

Malaysia: Experience in reaching out/ involving/ consulting/ awareness raising on UPOV

Presented by:

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Department of Agriculture

during

**The International Seminar on Development of Resilient and Sustainable Agriculture
in Lao PDR with PVP under UPOV System**

August 3, 2023

Lao Plaza Hotel, Vientiane, Lao PDR

OVERVIEW

Background

- Malaysian legislation on Plant Variety Protection
- The decision on UPOV accession

Stakeholders & Challenges in joining UPOV

Communication Plan relating to UPOV

Conclusion

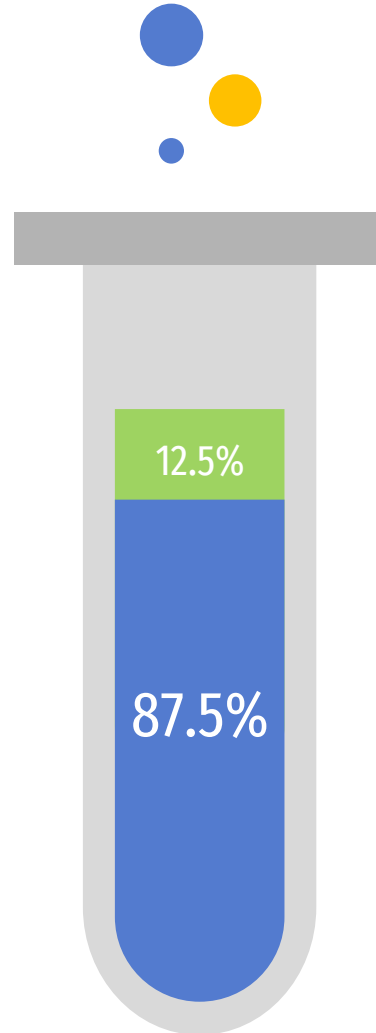


CURRENT IPR LEGISLATION IN MALAYSIA



Malaysian Intellectual Property Organisation (MyIPO)

- Trademark
- Copyright
- Trade Secret
- Patent
- Geographical Indication
- Industrial Design
- IC Layout Design



Department of Agriculture, Malaysia

- New Plant Varieties Protection and grant of Plant Breeder's Right

CURRENT LEGISLATION IN PLANT VARIETY PROTECTION

PROTECTION OF NEW PLANT VARIETIES ACT 2004 (ACT 634)

1994 – Drafting of PNPV Act

2004 – Published in Gazette

2008 – Entered into force

Protection of New Plant Varieties Regulations 2008
: forms, fee, prescribed period etc.

Protection of New Plant Varieties Regulations 2008
(Prescribed Size of A Holding) 2008

