



# **MALAYSIAN EXPERIENCES IN HARMONISING PVP SYSTEM IN LINE WITH UPOV CONVENTION '91**

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***DURING***

***THE WORKSHOP ON PLANT VARIETY PROTECTION:  
- PLANT BREEDERS' RIGHTS AND FARMERS' BENEFITS - , CAMBODIA***

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# 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)

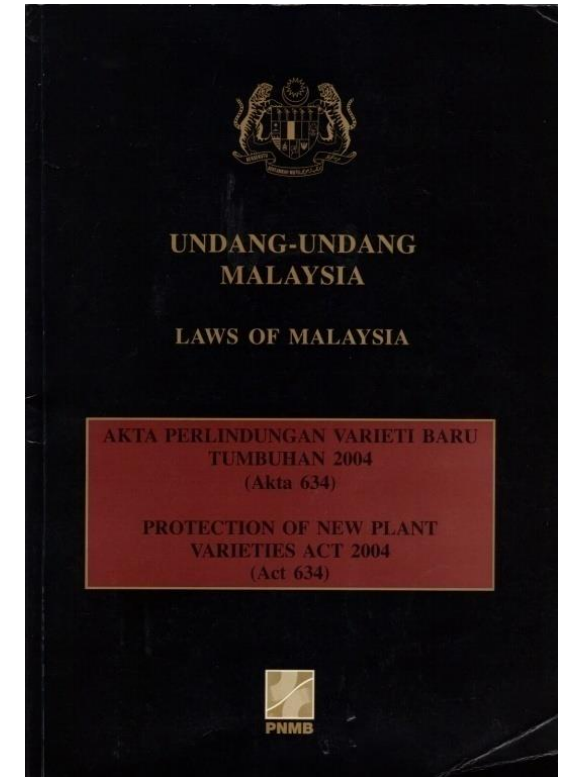
# 1994 – 2004

## (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

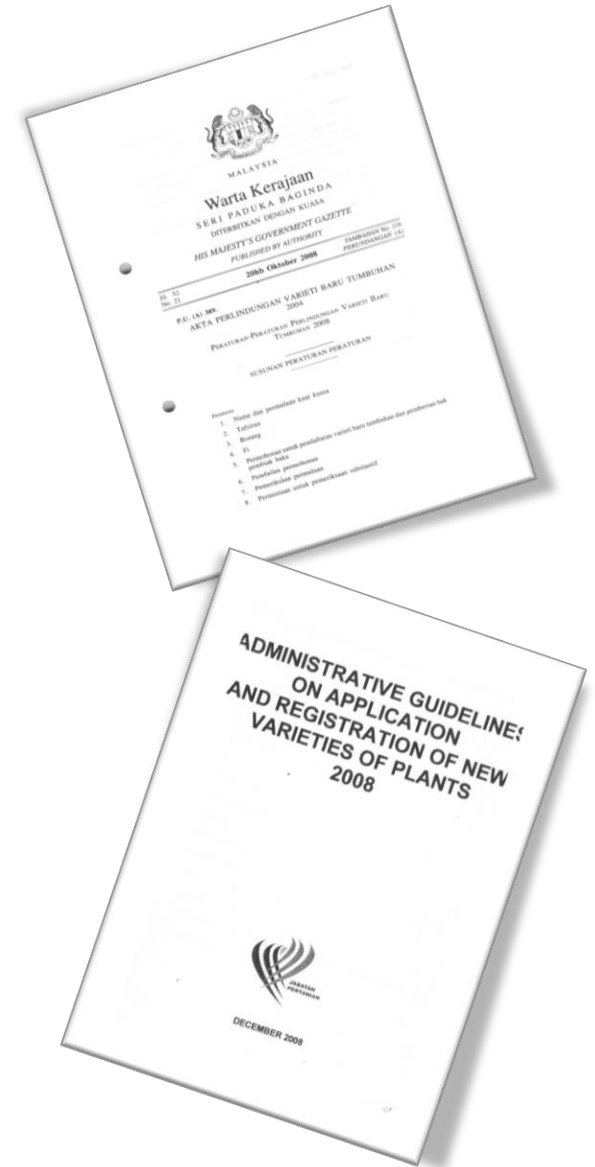
: Gazette – 20 Oct. 2008

: 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

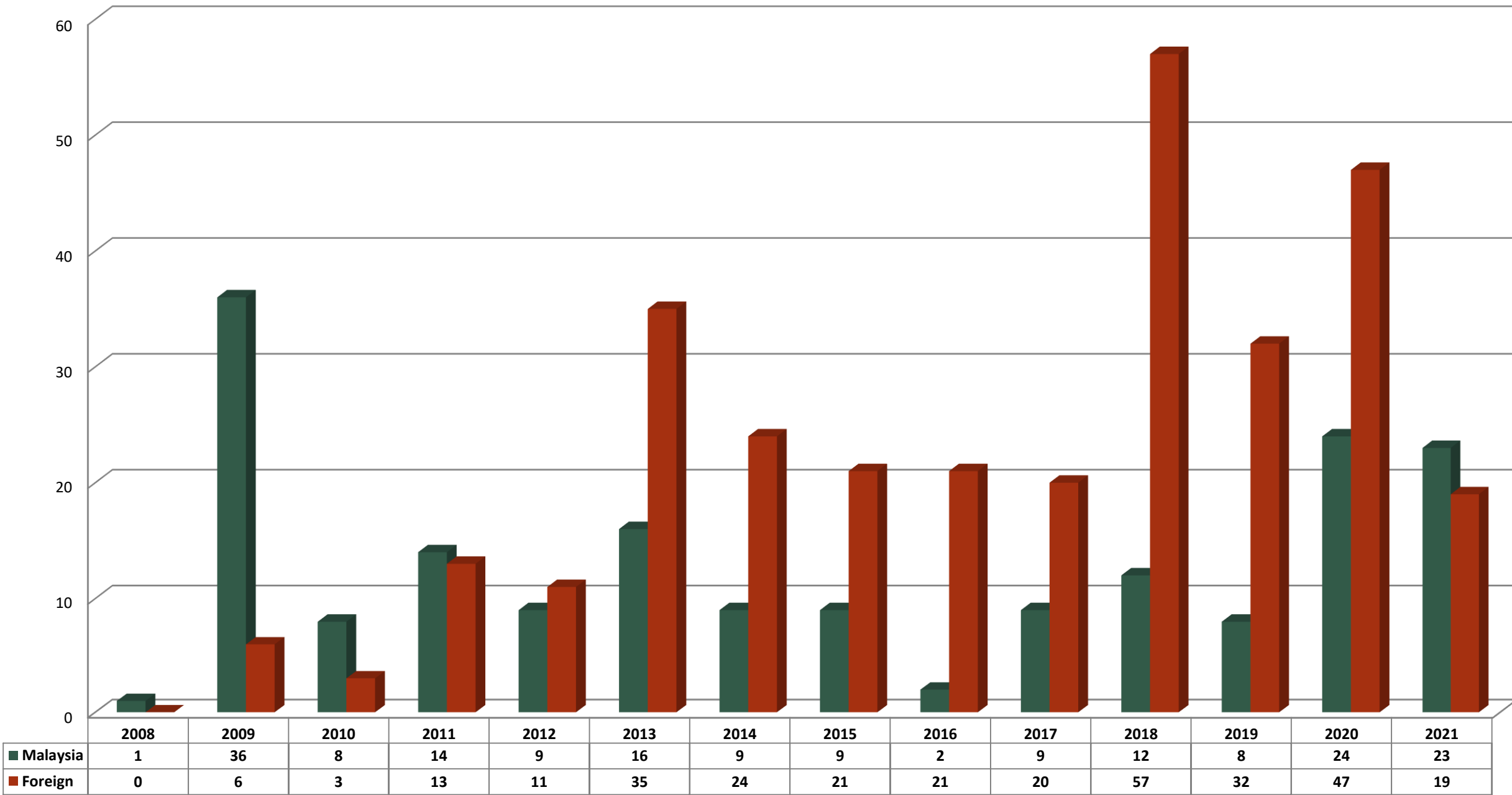


- **To provide protection of the rights of breeders of new plant varieties;**
- **To provide recognition and protection of contribution made by farmers, local communities and indigenous people towards the creation of new plant varieties; and**
- **To encourage investment in and development of the breeding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

# **CURRENT SCENARIO OF PVP SYSTEM IN MALAYSIA**



# PBR APPLICATION BY TYPE OF APPLICANTS



**DEVELOPMENT OF PVP  
FRAMEWORK INLINE  
WITH UPOV 1991**

- **2011 – Amendment of Plant Variety Protection Act 2004 (initial purpose is to improvised)**
- **2013 – Plant Variety Board ordered to study the UPOV 1991**
- **2015 – Approval by the cabinet of joining UPOV 1991 and new order for amending existing act to be inline with UPOV 1991**
- **2016 – Amending act still in process and the introduction to TPPA**
- **2018 – Changing from amending to repeal and the introduction of the new bill**
- **2018 – Revision of the new bill**
- **2018 – Final draft of the new bill**
- **2018 - 2021 – Stakeholder consultation**
- **2022 – Legal and policy procedures**

# **FACTORS OF JOINING UPOV**

# STRENGTHS



- **Legislation in place**
- **Internal readiness**
- **Established network**

# **WEAKNESSES**



- **Partial non-compliance with UPOV Convention**
