



*Sharing Canada's Experience Moving to UPOV'91  
Bill C-18: Agricultural Growth Act*

UPOV – Train the Trainer Course  
Santa Cruz, Bolivia  
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Anthony Parker  
Commissioner, Plant Breeders' Rights  
Anthony.Parker@inspection.gc.ca

 Canadian Food Inspection Agency Agence canadienne d'inspection des aliments



*Plant Breeders' Rights (PBR) Act*

- Canada's original *PBR Act* (based on UPOV'78) was passed August, 1990
- It took almost 13 years and 3 attempts to have a UPOV'78 based *PBR Act* passed in Parliament
- Intent of legislation was to:
  - Stimulate investment in plant breeding in Canada
  - Provide Canadian producers better access to foreign plant varieties
  - Facilitate protection of Canadian varieties in other countries
- Canada became a signatory to UPOV'91 in 1992

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## Challenges Moving to UPOV'91



Photo Courtesy of Grainswest Magazine: UPOV'91 January 23, 2014 3

## Plant Breeders' Rights (PBR) Act

- It took almost 23 years and 2 attempts to have UPOV'91 based legislation passed in Parliament
- As part of the *Agricultural Growth Act* (omnibus Bill) amendments to Canada's *PBR Act* came into force on February 27<sup>th</sup>, 2015
- Canada deposited the instrument of UPOV'91 ratification on June 19<sup>th</sup>, 2015
- Canada became bound by the UPOV'91 Convention on July 19<sup>th</sup>, 2015

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## What worked well?

- Thoughtful and detailed analysis
- Direct consultation with all members of the agriculture value chain (farmers, seed industry, seed growers, etc)
- Debunking misinformation / myth-information about PBR/UPOV'91
- Communicated positive messaging about the benefits of PBR/UPOV'91 (farmers, media, senior bureaucrats, and political decision makers)
- We asked for, and received help from, the value chain.

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## Analysis

- 2002 – Ten year study of PBR impact in Canada
- 2004/05 – National consultations on *PBR Act/UPOV'91* amendments
- 2005 – UPOV Impact Study on PVP
- 2006 – Recommendation from the PBR Advisory Committee to advance UPOV'91 legislative amendments
- 2008 – Independent Study – George Morris Centre (agriculture think-tank)
  
- Substantial body of evidence supporting the positive impact and benefits of UPOV'91

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## Consultations

- 2004/05 – National consultations on PBR Act/UPOV'91 amendments
- 2014/15 – 35 information and outreach sessions with farmers, seed growers, and seed industry
- 2014/15 – over 40 expert witnesses appeared before the House of Commons – Standing Committee on Agriculture and Agri-Food (SCAAF) and the Senate Committee on Agriculture and Forestry (SCAF)



### News Release

Partners in Innovation Support PBR Amendments at Committee

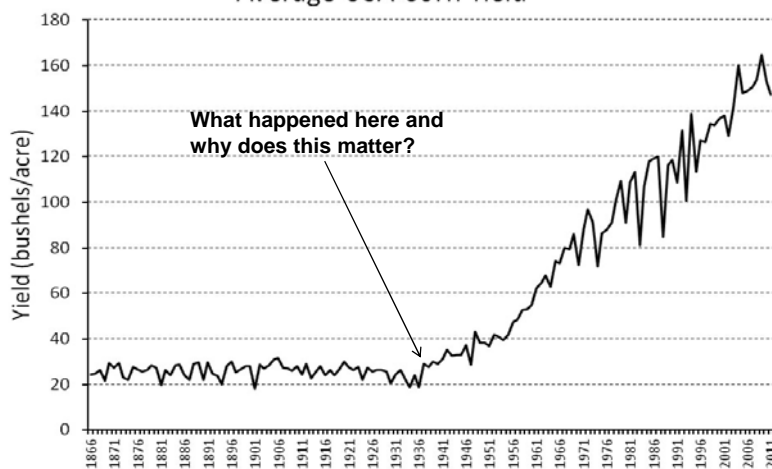
Ottawa, Friday October 10, 2014 – Partners in Innovation delivered a strong message of support for amendments to Canada's Plant Breeders' Rights (PBR) legislation when representatives met with the House of Commons Standing Committee on Agriculture and Agri-Food.



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## Why is plant breeding & PBR/UPOV important?

Average USA Corn Yield



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## Debunking Myth-information



**Myth** - "*UPOV'91 only benefits transnational corporations*"

**Fact** - Strengthened breeder protection will foster a positive business environment for investing in plant breeding in Canada for all parties; public, private, producer, and partnerships

**Fact** - Close to 50% of all Canadian applications for agricultural crops come from public institutions (universities, federal and provincial government). Royalties collected are an important source of funding for these breeding programs

**Myth** - "*Heritage/heirloom varieties will be protected and locked up*"

**Fact** - In order for a variety to be eligible for protection it must be "new". Heritage/heirloom varieties by definition are "old" and do not meet the criteria for protection

**Fact** - Once PBR is expired the variety is "public domain". Many of today's PBR varieties = tomorrow's heritage/heirloom varieties <sup>9</sup>

## Debunking Myth-information



**Myth**- "*UPOV'91 reduces varietal and genetic diversity*"

**Fact** - Strengthened protection fosters innovation, plus compulsory breeder and researcher exemptions promotes the exchange and use of germplasm. In UPOV'91 countries the genetic and varietal diversity can actually increase:

- ↑ Number of breeders
- ↑ Level of investment
- ↑ Diversity of breeding activities (private S-M-L, public, producer, and partnerships)
- ↑ Number and diversity of crop species
- ↑ Number of varieties within a crop kind or species

"UPOV Report on the Impact of Plant Variety Protection" (2005)

"Genetic diversity trends in twentieth century crop cultivars: a meta analysis" (Theoretical and Applied Genetics 04/2010, 120:1241-1252)

"10 Year Impact Study of PBR Protection in Canada

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# Intellectual Property is Controversial!



