

Impact of the Adoption of UPOV

1991: Canada

Dave Carey, Executive Director, CSTA

Value of Canadian Agriculture

- **Agriculture & Agri-food System (AAFS)**

- Generates \$108.8 billion annually, 6.6% GDP (2014)
- 1 in 8 jobs linked to the sector
- Canada is the 5th largest exporter of agri-products globally

- **Horticulture**

- \$5 billion in direct farm receipts (2015)

- **Ornamental/nursery**

- \$14.5 billion in economic output (2009)
- Employees 110,750 full time equivalent jobs

- **Seed Industry**

- \$5.6 billion in economic output (2014)

\$120 million private sector annual investment plant breeding (2017)

Plant Breeders' Rights Office

- The *PBR Act* is administered by the Commissioner and Examiners of the PBR Office, contained within the Canadian Food Inspection Agency (CFIA)
- PBR Office is located at 59 Camelot Dr., Ottawa, Ontario
- Total number of employees = 7



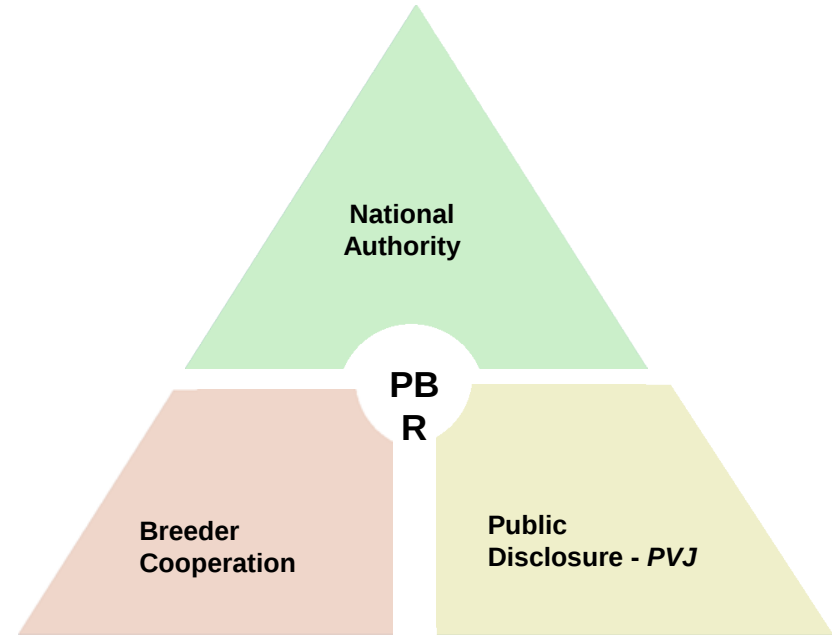
Canada's PBR Framework

National Authority - PBR Office

conducts site examination and PBR
Commissioner decides on Grant of
Rights

Breeder Cooperation – breeder or
trial coordinator provides detailed
information on the variety and
conducts DUS Testing in
accordance with Test Guidelines.

Public Disclosure – all information
about a variety is available – *Plant
Variety Journal (PVJ)* for public
scrutiny and input



Plant Breeders' Rights Act

- Canada's original *PBR Act* (based on UPOV'78) was passed in 1990
- It took almost 13 years and 3 attempts to have a UPOV'78 based *PBR Act* passed in Parliament
- Canada became a signatory to UPOV'91 in 1992
- It took almost 23 year and 2 attempts to have UPOV'91 based PBR legislation passed in Parliament
- Canada deposited the instrument of UPOV'91 ratification on June 19th 2015 and became bound by the convention one month later

Getting UPOV Implemented

Required:

- 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)
- CFIA asked for, and received help from, the value chain.

