

EFFORTS TOWARDS INTERNATIONAL HARMONIZATION OF MALAYSIA PVP SYSTEM

Halimi Mahmud
DEPARTMENT OF AGRICULTURE MALAYSIA

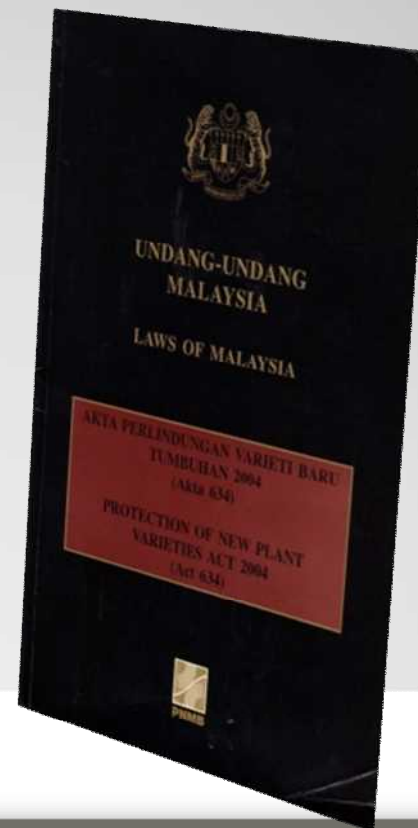
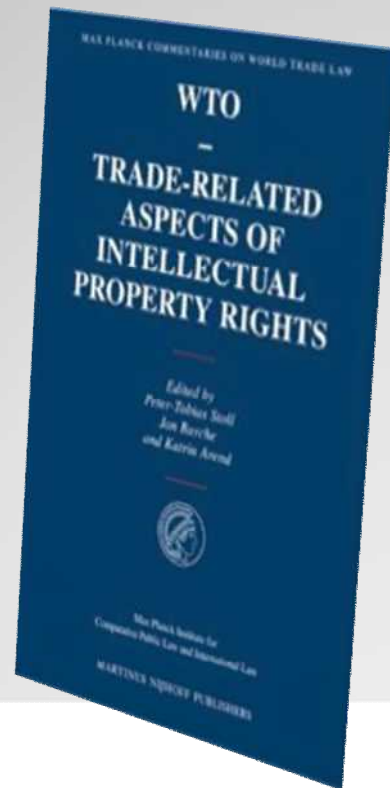
Presented at:
APEC WORKSHOP ON FOOD SECURITY , TOKYO, JAPAN
25-27 SEPTEMBER 2012



CONTENT

- 1. Malaysian PVP Legislation**
- 2. Current Status of PVP System in Malaysia**
- 3. Efforts Towards Harmonization**

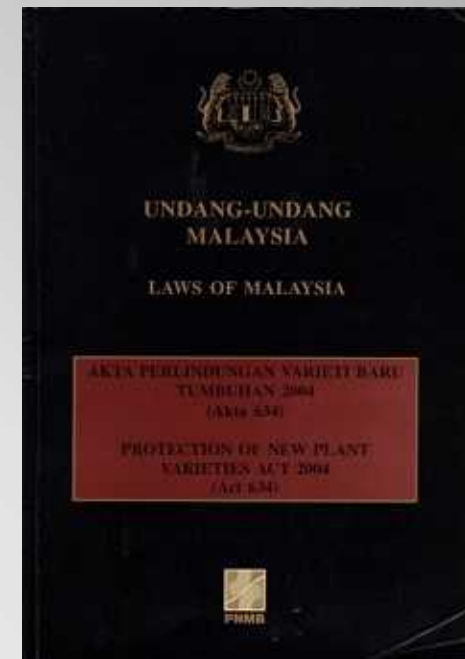
1. Malaysian PVP Legislation



Malaysian Protection of New Plant Varieties Act 2004



- Modeled after
 - UPOV 1978 model law;
 - provision of CBD; and
 - IPR system of other countries (India, Thailand)
- *Sui Generis to suit Malaysian conditions*
- Legislated – 25 April 2004
- Implemented – 20 Oct 2008



