



East Asia Plant Variety Protection Forum
11th Annual Meeting
Muntinlupa, Philippines, 01 August 2018

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INDIVIDUAL IMPLEMENTING STRATEGY OF MALAYSIA

prepared by Malaysia

1. National goal (for next 10 years: 2018 to 2027)

Malaysia has complied with TRIPS by enacting the Protection of New Plant Varieties Act 2004 (PNPV Act 2004) on 25th April 2004. The PNPV Act 2004 is a sui generis and has since come into operation on 20th October 2008.

The objectives of PNPV Act 2004 are:

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

A review of PNPV Act 2004 was conducted in 2014 and several shortcomings were identified such as:

- (a) inadequacies of PNPV Act 2004 especially when international cooperation is required;
- (b) lack of crop expertise especially temperate crops;
- (c) high turnover of secretariat staffs and staffs' technical competencies;
- (d) unforeseen administrative delay in grant of breeder rights; and
- (e) budgetary constraints.

A special task force was subsequently established by the PVP Board in 2015 to study and to propose amendments to PNPV Act 2004. At the same time, in lieu with development of TPPA/CTPPA, the Malaysian Cabinet had mandated that the PNPV Act 2004 be amended and to comply with UPOV 1991..

2. Objectives with analysis of challenges (for next 3 years)

The objectives of Malaysian PVP for the next three years (2018 - 2020) would be:

- (a) to re-draft new PVP Act in accordance with UPOV 1991;
- (b) to consult Legal Counsel of UPOV on compliance to UPOV 1991;
- (c) consultations with stakeholders such as government agencies, universities, Farmer Cooperatives, Crop Association, Seed Importers and NGOs;

- (d) final consultation with UPOV Legal Counsel;
- (e) submission of new PVP Act to Attorney General Office and tabling of Act in Parliament.

3. Planned activities and Road map (for next 3 years)

Planned activities

Advantages obtained from amendments of the current Act will definitely outweigh the disadvantages and weaknesses encountered throughout the implementation of the Plant Variety Protection System. If farmers are the contributor to the nation's food basket, breeders will be the starter source of the food basket. Without the seed creators, farmers will have nothing superior to grow. Therefore, the Government has the role in ensuring farmers to get good seeds while not ignoring the breeders' contribution to our nation.

In order to strengthen Malaysia's Plant Variety Protection System and to ensure that it is in line with UPOV 1991 as well to obtain a win-win situation between the Malaysian Government and stakeholders, Malaysia would like to propose two (2) activities (details stated in the proposal) as stated below:

3-1-1. Legal Consultation on Harmonisation of the Protection of New Plant Varieties 20XX with UPOV Convention 1991 (16–17 August 2018)

3-1-2. Stakeholder Consultation with Malaysia's NGOs upon Malaysia Acceding as UPOV Member (4-5 April 2019)

Road map

The main challenge for Malaysian PVP in the next three years would be to implement the government's decision of realigning the current PNPV Act 2004 in accordance with UPOV 1991. In this regards, a dedicated Task Force has been established to undertake this task. The Road Map for the next three years (2018 - 2020) is as follows:

NO.	ACTION TAKEN	PROPOSED DATE	IMPLEMENTATION DATE
1	Submission of Regulatory Notification Form (RNF) to Malaysia Productivity Corporation (MPC).		Jun-18
2	Workshop to revise Protection of New Plant Varieties Act 20XX with Drafting Team.	January 2018	9 – 10 January 2018
3	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 1/2018.	January 2018	11-12 January 2018
4	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 2/2018.	March 2018	5 – 6 April 2018
5	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 3/2018.	April 2018	11 – 13 May 2018
6	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor, UPOV Legal Advisor and Drafting Team, Session 4/2018.	15 – 17 August 2018	UPOV's involvement

7	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 5/2018.	September 2018	
8	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 6/2018.	October 2018	
9	Presentation of final draft of Protection of New Plant Varieties Act 20XX to Plant Variety Board.	November 2018	
10	Workshop on Regulatory Impact Analysis in conjunction with preparation for stakeholder consultation with MPC, Session 1/2019.	January 2019	
11	Stakeholder Consultation with related Ministries/Departments/Agencies	February 2019	
12	Stakeholder Consultation with PVP Breeders, Growers' Association, PVP Agents, Malaysian Genetic Association, Universities, seed companies.	March 2019	
13	Stakeholder Consultation with NGOs	April 2019	UPOV's involvement
14	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 1/2019 (amendment after stakeholders' consultation)	July 2019	
15	Circulation of final draft of Protection of New Plant Varieties Act 20XX to relevant Ministries, Departments and Agencies.	August 2019	
16	Presentation of final draft of Protection of New Plant Varieties Act 20XX to Plant Variety Board Final draft after circulation to relevant Ministries, Departments and Agencies.	September 2019	
17	Workshop on Regulatory Impact Analysis, Session 2/2019, with MPC in conjunction with preparation for Regulatory Impact Statement (RIS).	September 2019	
18	Workshop to revise Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 2/2019.	October 2019	
19	Preparation of final version of Protection of New Plant Varieties Act 20XX (Secretariat).	November 2019	
20	Workshop to revise final version of Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 1/2020.	January 2020	
21	Submission of final version of Repeal of Protection of New Plant Varieties Act 20XX to UPOV for review.	February 2020	UPOV's involvement
22	Workshop to revise final version of Protection of New Plant Varieties Act 20XX with Ministry of Agriculture and Agro-based Industry (MOA) Legal Advisor and Drafting Team, Session 2/2020 (amendment based on UPOV's comments).	March 2020	
23	Special Plant Variety Board Meeting (Presentation of final version of Protection of New Plant Varieties Act 20XX)	April 2020	

24	Submission of final version to MOA's Legal Advisor and UPOV.	May 2020	UPOV's involvement
25	Preparation of Cabinet Notes.	May – August 2020	
26	Submission of Cabinet Notes to MOA.		
27	Endorsement from Attorney General Council.	October 2020	
28	Presentation of final version of Protection of New Plant Varieties Act 20XX to Cabinet.	December 2020	
29	Presentation of final version of Protection of New Plant Varieties Act 20XX to Parliament.	March 2021	
30	Commencement of Protection of New Plant Varieties Act 20XX after endorsement by Parliament.	March/April 2021	

*Updated: 20 July 2018

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