## NFU starts campaign against UPOV 91 changes

3 Comments | Posted Jan. 24th, 2014 by Brian Cross



The National Farmers Union says farmers' rights to use farm-saved seed may be threatened if Ottawa ratifies new regulations for patented seeds. | File Photo

## Bill C-18 will take from farmers' pockets

3 Comments | Posted Feb. 6th, 2015 by Terry Boehm



The National Farmers Union is concerned about the future of farmer's privilege under Bill C-18, which will enhance plant breeders' rights. | File photo

### Common Seed Rights Being Put Through the Grinding Mill: Agriculture Growth Act Bill C-18 before standing committee

BY OPERATIONS, THE LEVELLES | OCTOBER 23, 2014

**KEYWORDS:** BILL C-18, CETA, COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT, GERRY FITZ, HARPER GOVERNMENT, INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS, NATIONAL FARMERS UNION, PLANT BREEDERS RIGHTS ACT, TPP, TRANS-PACIFIC PARTNERSHIP, UPOV

by Christopher Kelly-Bisson

Federal Agriculture Minister Gerry FITZ's omnibus Agricultural Growth Act (Bill C-18) is currently before the Standing Committee on Agriculture and Agri-Food. If passed, this bill will threaten the ability of Canadian farmers to save their own seed.

Part of the bill amends the Federal Plant Breeders' Rights Act, which would ratify provisions from the International Union for the Protection of New Varieties of Plants (UPOV) 1991 convention, giving multinational seed companies greater legal powers to enforce their ownership over non-patented seed varieties in Canada.

The bill comes amid action from the Harper government to weaken Canadian agricultural regulation and sovereignty in order to secure free trade agreements such as the Trans-Pacific Partnership (TPP) and Comprehensive Economic and Trade Agreement.



Kate Ward of the National Farmers Union speaks at a protest against the Comprehensive Economic and Trade Agreement in Ottawa on Sept. 28. Photo: Sam Heaton

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# Positive Messaging



## Plant Breeders' Rights (PBR) and Bill C-18

Despite what detractors say, both farmers and breeders will benefit



By R.K. Downey And B.I. Harvey

Published: February 19, 2014  
Opinion  
0 comments

As public plant breeders with Agriculture and Agri-Food Canada and the University of Saskatchewan for a combined total of over 100 years, we were pleased to see the recently tabled Agricultural Growth Act (Bill C-18).

This bill encompasses desirable amendments to the present Plant Breeders' Rights (PBR) Act that will bring Canada into conformity with the 1991 convention of the International Union for the Protection of New Varieties (UPOV '91).

Canada was a signatory to this convention back in 1992 but is just now bringing the amendments into force. Thus the amendments are not, as some detractors would have you to believe,

### Support strong for Canadian agriculture omnibus bill

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October 10, 2014

But one farm group warns proposed changes would remove farmers' control of seeds



by SUSAN MANN

Most of Canada's farming community is giving the federal government's agriculture modernizing legislation, bill C-18, a thumbs up during committee hearings this week; but one farm group wants part of the bill scrapped and the rest broken up into more manageable parts for better debate.

## Federal official says UPOV '91 will benefit farmers

Commissioner of plant breeders' rights says enhanced intellectual property protection will bring more investment, better varieties, and greater choice



By Jennifer Blair  
Reporter

Published: February 25, 2015

0 comments



## Debunking myths around Canada's UPOV '91 legislation

Farmers can still save seed, but end-use royalties aren't guaranteed, says Plant Breeders' Rights commissioner



By Allan Dawson

Published: March 18, 2014

0 comments

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## The Partners

Partners in Innovation was founded by a group of leading Canadian farmer and agricultural organizations which joined forces to support Canadian government legislation intended to improve Plant Breeders' Rights (PBR) in Canada.

Partners in Innovation believe that amended Plant Breeders' Rights legislation will foster investment in seed research and innovation, to deliver varieties developed in Canada and outside our border, and to benefit farmers and the Canadian economy. The partnership is committed to supporting the amendments.

### News

**Canada takes place on world stage with ratification of UPOV 91 Convention**

[News Release](#)


**Partners in Innovation Celebrate Royal Assent for PBR Amendments**

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## Increased investment in domestic plant breeding and access to new varieties


**Canada ratifies UPOV '91 seed treaty**

By Staff      Published June 22, 2015  
Crop Monitor



**Ritz: UPOV 91 Part Of Reason For New Wheat Seed Development Partnership**

By Kay Rapperton on July 6, 2015 @ 4:44pm



- Bayer Crop Science new investments in wheat breeding
- Limagrain/Canterra Seeds partnership – cereal breeding
- Public/private/producer breeding consortium to fund Canadian Prairie Spring Red Wheat (CPSR)
- Annual PBR applications for agricultural crops almost doubled (from 80 to 148)
- Increased diversity of crops and number of foreign applications <sup>14</sup>