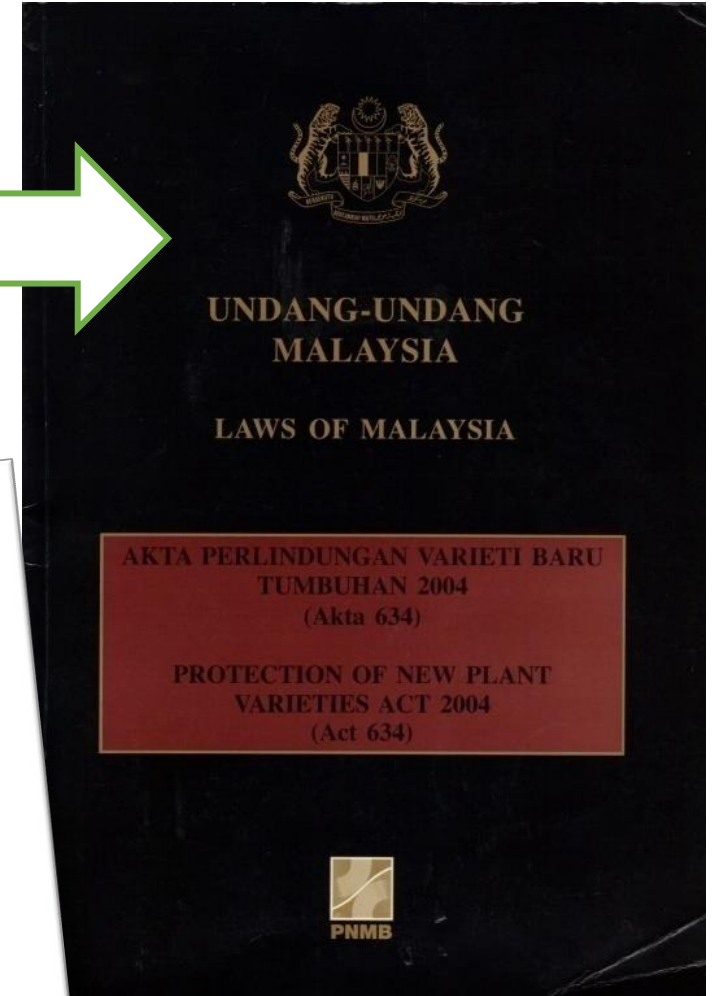
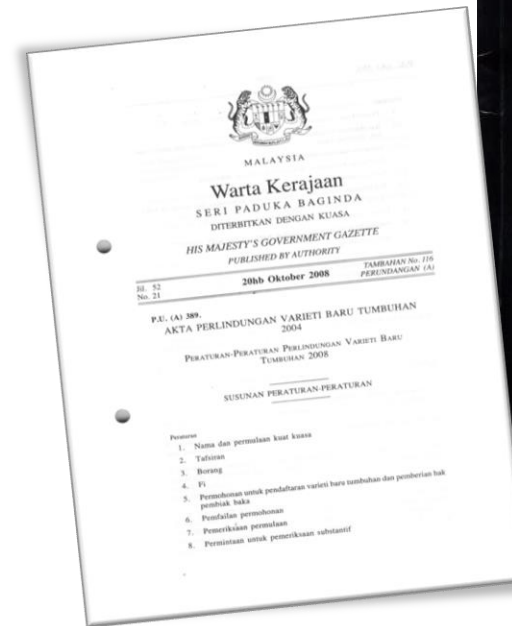
: size of small farmer's holding i.e. less than 0.2 ha

Modeled after:

- **UPOV 1978**
- **Provision of Convention of BioDiversity (CBD)**
- **IPR system of reference countries e.g. India, Thailand, Japan etc.**

Sui Generis / Non UPOV Member

UPOV **PLUS**
PVP
Legislation



THE NEED OF REVISIT ACT 634

TO IMPROVE OPERATIONAL AND FUNCTIONAL MECHANISME OF PLANT VARIETY PROTECTION SYSTEM IN MALAYSIA AND TO INLINE WITH INTERNATIONAL STANDARD

Current Issues:

1. Current system is not on par with the breeding technology development and the breeding industries' needs, either local or private.
2. A few provisions are no longer relevant.
3. The duration PBR granting process is long.
4. Repetition of DUS Tests for the same applications received by other countries.
5. Require higher public funding in sustaining the national PBR system.

STATUS QUO OF ACT REVISION



May 2019 – Breeders & IP Law Agent
May 2019 – Farmers Association, individual farmers & growers
May 2019 – Non Governmental Organisations
Sep 2019 – Genetic Association & Seed Company
Oct 2019 – Top mgmt. in Department of Agriculture
Feb 2021 – Department & Agencies representing Sabah & Sarawak



2011 – 2014
Revisit Act
634 and
Study of
UPOV
Membership
(SWOT)

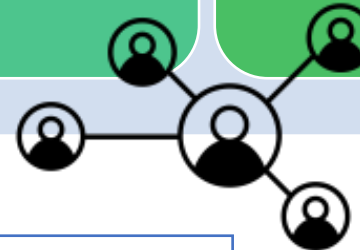
2015
Cabinet
approval for
UPOV
Accession