- **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**

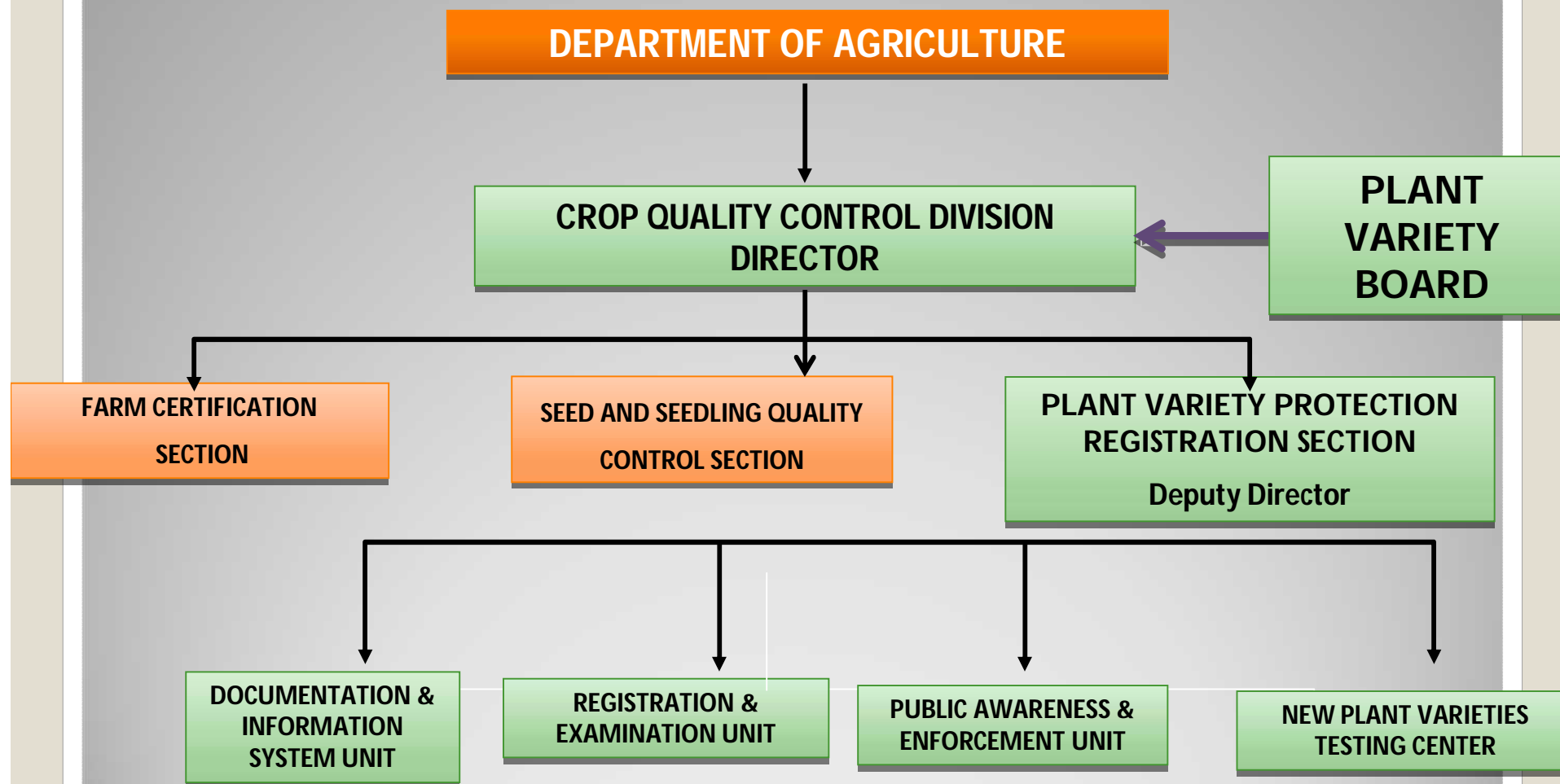
- : Gazette – 20 Oct. 2008

- : size of small farmer's holding

OBJECTIVES

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

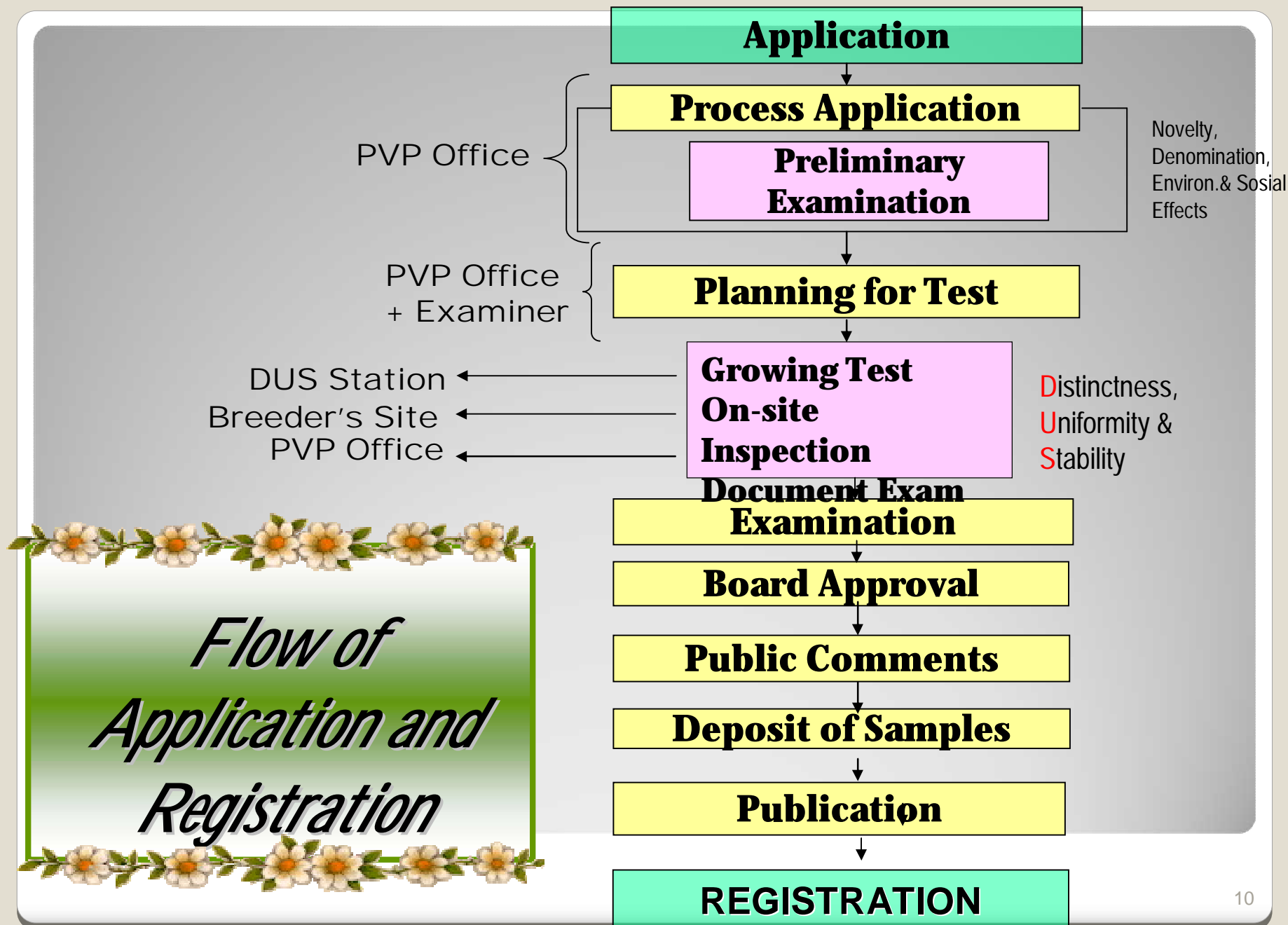
ORGANIZATION OF PVP SYSTEM IN MALAYSIA



FUNCTION OF THE BOARD

- Set appropriate systems for the examination of new plant varieties
- Consider and approve or reject applications
- Impose fees or administrative charges
- Set terms and conditions pertaining to deposit of samples
- Appoint Examiner
- Revoke, surrender, assign or transmit any breeder's right
- Do such other things as it considers fit to enable it to performs its function effectively

Application And Registration Process



Who Can Apply For Registration

- A breeder
- The employer of the breeder
- The successor in title of the breeder
- A farmer or group of farmers, local community or indigenous people who have carried out the functions of a breeder
- Any government or statutory body which has carried out the functions of a breeder

Condition And Duration For Protection

CONDITION	REQUIREMENTS	DURATION FOR PROTECTION (FROM DATE OF FILING)
Section 14(1)	<i>New, Distinct, Uniform, Stable and suitable Denomination</i>	Trees & vines : 25 years Other crops: 20 years
Section 14(2)	<ul style="list-style-type: none"> ▪ <i>New, Distinct, Identifiable and suitable Denomination</i> ▪ for plant variety bred or discovered and developed by a farmer / local community / indigenous people 	Trees & vines : 25 years Other crops: 15 years

Prohibition of Registration



- Board shall not approve the registration of a new plant variety:
 - which may affect public order or morality; or
 - where there is reasonable ground to believe that the cultivation, reproduction or any other use of that plant variety may produce a negative impact on the environment.

Scope of Breeder Rights



- Producing or reproducing;
- Conditioning for the purpose of propagation;
- Offering for sale;
- Marketing, inclusive of selling;
- Exporting;
- Importing;
- Stocking the material for purposes mentioned above.