Getting UPOV Implemented



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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



Promoting Seed
Business in
the Americas

September 5-7
2017 - Colombia
Carrizosa de Indias

SAA Seed Association
of the Americas

Getting UPOV Implemented

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

Plant Breeders' Rights



Progress Through Research
Le progrès grâce à la recherche

The Opportunities and the Obligations
www.prbfacts.ca

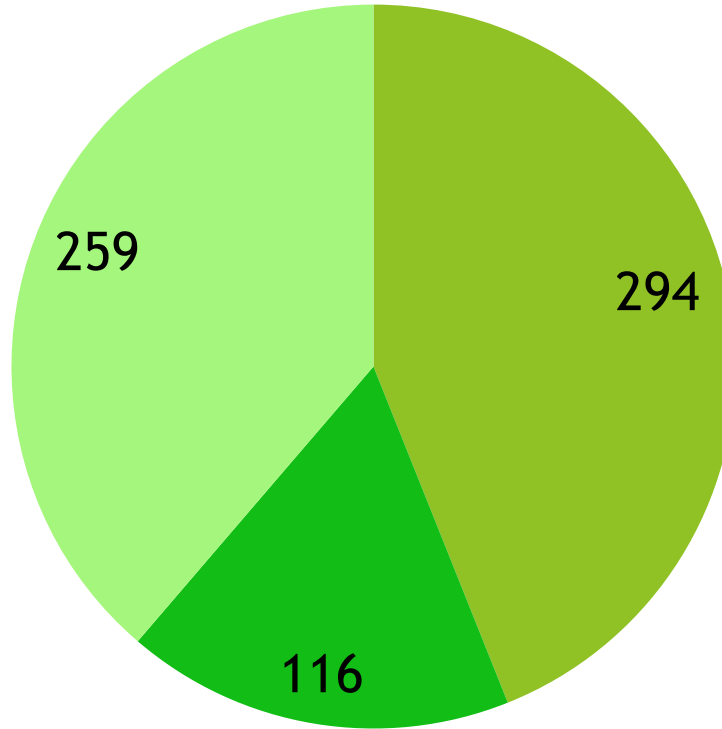


PBR Trends and Observations

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.