2015
Forming of
PNPV Bill
Drafter Team

2017
New Bill
Drafted

2018 – 2021
Stakeholders'
Consultation
Sessions



2022
Report for
*Regulatory
Impact Study
(RIS)*

2023 - 2024
Arrangement
for
Parliament
debate by
Attorney
General
Chamber

CPTPP Malaysia entered into force 29 Nov. 2022

Grace Period UPOV Membership: 4 year

By latest 28 Nov. 2026

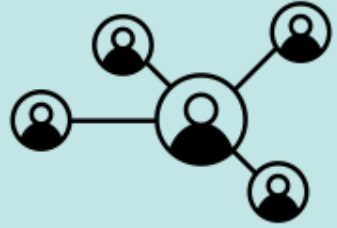
Concurrent Activities

- Regulations and Guidelines
- Cabinet Notes
- Instrument ratification to UPOV accession

IDENTIFYING STAKEHOLDERS & THEIR CONCERNS



**Breeders /
Genetic
Association/
Seed
companies**



**Non
Governmental
Organisations
& Public**



**Farmers
Association,
individual
farmers &
growers**



**Federal
Government
/ State
Government
entities**

IDENTIFYING STAKEHOLDERS & THEIR CONCERNS



CONSUMERS' ASSOCIATION OF PENANG
ESTABLISHED IN 1969

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we request that our deep concerns be brought to the Cabinet meeting so that Malaysia's participation in the CPTPP agreement can be reviewed for the benefit of farmers, fishermen and livestock breeders as well as the nation's food security. The issues that need urgent attention include:

I. Countries that ratify the CPTPP must join the UPOV Convention 1991. This Convention aims to provide extensive protection and monopoly rights to plant breeders for the purported purpose of encouraging investment and innovation. The UPOV system is biased and denies the interests and contributions of small farmers. UPOV prevents farmers from innovating and denies the traditional rights of farmers to freely share and sell protected seeds harvested from their own fields.

HFFA Research GmbH

The socio-economic benefits of UPOV membership in Viet Nam:

An ex-post assessment on plant breeding and agricultural productivity after ten years

Corresponding author: Steffen Noleppa

PROS



HFFA Research Paper 03/2017

VS

CONS

Plant Variety Protection in Practice in Vietnam:
The Pains in the Gains Achieved
Cid Ryan R. Manalo Norma C. Ignacio

The UPOV Convention Is Not Suitable For Malaysia, Denies Farmers' Rights, Encourages Biopiracy And Threatens Agrobiodiversity



The Potential Impact of UPOV 1991 on the Malaysian Seed Sector, Farmers and Their Practices
NurFitri Amir Muhammad



TWN
Third World Network



THE CHALLENGES

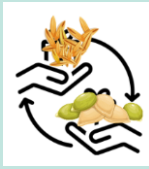
ISSUES THAT CONCERNED AS **THREATS** IN JOINING UPOV



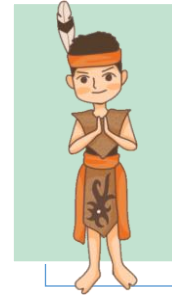
INCREASE OF SEED PRICE



MONOPOLY BY
MULTINASIONAL COMPANIES



FARMER'S RIGHT IN
EXCHANGING SEEDS WILL
BE HINDERED



ETHNIC CULTURE WILL BE
AFFECTED



FARMER'S SEED SAVING
CULTURE WILL BE
PROHIBITED



BIOPIRACY
OCCURRENCE



The need of effective communication with relevant stakeholders in addressing the issues is vital.

COMMUNICATION PLAN RELATING TO UPOV ACCESSION



IDENTIFYING THE METHODOLOGIES OF COMMUNICATION

AWARENESS PROGRAM

- **Seminars / Webinars**

Target groups:

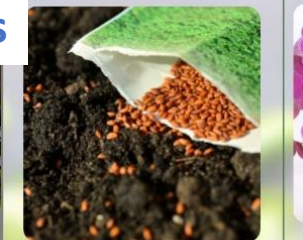
- Government officers
- IP Law Agents
- Public & Private Researchers or breeders
- Public



