

Canada and UPOV'91

The process to ratify the 1991 Act

UPOV Trainer Program



Overview

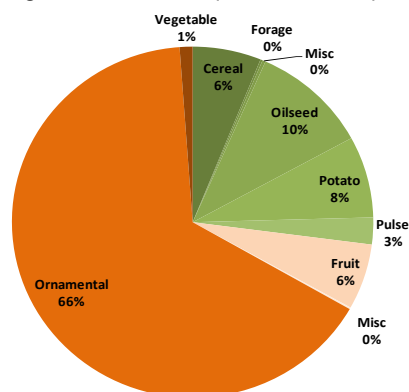
- Plant Breeders' Rights in Canada
- Our experience moving to UPOV'91
 - Gathering data and support
 - Consultations
 - Overcoming some barriers
- Post ratification... what is next...

Plant Breeders' Rights Act

- Canada's *PBR Act* was passed August, 1990
- Originally based on 1978 Convention of the International Union for the Protection of New Varieties of Plants (*UPOV'78*)
- Intent of the legislation to:
 - Stimulate investment in Canadian plant breeding
 - Provide Canadian producers with better access to foreign varieties
 - Facilitate protection for Canadian bred varieties in other countries
- PBR Office started receiving applications in 1992
- *PBR Act* was amended on February 27th, 2015 in conformity with *UPOV'91*. Canada ratified *UPOV'91* on June 19th, 2015 and become bound by the Convention on July 19th, 2015

PBR Applications Since 1992

Applications for filing received by the Plant Breeders' Rights Office since 1992 (until Dec 31, 2016)



Number of applications received by crop type since 1992

Crop	Number of applications
Cereal	559
Forage	18
Misc	25
Oilseed	954
Potato	684
Pulse	226
Fruit	551
Misc	14
Ornamental	5981
Vegetable	105
Total	9117

Plant Breeders' Rights Act

- **ADVISORY COMMITTEE**
- **73.** (1) The Minister shall constitute an advisory committee on any terms and conditions determined by the Minister.
- (2) The advisory committee shall be composed of persons appointed by the Minister from among representatives of organizations of breeders of plant varieties, dealers in seeds, growers of seeds, farmers, horticulturists and of any other interested persons considered appropriate by the Minister.
- (3) The function of the advisory committee is to assist the Commissioner in the application of this Act...

5

PBR Advisory Committee (AC)



6

Experience Moving to UPOV'91?



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

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.

Detailed 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!

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)

Partners in Innovation

Follow us English

HOME PARTNERS NEWS VIEWS CONTACT US

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

partnersininnovation.ca

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 sustainable 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

Debunking Myth-information

Myth- *“UPOV’91 creates a variety treadmill. Once PBR is surrendered, the developer can cancel variety registration”*

Fact – PBR is a voluntary intellectual property tool - breeders, both private and public, are not required to protect their inventions if they do not wish to. Farmers also have choice whether or not to use PBR protected varieties on their farm

Fact – Neither private, nor public programs, are rushing to cancel variety registration:

- E.g. - 494 wheat varieties have been registered (including spring, winter, and durum) for sale in Canada.
- 125 (25%) have held PBR protection at some point.
 - 89 (18%) hold PBR at this time.
 - 8 (2%) wheat varieties have surrendered (or expired) PBR and then subsequently had their registration cancelled.

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

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.J. 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

© AgMedia Inc.
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
Crops
0 Be the first to comment



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
Crops
0 Be the first to comment

Increased Investment

Canada ratifies UPOV '91 seed treaty



By Staff

Published: June 22, 2015
Crops, Markets



© Courtesy: Shutter Photo

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

By Ray Baxstrom on July 6, 2015 @ 4:45pm



© iStock.com/Markus from the photo by Robert Ormerod

- 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)
- New PBR applicants in the agriculture sector

Observations/Trends

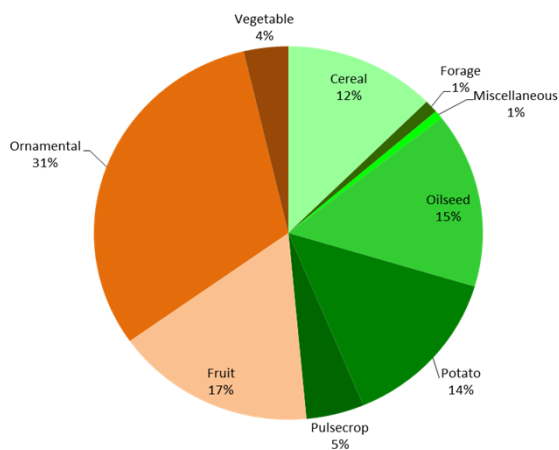
Agriculture Crop Kinds

- The number of agricultural varieties seeking PBR protection appears to be increasing:
 - UPOV'78/*PBR Act* average = 93/year
 - UPOV'91/*PBR Act* average = 123/year (32% increase)
- The overall number of potato applications is increasing:
 - UPOV'78/*PBR Act* average = 26/year
 - UPOV'91/*PBR Act* average = 40/year (54% increase)
- Crop kind diversity in the agriculture sector appears to be increasing:
 - UPOV'78/*PBR Act* average = 11 crop kinds/year
 - UPOV'91/*PBR Act* average = 14 crop kinds/year

Observations/Trends

Horticulture (2016)?

- Significant decrease in ornamentals!!!
- But...increases in fruit and vegetable



Number of applications received by crop in 2016

Crop	Number of applications
Cereal	34
Forage	3
Miscellaneous	2
Oilseed	41
Potato	38
Pulsecrop	13
Fruit	45
Ornamental	84
Vegetable	10

What is next...

- Implementation of UPOV'91 is having a positive impact on the agriculture sector – number of applications increasing
- Growth of domestic SME's and foreign applications for agriculture varieties
- Greater optimism in the seed sector - new investments
- Greater diversity of agriculture applications – minor crop species
- Ornamental is down, but fruit and vegetable are up
- New policy accepting foreign DUS test reports = PBR applications advancing quicker to grant of rights

Thank you !
Questions or Comments