PBR – Current Number of Ag Varieties

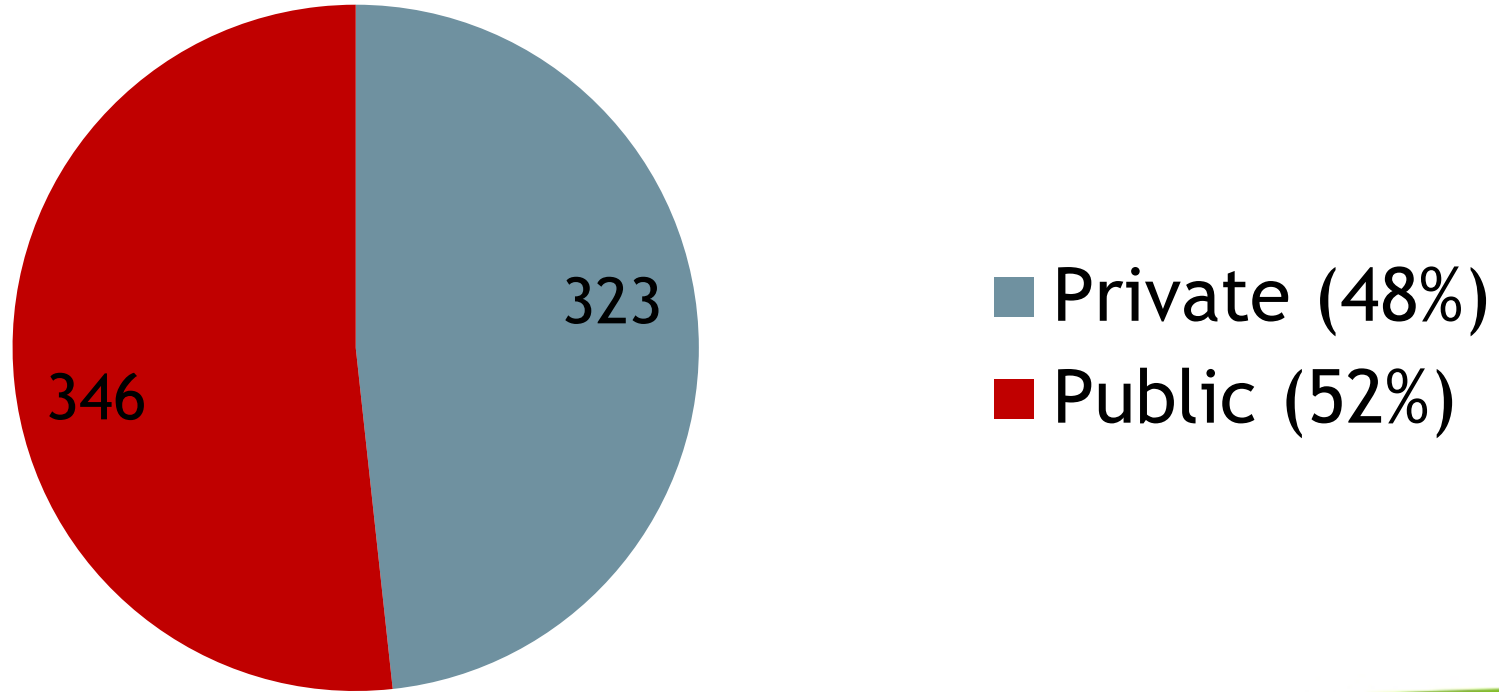


■ UPOV'78 Granted (44%)

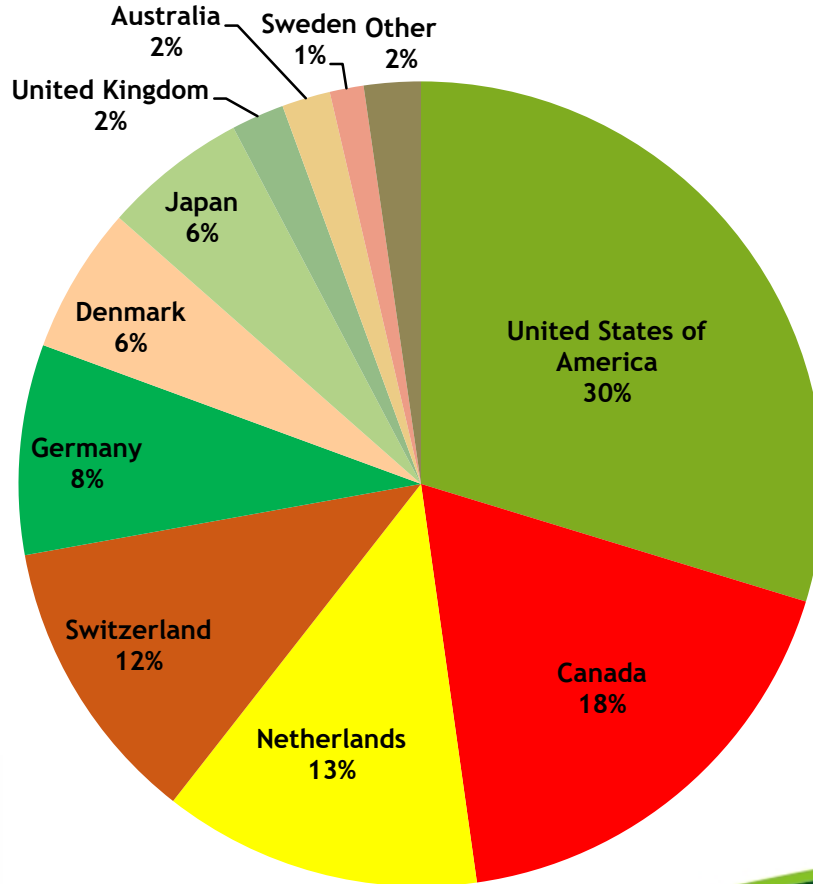
■ UPOV'91 Granted (17%)