Limitations to Breeder Rights



- Non-commercial basis
 - Experimental purpose
 - Breeding other plant varieties
 - Farm-saved seeds (*small farmers)
 - Exchange of seeds (*small farmers)
 - Sale of farm-saved seeds (where non-usage of seeds is beyond the control of the *small farmers)
- * the size of a holding 或 0.2 hectares**

Forms And Fees

No.	Matters	Fee (RM)	Form
1.	Filing (per application)	100.00 (RM USD 30)	PVBT 1 or PVBT 2
2.	Substantive examination (a) Document examination ; (b) On-site inspection; (c) Growing test; (d) Subsequent growing test (wherever necessary)	500.00 (RM USD 150) 1,500.00 (RM USD 450) 2,500.00 (RM USD 750) 1,000.00 (RM USD 300)	PVBT 3
3.	Opposition to registration of new plant variety and grant of breeder's right	-	PVBT 4

**No right maintenance fee at
this moment**

Plant Genera & Species For Protection

Crops Under Protection

- Open list : **open to all** plant excluding micro-organism
- Crop Priority List for Protection (at early phase):
 - **25 genera and species**
- Process of application other than Priority List may require a longer period of time

Crop Priority List

Total Genera And Species : 25

ORNAMENTAL (8)

Chrysanthemum

Dendrobium

Vanda

Aranda

Mokara

Lilium

Gerbera

Anthurium

ORCHIDS

FRUITS (4)

Papaya

Guava

Mango

Pineapple

INDUSTRIAL CROPS (4)

Oil Palm

Cocoa

Pepper

Rubber

CEREAL CROP (1)

Paddy

FOREST PLANTATION SPECIES (8)

Acacia mangium / A. hybrid

Teak (*Tectona grandis*)

Khaya ivorensis / *K. senegalensis*

Batai (*Paraserianthes falcataria*)

Binuang (*Octomeles sumatrana*)

Kelempayan (*Neolamarckia cadamba*)

Deposit Of Samples

- Approved application → deposit samples;
- Planting materials (samples) should be deposited at a centre approved by the Board within 3 months upon notification;
- Quantity of samples to be deposited is as follows:
 - **Seeds - 1,000 seeds or 10 grams (whichever is suitable)**
 - **Other Propagating Materials - 10 plants**

