,087.62	144,026.09	Austria, Mexico
1.0	53,641.00	192,034.78	8,333.00	32,082.05	224,116.83	192,034.78	Australia, Canada, Finland, Ireland, New Zealand, Norway, Oman, South Africa
1.5	80,461.50	288,052.17	12,499.50	48,123.08	336,175.25	288,052.17	Belgium, Korea, Sweden, Switzerland
2.0	107,282.00	384,069.56	16,666.00	64,164.10	448,233.66	384,069.56	Italy, Spain, UK
3.0	160,923.00	576,104.34	24,999.00	96,246.15	672,350.49	576,104.34	Netherlands
5.0	268,205.00	960,173.90	41,665.00	160,410.25	1,120,584.15	960,173.90	EU, France, Japan, Germany, USA

THREATS



- **Monopoly of Multinational Companies**
- **Possible higher cost of seeds/planting materials**
- **Competition with local breeders**
- **Obligation to comply with UPOV Regulations**



IMPACT TOWARDS TARGET GROUP AND COUNTRY



TARGET GROUP 1: FARMERS

- Able to obtain new superior variety, more quality and grow high yield varieties;
- Improve better opportunities among local farmers;
- Increase income/revenue through the use of these new varieties.



TARGET GROUP 2: LOCAL BREEDER'S

- **Encourage local breeder's to develop new varieties;**
- **Effort and capital invested to produce new variety will benefit the returns on better investments;**
- **Obtained exclusive rights on the development of new variety.**



TARGET GROUP 3: INTERNATIONAL COMPANY

- **Provide confidence to start investing in the country;**
 - **Foreign varieties can be produced by local farmers;**
 - **International market will be formed to be explored by local farmers;**
 - **Encourage development of breeding industry among local private companies.**
- 



IMPACT TO COUNTRY

- ➡ Foreign new varieties will enter Malaysia;
- ➡ Healthy competition among local breeder's;
- ➡ Malaysia shall need to retain and maintain existing genetic resources.



Conclusion

1. **More opportunities will be easily achieved by joining UPOV;**
2. **Competitiveness among breeder will become active.**
3. **Farmers can obtain high-quality seeds;**



Conclusion

4. **Business oriented farmers;**
5. **Influx of superior varieties from overseas**
6. **Increase production and competitiveness of agriculture sector in the country**



Conclusion

4. **Effective PVP System will benefit Breeders and growers;**
5. **Enhancement of plant breeding activities in the country.**

THANK
YOU



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