■ UPOV'91 Pending (39%)

Breeding Entity Applications: Private and Public



Proportion of applications filed in Canada by country since 1992



Top 10	Country	Applications
1	United States of America	2672
2	Canada	1623
3	Netherlands	1149
4	Switzerland	1043
5	Germany	759
6	Denmark	530
7	Japan	520
8	United Kingdom	191
9	Australia	175
10	Sweden	123

Other	Country	Applications
11	France	78
12	New Zealand	57
13	Ireland	25
14	Belgium	23
15	Israel	22
16	Italy	14
17	Poland	8
18	South Africa	7
19	The Czech Republic	7
20	Russian Federation	6

PBR Advisory Council



Agriculture and
Agri-Food Canada

Agriculture et
Agroalimentaire Canada



CANADIAN POTATO COUNCIL
CONSEIL CANADIEN
DE LA POMME DE TERRE



GRAIN GROWERS
OF CANADA



LES PRODUCTEURS
DE GRAINS DU CANADA



PBR Advisory Council

Advice provided to the Minister and Commissioner:

a) Sustainable funding of the PBR Office

- cost-recovered operations (Service Fees)

b) Regulatory Changes

- increased period of protection for potatoes (25 yrs)

c) Improving Efficiency/Accessibility

- UPOV Electronic Application Form (EAF)
- UPOV International System of Cooperation (ISC)

d) Active International Participation/Leadership

- Commitment to UPOV Standard Setting
- Support UPOV Training/Capacity Building

PBR Advisory Council

Progress has been made in several key areas:

c) Improving Efficiency/Accessibility

- New policy (2016) accepting foreign “Distinctness, Uniformity, Stability (DUS) test reports from other UPOV member countries for ornamental and horticulture crops
- Participating in a UPOV EAF and ISC initiatives

d) Active International Participation/Leadership

- 2017 – Canada hosting two UPOV technical standard setting working groups (ornamental and fruit crops)
- Supporting UPOV training/capacity building activities in developing countries

PBR Advisory Council

Progress made in several key areas:

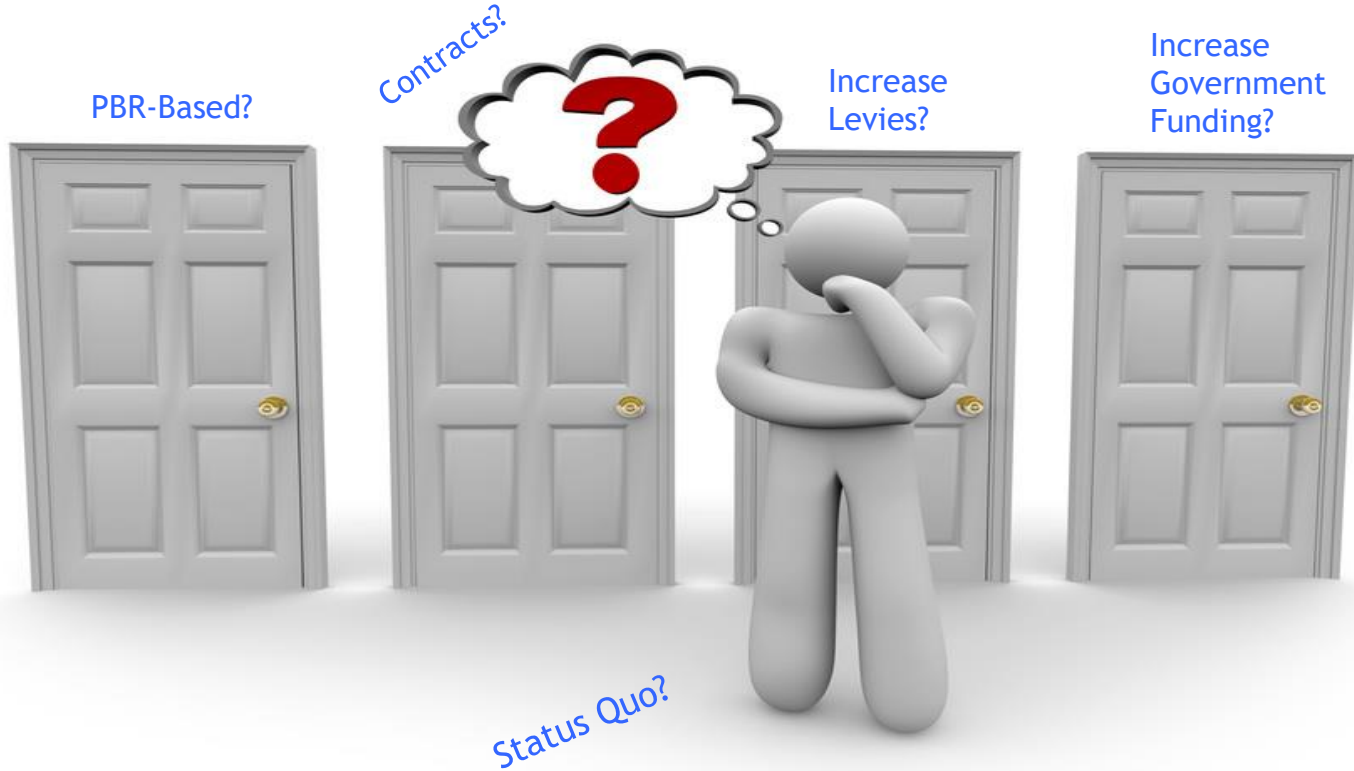
a) Sustainable funding of the PBR Office

- Bench marking exercise comparing costs of PBR internationally. Proposed draft fee structure will be presented to the Committee in Dec 2017

b) Regulatory Changes

- Amendments planned to the *PBR Regulations* in 2019 (stakeholder consultations in 2018)
- Extending the duration of protection to 25 yrs for potatoes
- Narrowing the definition of “sale” for the purpose of filing

Value Creation through PBR?



Value Creation through PBR?

- Intent of PBR is to facilitate the development of new/improved varieties for the benefit of society (breeders, farmers, and consumers)
- A form of intellectual property protection specifically designed to meet the needs of, and balance the interests of, breeders and farmers
- Non-discriminatory - accessible to all: private (S-M-L & Micros), public, producer, or partnership.
- PBR framework has established/entrenched mechanisms for transparency, accountability, and breeder/producer participation in decision making processes
- PBR framework is flexible and can adapt/evolve over time through regulation **NOT** legislation

Value Creation through PBR?

PBR Act – Sec. 57. (1) (I.2)

- Regulation making authority can place restrictions, prohibitions, or conditions on the “farmers’ privilege” (Sec. 5.3 (2)).

Farm Saved Seed Royalty (FSSR)?

- Percentage, fixed rate, seed value rate, variety specific rate, crop or class specific rate, etc, etc.

End-point Royalty (EPR)?

- Percentage, uniform fixed rate, harvested material value rate, variety specific rate, crop or class specific rate, etc, etc.

Can change over time:

- e.g. transition from uniform fixed rate to variety specific rate?

Conclusions

- ▶ Implementation of UPOV'91 is having a positive impact on the agriculture sector.
- ▶ Number of PBR applications for agricultural crops appears to be 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: lentil, chickpea, fababean, hemp, triticale, etc
- ▶ New policy accepting foreign test reports - PBR applications advancing quicker and new vegetable applications

Thank you for your attention!



Dave Carey, Executive Director, CSTA

dcarey@cdnseed.org

@DavidSCarey1

@SeedInnovation