New Plant Variety Testing Center

**NEW PLANT VARIETIES TESTING CENTER,
CAMERON HIGHLANDS**



**NEW PLANT VARIETIES
TESTING CENTER, SERDANG,
SELANGOR**

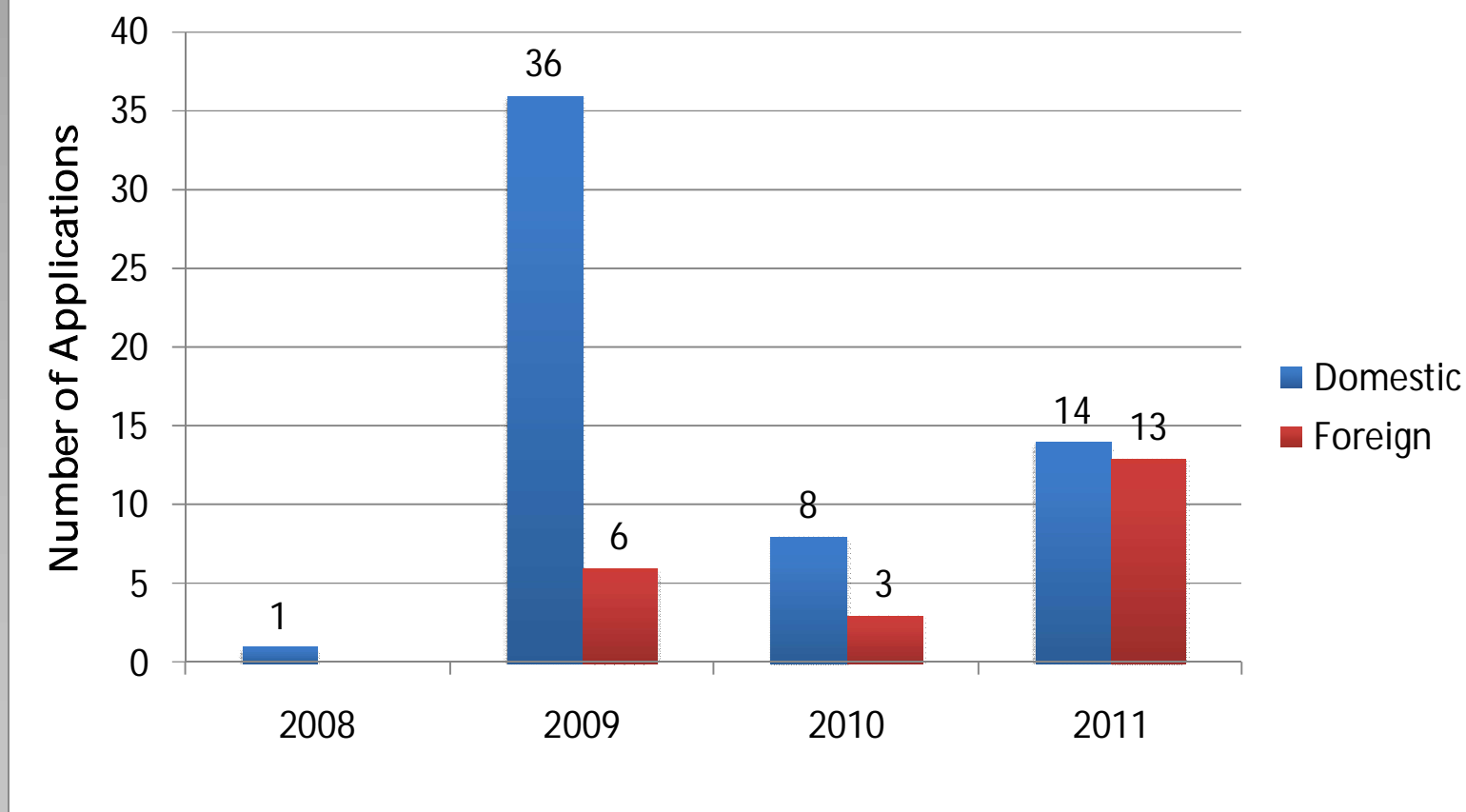


**HULU PAKA REPOSITORY,
TERENGGANU**

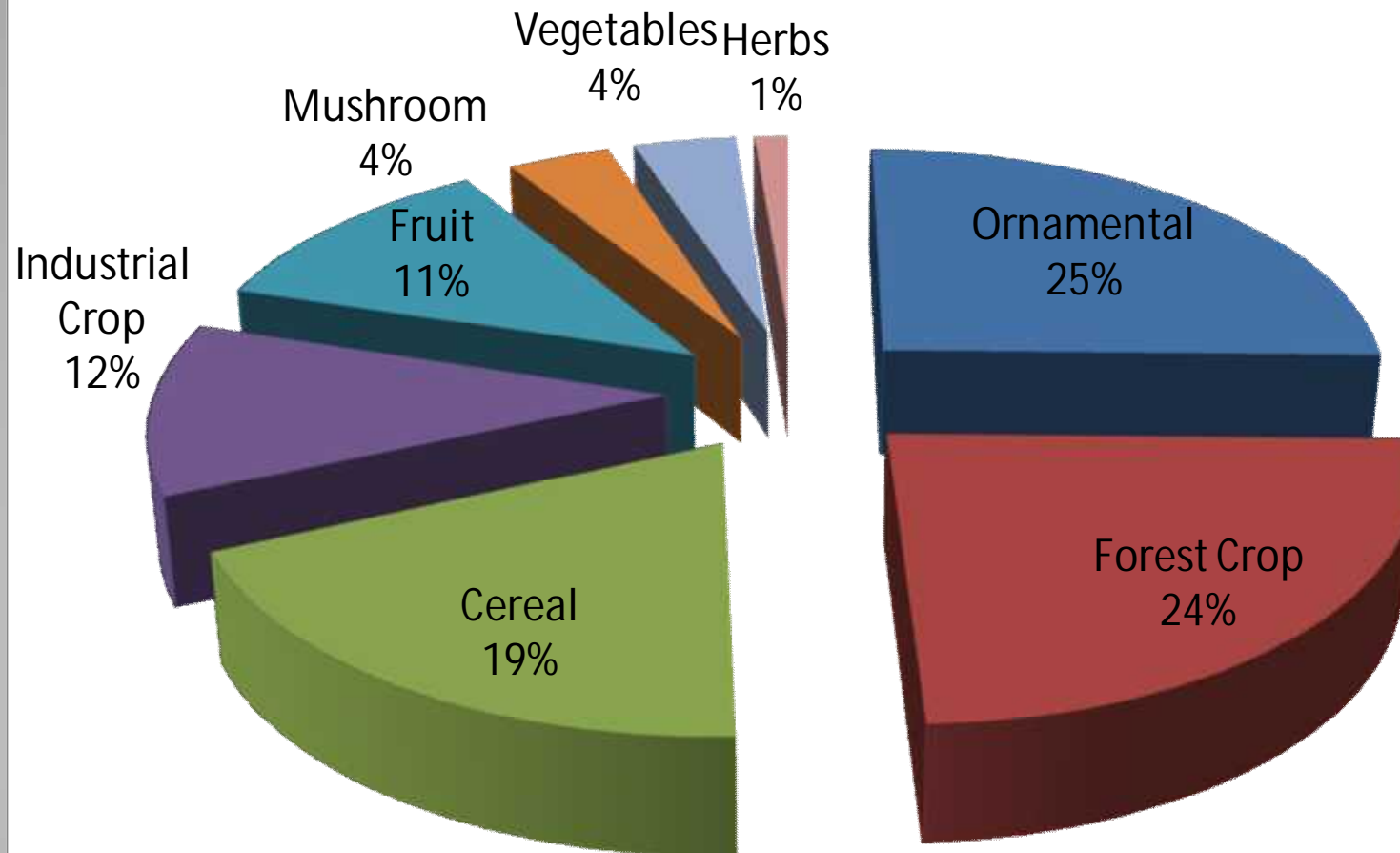


2. CURRENT STATUS OF PVP SYSTEM IN MALAYSIA





Application by Crop



NUMBER OF APPLICATIONS

No.	Category of Applications	Type of crop	Number of received applications
1	Local	Papaya, Dendrobium, Acacia, Oil Palm, Rice, Chili, Roselle, Mushroom, Cacao, Sour lime, Durian, Dragon fruit, Lemon myrtle	59 (72.8%)
2	Foreign	Pineapple, Chrysanthemum, Kiwi fruits	22 (27.2%)
	GRAND TOTAL		81

Applications according to crop type until 2011

Crops	Crop Type	Applications	Nationalities
Ornamentals	Chrysanthemum	22%	Netherlands
	Dendrobium	3%	Malaysian
Forest Crop	Acacia	24%	Malaysian
Cereals	Paddy	19%	Malaysian
Industrial Crop	Oil Palm	3%	Malaysian
	Cocoa	5%	Malaysian
	Roselle	4%	Malaysian
Fruits	Papaya	2%	Malaysian
	Kiwi Fruit	4%	New Zealand
	Pitaya	2%	Malaysian
	Pineapple	1%	USA
	Lime	1%	Malaysian
	Durian	1%	Malaysian
Mushroom	Tiger Milk	4%	Malaysian
Vegetables	Cilli	4%	Malaysian
Herbs	Lemon Myrtle	1%	Malaysian

EFFORTS TOWARDS HARMONIZATION OF MALAYSIA PVP SYSTEM

ACTIVITIES

1. Capacity Building
2. Awareness programs
3. Participation in EAPVP Forum meetings
4. Harmonization of Test Guidelines
5. Consultation with UPOV

1. CAPACITY BUILDING

LOCAL TRAINING

Year 2009

