



QUESTIONS & ANSWERS



New Plant Varieties Protection and UPOV Membership in the Caribbean: Experience Sharing

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Zoom



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1. Were the applications presented by the DR for rice only? Were they local applications only?

The rice industry in the DR is quite large and is a national priority. In the DR there is a National dish called “the National Flag” that includes rice. There is large investment from the public and private sector in terms of plant breeding. The majority of applications for new plant varieties received to date has been for rice varieties. We also now have new applications for tomatoes and strawberries but rice is still 50% of the applications received. First certificates handed out were indeed for nationals from DR.

2. What was your experience starting out with the Distinctness, Uniformity and Stability (DUS) examinations?

For DUS examination, there are highly qualified technicians here qualified in rice certification. We therefore use the results of DUS examinations /protocols they have and we adapted them to the UPOV guidelines.

3. Was the rice variety locally bred or was it a foreign variety?

That variety is local and was created in the Rice Institute which is a public institution. It is a variety derived from one that is protected.

[comment] One of the advantages of the UPOV system is that you can buy the UPOV reports once they are already available. There is no need to repeat the technical examination if a member state has already presented an application for protection of a variety and has done the DUS Examination. This is usually done through cooperation agreement between UPOV members. For exotic plant species there can also be agreement with non-UPOV members to use DUS examination results for these plant varieties. Becoming a member of UPOV does not mean that you immediately have to put infrastructure in place for the DUS examinations.

4. Was the 20% increase in yield due to the variety of rice or good agricultural practices?

It was due to both, the variety and good practices by both the private and public sectors.

5. So that others could have a better understanding of the process and that the initial investment to establish a PVR framework does not have to be very high, can you share more on the work involved in the outsourcing of the examinations? You said there was a cooperation established so that others, such as the plant breeders, could carry out the DUS examinations.

With the breeders yes, we verify, they complete a declaration. Then they deposit the sample in the seed department, which we use for commercialization. We used the existing human resources, who are highly qualified and requested them to adapt their examination practice to the UPOV guidelines. They accepted all the recommendations given by other experts involved

(eg. The Dutch office) and everything went smoothly. From there forward the system works on its own.

6. To be clear, the authority doesn't have the burden of investment?

Not to date. The competent authority currently only has the human resources/competence within the office to do evaluations.

7. How does the difference between the new plant varieties and the genetically modified varieties compete in terms of flavour?

The Dominican Republic is a big consumer of rice. The flavour depends on the consumer preference. There are varieties that have 60% of the market.

UPOV [clarification]

This question considers two different areas:

- 1) Intellectual property, innovation and specifically plant variety protection
- 2) Food safety, food security and genetically modified organisms

The requirements for a variety to be protected are that the variety is:

- New
- Distinct
- Uniform
- Stable

Whether the variety has been obtained by genetic modification, traditional breeding or whichever method, is not a requirement of the UPOV convention for granting protection for a new plant variety. In any industry there are several different regulations that apply to the same object.

If you are going to commercialize a new plant variety, you may have to undergo the regulation variety registration form, Ministry of agriculture seed law, there may be TMs associated with the trademark used for commercializing the variety, there may be certification and phytosanitary requirements. All of these are regulated under different laws. Plant variety protection law only regulates the criteria listed above. Whether it is a GMO or not, is a matter regulated in other legislation.

UPOV is not associated neither with nor without GMOs. Around half of members of UPOV do allow GMOs in their territories and the other half don't. There is no trend that could be observed in UPOV membership regarding PVRs being granted to new plant varieties developed through traditional breeding or by genetic engineering.

It may be one of the objectives of breeders to achieve varieties that has greater shelf life, better flavour and other characteristics which are more appealing to consumers. This is not an element of plant variety protection. As long as the variety can demonstrate that it is distinct, uniform and stable and is reliable enough for UPOV purposes it will be protected.

8. Can you explain the process that the DR went through in developing its regulatory framework with CarIPI assistance?

Our law was approved in 2006. To implement the law, it must have complementary implementing regulation. This was done in 2015. (In the meantime there were a lot of changes in the legal system, for example in public administration and the Republic's constitution. This was favourable for us especially in terms of e-government. This facilitated doing electronic applications for new plant varieties.) CarIPI then came in and assisted us with our plan of operation and our strategic plan (with the expert we developed examination guidelines, forms and templates for applications, examination, publication etc., examiners and staff were trained, procedures and processes put in place). We benefited greatly from the assistance and gained a lot of experience. By the end of the assistance we were able to hand out the first 9 plant breeders titles, and continue to receive and process applications.

9. Becoming a member of UPOV

The first step for countries in the region would be to contact the office of the Union and to develop legislation for plant variety protection that would be in conformity with the UPOV Convention. Being in conformity with the UPOV Convention is the basis for membership (slightly different case with other international IPR treaties). The UPOV office can provide draft legislation which can be used by your country's legislators. Assistance can also be provided to create activities for capacity building among stakeholder groups that would be involved in discussing the legislation such as policy makers and producer groups. Once legislation is enacted, UPOV can provide model application forms and online application systems (UPOV PRISMA) that can be adapted. CarIPI then can provide further support similar to the one provided to the DR.

10. How can potential breeders be informed of the new framework and how to use the system?

In the DR we give an almost personalized attention to the matter of communication in this area. The UPOV online courses help a lot. We also use law firms. We show them how we are going to evaluate the application and what the guidelines are.

In the Caribbean we should consider a regional system, and UPOV is the easiest way to achieve this.

11. Can you give some details about UPOV assistance for drafting legislation?

The national legislators just need to convert the UPOV Convention into the national legislation. For this we have example clauses and model legislation from UPOV members, including from the region, for example St. Vincent and the Grenadines. If you would like to include any particular clause, we have a lot of legislations that can be used as examples or model clauses for any particular element that you wish to include in your legislation.

12. Is there assistance available for countries to update their new plant variety legislation?

Yes UPOV can provide assistance in developing legislation, and there specific UPOV training offered to develop the capacity of the new member countries.

Firstly, UPOV resources has limitations, its budget depends on member contributions. On this basis, priorities have been established for training and assistance:

- 1) For UPOV Members
- 2) For other countries that are not members but have expressed an interest in becoming members
- 3) For countries that are not members

Following these priorities, UPOV offers an array of possibilities. The largest one being the online courses. There are currently three courses and a fourth one is being developed. There are also internships that can be arranged with members. As an initial action, an event can be organized for policy makers to demonstrate the benefits of becoming a UPOV member and the importance of plant variety protection.

The European Union, through the CarIPI project and in coordination with UPOV, can also support legal drafting and more specific training. This activity itself was aimed at creating awareness and there is this support available. You / your government only needs to reach out and express interest and identify needs you want to have addressed.