**KEPENTINGAN PENDAFTARAN VARIETI DALAM
MENYOKONG PEMBANGUNAN INDUSTRI BENIH TANAMAN
DI MALAYSIA**

- ✓ SECARA DALAM TALIAN
- ✓ WARGA TANI DI JEMPUT HADIR

Webinars



Moderator
Cik Soo Foong Lian
Ketua Penolong Pengarah
Bahagian Kawalan Kualiti Tanaman
Jabatan Pertanian Malaysia



Panel 1
Encik Azizi Hashim
Ketua Penolong Pengarah Kanan
Bahagian Kawalan Kualiti Tanaman
Jabatan Pertanian Malaysia



Panel 2
Encik Low Wei Han
Ketua Wilayah Utara
Green World Genetics Sdn. Bhd.

AWARENESS PROGRAM

- News, Magazine article & Radio

Target groups:

- Public & Private Researchers or breeders
- Public



| S'wak all for the implementation of PVP system – DCM

BY JONATHAN CHIA, REPORTERS@THEBORNEOPOST.COM ON JULY 4, 2013, THURSDAY AT 6:35 AM



KUCHING: The state is willing to collaborate with East Asian countries to enhance the implementation of Plant Variety Protection (PVP) system in the state. Even though Malaysia is yet to be accepted into the International Union for the Protection of New Varieties of Plants (UPOV), that should not deter the nation from implementing the PVP system, he added.

Radio broadcast

NASIONAL fm

TAJUK: PENDAFTARAN PERLINDUNGAN VARIETI BARU TUMBUHAN

3.15 PETANG

88.5 Mhz KUALA LUMPUR

KHAMIS 27 /04/2017

PUAN SITI SAUDAH BINTI HASSIM
PENGARAH
BAHAGIAN KAWALAN KUALITI TANAMAN
JABATAN PERTANIAN MALAYSIA

Newspaper articles

DEKOTAMAN

HAK EKSKLUSIF PEMBIAK BAKA

SITI SAUDAH

2344

AWARENESS PROGRAM

- **Stakeholder consultations & dialogues**

Target groups:

- i. Government officers
- ii. IP Law Agents
- iii. Public & Private Researchers or breeders
- iv. Farmers / Farmer association
- v. Breeders / Breeding companies



Farmers / Farmer Association



Consultation with Ministry of Natural Resources and Environment on Access and Benefit Sharing on Genetic Resources



Engagement with Indigenous Community

AWARENESS PROGRAM

- **Roadtours & Exhibitions**

Target groups:

- Public & Private Researchers
Farmers / Farmer association
- Breeders / Breeding companies



Roadtour



Exhibition



Exhibition

CAPACITY BUILDING

- Integration of UPOV Introductory in Examiner training modules

Target groups:

- i. DUS Examiners
- ii. JICA Trainees



JICA Trainees



Examiner Training

CAPACITY BUILDING

- Participation in UPOV organized Training Programs

Target groups:

- i. Higher officers
- ii. PVPRO Administrator
- iii. Legal advisor in the relevant art
- iv. Plant Variety Technical Committee & Examiners

I am pleased to inform you that the dates for Session 2 of the UPOV Distance Learning Courses in 2023 are as follows:

	Course	Session	Study period	Registration period
DL-205	Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention	Session 2	11-Oct to 15-Nov 2023	31-Jul to 10-Sep 2023
DL-305A	Administration of Plant Breeders' Rights	Session 2	11-Oct to 15-Nov 2023	31-Jul to 10-Sep 2023

UPOV Distance Learning Course

DL-305B	DUS Examination (Part B of DL-305 course: Examination of applications for plant breeders' rights)	Session 2	11-Oct to 15-Nov 2023	31-Jul to 10-Sep 2023
DL-305	Examination of applications for plant breeders' rights	Session 2	11-Oct to 15-Nov 2023	31-Jul to 10-Sep 2023



