

APEC WORKSHOP ON FOOD SECURITY

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Tokyo Japan

NEW ZEALAND, an example of a smaller economy with a successful Plant Variety Protection system, providing support to economically significant primary industry



INTELLECTUAL
PROPERTY
OFFICE



BACKGROUND

- Plant variety rights (PVR)
- Started in 1975
- Limited scope in early years
- Covered all plant kingdom in 1981
- UPOV membership in 1981
- Current law came into force in 1987 and is compatible with the 1978 UPOV Convention
- A small economy where agricultural exports are significant

BENEFITS OF PVR

- Provides variety management and control
- Encourages domestic breeding
- Benefits for the exporting of varieties
- Incentive for foreign breeders to release varieties
- Assists orderliness in commercial activity
- Encourages investment in plant breeding and broader primary industry

STRUCTURE

- The Plant Variety Rights Office is a section of the Intellectual Property Office of New Zealand (IPONZ)
- Responsible for PVR only
- A full time technical staff of three with administrative and business support from IPONZ
- Seven regional describers (part time, as required)

FEATURES

- A small scheme 140-150 applications per year
- The Office has limited resources without land and field facilities
- Cooperation and partnership with other organisations
- Follows the UPOV model and actively participates in relevant UPOV activities

Applications

- 55% Ornamentals and trees
 - 22% Fruit
 - 23% Agriculture and Vegetables
 - 60-65% from foreign breeders
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- Main species in 2011/12: pasture and forage plants, potato, apple, blueberry, garden roses, ornamental New Zealand native plants

Benefits of UPOV membership

- Access to technical guidance
- Access to legal and administrative models
- Useful working contacts
- Opportunity to learn from and exchange information with other authorities
- Testing cooperation
- Assists NZ access to foreign bred varieties
- Assists uptake of NZ bred varieties abroad

Testing Procedures for Distinctness, Uniformity and Stability (DUS)

- All decisions are made by the Office but testing is carried out using different procedures dependent on the species
- Central testing by the Office
- Central testing by another organisation or institute
- Official testing on an applicants property
- Breeder testing
- Foreign test reports

Central Testing by the Office

- **Advantages:**

- Economy of scale
- All in one place
- Direct management by the Office
- Improved variety collection management
- Consistency between years

- **Disadvantages:**

- Can be expensive
- Requires growing trial resources e.g. land, staff
- Requires cultivation skill

Central Testing by Another Organisation

- **Advantages:**

- Economy of scale and efficient use of existing national resources e.g variety collection
- All in one place
- Possibility for cost reduction
- Consistency between years

- **Disadvantages:**

- Requires a partner or cooperation contract or agreement
- Indirect management of testing
- Risk of loss of partner or cooperation

Official Testing on Applicants Property

- **Advantages:**

- Utilises the resources of the breeder
- Access to breeder expertise
- Office retains management of the evaluation and recording
- Cost savings

- **Disadvantages:**

- Relies on good communication
- Requires travel and time organisation
- Confidence in the trial holder
- Variety collection management
- Multiple trial sites for the same species

Breeder Testing

- **Advantages:**

- Utilises the resources of the breeder
- Access to breeder expertise
- Cost savings
- Practical

- **Disadvantages:**

- Dependent on breeder skill and experience
- Multiple sites for same species
- Relies on good communication
- Trust factor

DUS Testing Summary

- For most agricultural varieties in central trials managed by the Office
- For fruit varieties in central trials managed by a testing organisation
- For most ornamental varieties on the premises of the applicant, managed by the Office
- For vegetable varieties, breeder testing

Foreign Test Reports

- Inter authority relationship
- Utilises testing in other UPOV member states
- Provides access to expertise and resource not present nationally
- Use is based on specific technical criteria
- The Rights decision is based on the purchased test report.

Use of Experts

- A key component
- The Office cannot have the necessary expertise for every species tested
- Experts can be researchers, breeders, species enthusiasts
- Expert advisors provide advice and opinion
- Experts do not make any decisions

Testing Result

Possible for a small economy to have DUS testing that:

- covers all plant genera and species
- provides results of a high technical standard and of a high degree of legal certainty
- at a cost affordable to breeders and taxpayers

TWO KEY COMPONENTS OF THE NEW ZEALAND SCHEME

COOPERATION

WITH

- Applicants
- Breeders
- Research Institutes
- Plant Experts
- Universities
- Holders of variety collections

COMMUNICATION

- Website

<http://www.iponz.govt.nz/cms/pvr>

- Includes – guide, Journal, practice notes, searchable variety database

COMMUNICATION

- Technical Focus Group

Formal liaison and contact with breeding industry

- Technical Working Group for Pasture and Forage species

Specialist advice regarding these species

Future Challenges

- Soon to be introduced on line application system and electronic document management
- Increasing costs resulting in pressure on fees
- Changing priorities of partner organisations
- Increase in formal contracts between the Office and testing service providers
- Increasing expectations of system users
- Breeder dissatisfaction with current law based on the 1978 UPOV Convention