- Malaysia-Japan In-country Training Course on Plant Variety Protection.
 - 18- 20 March, 2009, Serdang
 - 30 participants



Year 2010

- Malaysia- Japan in country Training Course on DUS examination.
 - 23- 25 November 2010, Cameron Highlands
 - 15 participants



Year 2011

- Advanced Training Course on DUS Growing Test
 - 13 – 15 September 2011, Serdang
 - 14 participants



- Year 2012
 - Advanced Training Course on DUS Growing Test
 - 1 – 2 March 2012, Serdang
 - 14 participants



INTERNATIONAL TRAINING

Year 2008 & 2011

- Short Term Technical Training Course for DUS Growing Test
 - Okayama, Japan
 - One (1) participants from Malaysian for each year



Year 2008



Year 2011

Year 2009

- Program of the International Training Course on Plant Variety Protection
 - 8-12 Jun 2009, Guangzhao, Guangdong, China
 - One (1) participant from Malaysia

Year 2010

- Seed Technology Workshop
 - 15-19 November 2010, Anyang, Korea
 - One (1) participant from Malaysia



Year 2011

- UPOV, Philippine EAPVPF Joint Workshop on The UPOV Technical Basics in Philippines.
 - 7 -9 February 2011, Manila, Philippines
 - Two (2) participants from Malaysia
- Study Visit program on the Administration of The Plant Variety Protection System
 - 7 – 11 March 2011, Tokyo, Osaka and Kagawa, Japan
 - One (1) participant from Malaysia





4th USPTO/UPOV Training Course. Plant Variety Protection under UPOV Convention

- 1 -7 May 2011, Washington D.C., United States of America
- One (1) participant from Malaysia