Workshop on Drafting Legislation in accordance with the UPOV Convention 2022



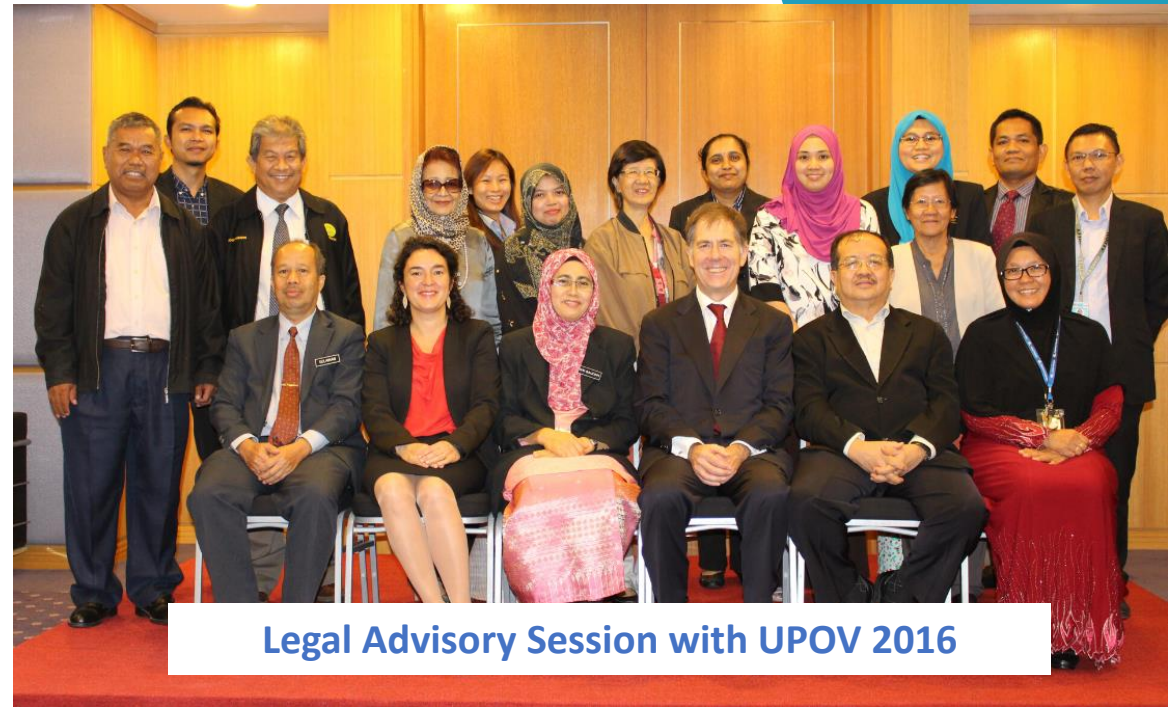
USPTO – UPOV Train-The-Trainer Course 2023



USPTO – UPOV Train-The-Trainer Course 2022

INTERNATIONAL COMMITMENT

- Legal guidance services and advice from UPOV office
 - ✓ in enhancing better understanding of UPOV 1991 model law
 - ✓ Compliancy examination on national PVP legislation
 - ✓ Discussion on issues relating to UPOV 1991



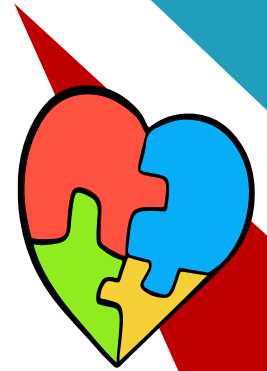
Legal Advisory Session with UPOV 2016



Legal Advisory Session with UPOV 2019

CONCLUSION

- **Communicating by all means** and **working together with stakeholders** are the key for success towards a shared goal.
- **Being relatable, knowing the needs** and **choosing the right strategy and communication method** for winning the stakeholder over our side is one of the major process.



The background features several overlapping geometric shapes: a large yellow triangle on the left, a blue triangle pointing downwards on the right, and a red shape that appears to be a combination of a triangle and a rectangle on the right side. A thin, light beige horizontal bar is located at the bottom of the image.

THANK YOU