- **Repeated DUS Testing**
- **Dependent on Government financial support**

# **OPPORTUNITIES**

- 1. Easier access to improved varieties of crops &PGR**
- 2. Enable further breeding locally**
- 3. Increase in number and diversity of local breeders**
- 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
- **Monopoly of Multinational Companies**
- **Possible higher cost of seeds/planting materials**
- **Competition with local breeders**
- **Obligation to comply with UPOV Regulations**



# CHALLENGES

## TWO MAJOR CHALLENGES:

- OPPOSITION ON JOINING UPOV 1991
- LEGAL AND POLICY PROCEDURES



Under the rules of the WTO, virtually all countries of the world must provide intellectual property rights on seeds. Under UPOV, plant breeders get a 20-25 year patent. No one can produce, reproduce, sell or exchange seeds, which are often designed to lock farmers into using their seeds.



## Farmer's Perception & Concerns

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1. All crops will be under protection.

2. Breeder's right is only for professional breeders.

**No more FSS**

**No more choices  
Nothing to grow**

**No seed exchange  
for ritual & cultural  
purposes**

**All seed usage  
subjected for  
royalty payment.**



# **Non-Governmental Organisations' (NGOs) Concerns**

**Monopoly  
of MNCs**

**Biopiracy on  
Genetic Resources**

**Rising Seed  
Price**

**Monocropping  
Loss of  
Biodiversity**

**Food Security  
Threaten**

# **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**
- 4. Business oriented farmers;**
- 5. Influx of superior varieties from overseas**
- 6. Increase production and competitiveness of agriculture sector in the country**
- 7. Effective PVP System will benefit Breeders and growers;**
- 8. Enhancement of plant breeding activities in the country.**



**THANK YOU  
FOR  
YOUR  
ATTENTION!  
ANY QUESTIONS**

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