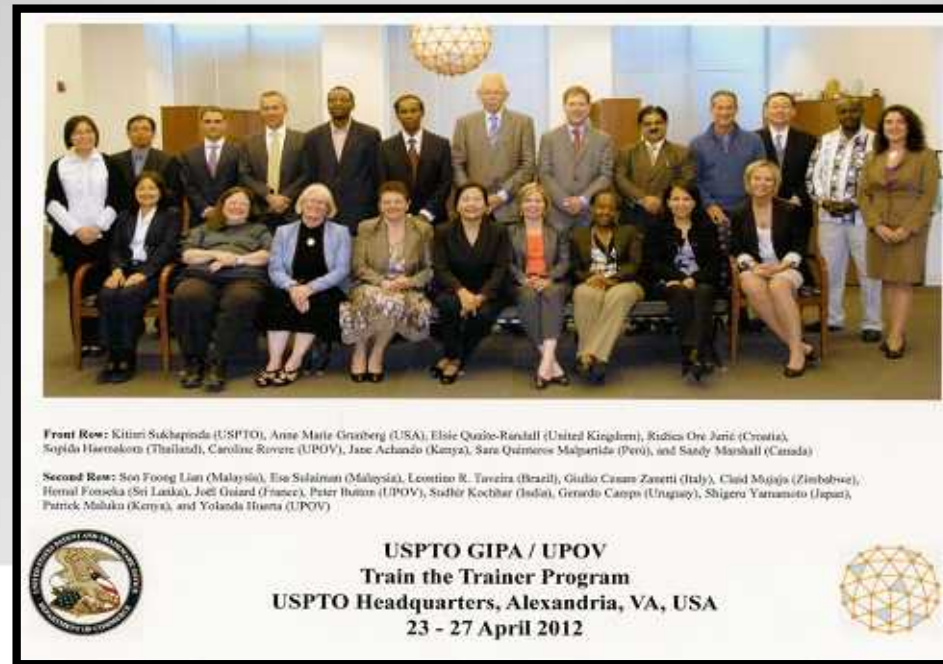
- Workshop on the UPOV Technical Basic

- 5 -9 September 2011, Bangkok, Thailand
- Attended by two (2) participants from Malaysia



Year 2012

- 5th USPTO/UPOV Training Course : Plant Variety Protection under UPOV Convention
- 23 -27 APRIL 2012
- Attended by 2 participants from Malaysia



2. AWARENESS PROGRAM

Year 2008

- International Seminar for Better Understanding of PVP
 - 24 July 2008, Tokyo, Japan
 - One (1) participant from Malaysia

- APEC International Seminar on Plant Variety Protection
 - 7 November 2008, Bandung, Indonesia
 - Three (3) participants from Malaysia

- EAPVP Forum Seminar on Understanding and Extension of the Basics Concept of PVP system
 - 15 - 16 December 2008, Ho Chi Minh City, Vietnam
 - One (1) participant from Malaysia

Year 2009

- International Symposium: The Impact of Plant Variety Protection
 - 28 August 2009, Seoul, Korea
 - One (1) participants from Malaysia

- Malaysia-Japan Joint Awareness Seminar on Plant Variety Protection
 - 2 November 2009, Putrajaya, Malaysia
 - 100 participants

- Malaysia-Japan Introduction of Malaysia Plant Variety Protection System Seminar
 - 4 November 2009, Sarawak, Malaysia
 - 50 participants

Year 2010

- Seminar on DUS Testing Committee of UPOV,
 - 18- 20 March 2010, Geneva, Switzerland
 - Attended by two (2) participants from Malaysia

- International Seminar on Protection of New Plant Varieties and Farmers Rights and Interest
 - 20 – 23 April 2010, Jiangsu, China
 - One (1) from Malaysia

- **Year 2011**

- International Seminar on Plant Variety Protection “Public and Private Partnership”

- 24 May 2011, Makassar, Indonesia
 - Two (2) participants from Malaysia

- International Symposium on Plant Variety Protection

- 13 -16 July Seoul, Korea
 - One (1) participant from Malaysia

3. EAPVP FORUM MEETING

- East Asia Plant Variety Protection Forum (EAPVPF) Meeting

- 1st Meeting : 23- 25 July 2008 (Tokyo, Japan)
- 2nd Meeting : 2 April 2009 (Beijing, China)
- 3rd Meeting : 28 April 2010 (Seoul, Korea)
- 4th Meeting : 24-26 May, 2011 (Makassar, Indonesia)
- 5th Meeting : 28-30 May, 2012 (Bangkok, Thailand)
- **6th Meeting : ?? 2013 (Kuala Lumpur, Malaysia)**

4. HARMONIZATION OF TG - MEETINGS

- Expert Meeting on The Harmonization of The Test Guidelines

- Rice

- 22-24 January, 2009: Manila, Philippines

- Capsicum

- 14-16 May, 2009: Bogor, Indonesia
 - 2 August, 2010: Serdang, Malaysia
 - 20-22 February 2012: Jakarta, Indonesia

- Workshop for Cooperation in Harmonization of TGs and D.U.S Test

- 1st Workshop : August, 2008 (Bandung, Indonesia)
: Three (3) participants from Malaysia
- 2nd Workshop : 18 - 20 August, 2009 (Bangkok, Thailand)
: Two (2) participants from Malaysia
- 3rd Workshop : 3 – 5 August 2010 (Kuala Lumpur, Malaysia)
: 20 participants



3rd Workshop in Kuala Lumpur, Malaysia

➤ Mokara

➤ 18- 23 July, 2010: Bangkok, Thailand

➤ 8 March 2012: Singapore

➤ Aglaonema

• 2 August, 2010: Serdang, Malaysia

➤ Papaya,

• 18- 23 July, 2010: Bangkok, Thailand

• 21-22 February 2012: Jakarta, Indonesia



Mokara (Bangkok, Thailand)



Aglaonema(Serdang, Malaysia)



Papaya (Jakarta, Indonesia)

➤ Durian

- 18- 23 July, 2010: Bangkok, Thailand

➤ Oil Palm

- 18 -20 January, 2012: Bangi, Malaysia

➤ Cassava

- 10-11 February 2012
Rayong, Thailand



Durian (Bangkok, Thailand)



Oil Palm (Bangi, Malaysia)

Other Meetings



- Plant Variety Protection Law Workshop
 - 5 -9 December 2010/2011, Geneva, Switzerland
 - Attended by 2 participants from Malaysia



- Meeting on UPOV Technical Working Party for Ornamental and Forest Tree
 - 7-11 November 2011, Hiroshima, Japan
 - Attended by 2 participants from Malaysia
- Meeting on UPOV Technical Working Party for Fruit crops
 - 14 – 18 November 2011, Hiroshima, Japan
 - Attended by 2 participants from Malaysia

CAPACITY BUILDING

O

- Strengthening technical skills and enhancing better understanding of PVP System

U

AWARENESS SEMINAR

T

- Increase in category of application

C

FORUM MEMBER MEETING

O

- Establishing networks and knowledge exchange mechanism among countries in the region

M

TG HARMONIZATION MEETING

E

- Establishing harmonized TGs for regional usage

Consultation With UPOV

- Submitted Malaysia PVP Law for UPOV comments to determine its conformity with UPOV Law.
- Based on UPOV comments, some amendments to the Malaysia PVP law is required for international harmonization.
- The DOA has conducted stakeholders consultation locally and internationally



NEXT STEP




No.	WORKPLAN	ACTION PLAN
1.	Review of National PVP Act, Regulations & Administrative procedure	<ul style="list-style-type: none"> ➤ To seek necessary advice from relevant stakeholders regarding PVP system in Malaysia. ➤ To seek cabinet advice ➤ To do necessary arrangement with other authorities (MOA, PVP Board, AG Chambers). ➤ To prepare the draft amendment. ➤ Parliament approval.

No.	WORKPLAN	ACTION PLAN
2.	Capacity building	<p>For PVP staff and examiners</p> <p>i. Basic and advance training on:</p> <ul style="list-style-type: none"> ➤ developing Test Guidelines (TGs) and investigation manual ➤ DUS examination <p>ii. Maintenance and management of reference collection at DUS station.</p>

No.	WORKPLAN	ACTION PLAN
3.	Plant database system	<p>➤ Improving and updating current database system.</p> <p>➤ Expanding usage of database system for examiners, applicants and agents.</p>



<http://pvpbkkt.doa.gov.my>

No.	WORKPLAN	ACTION PLAN
4.	<p data-bbox="376 292 869 448">Development of National TGs</p> <div data-bbox="331 719 770 1267">  </div> <div data-bbox="842 719 1352 1203">  </div> <div data-bbox="1442 719 1912 1251">  </div>	<p data-bbox="1106 292 1704 339">Base on current application</p> <p data-bbox="1106 416 1877 536">(eg: Mushroom (?) , Roselle, Lemon Myrtle etc.)</p>

No.	WORKPLAN	ACTION PLAN
5.	Awareness seminar for stakeholders	<p>➤ Group-specific</p> <p>Applicant and Agents: procedure of application, examination, opposition and infringement.</p> <p>Public: benefit of plant breeders rights (PBR), limitation of protected variety, impact of infringement and general PVP system.</p> <p>University students: general PVP system</p>

No.	WORKPLAN	ACTION PLAN
6.	Upgrading facilities and infrastructure	<p>a. Development of Seed Storage</p> <ul style="list-style-type: none"> ➤ Management and maintenance of deposited seed samples <p>b. Upgrading Repository Center</p> <ul style="list-style-type: none"> ➤ DUS Testing plot. ➤ Management and maintenance of deposited samples. (others than seeds) ➤ Data collection and analysis for example varieties.

THANK YOU

