



WORKSHOP ON

AWARENESS OF PLANT VARIETY PROTECTION UNDER THE (UPOV) CONVENTION

Overview and Challenge of Plant Variety Protection Laws and operation in Cambodia Phnom Penh, December 9, 2015

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Nhem Phally, 5/25/2010



OUTLINE OF THE PRESENTATION

- I- Management of Plant Breeder's Right
- II- Organization Structure of DIP
- III- Basic Content of Plant Breeder's Right Law
- IV- Challenges of PVP
- V- Future plan
- VI- Conclusions



I- Management of Plant Breeder's Right

Plant Variety Protection System in Cambodia is conducted by two Ministries:

1- Ministry of Industry and Handicraft, Department of Industrial property whose institution is responsible for registration of New Plant Variety Protection. (article 4)

The main duties of the Department of Industrial Property as following:

- (a) grant of a breeder's right protection;
- (b) change the ownership of that right;
- (c) declaration of nullity or cancellation;
- (d) submission, registration, change or cancellation of the new variety denomination;
- (e) compulsory license; and
- (f) record license contract. (article 12)



Management of Plant Breeder's Right

2- Ministry of Agriculture Forestry and Fisheries, General Director of Agriculture whose institution is responsible for DUS testing and seeds management. .(acticl4)

The main duties of General Directorate of Agriculture as following:

(a) "DUS" Technical Examination

1- DISTINCTNESS

2- UNIFORMITY

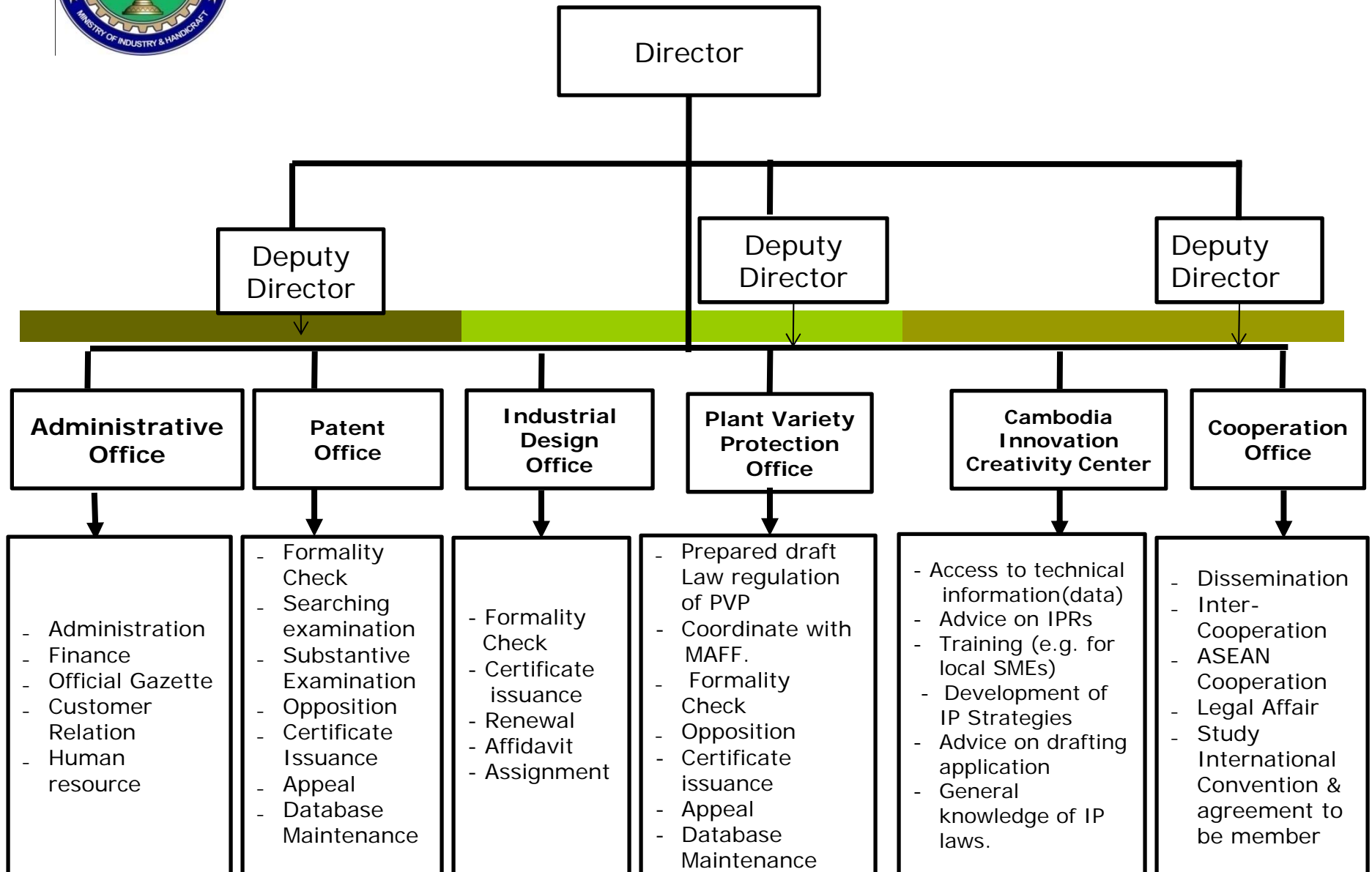
3- STABILITY

} "DUS"

(b) Seeds Management



II- Organization Structure of DIP





Department of Industrial Property(DIP)

Vision

- Achieving excellence in intellectual property protection and Promoting intellectual property exploitation.

Mission

- Providing protection of intellectual property right both domestically and in foreign countries and promoting knowledge related to intellectual property as well as the creation and commercial exploitation of intellectual property.

Strategy1

Developing systems for the protection management of intellectual property rights at domestic related and international levels and formulating measures for the prevention of infringement exploitation of intellectual property.

Strategy2

Developing intellectual property systems through promoting IP knowledge and encouraging creations IP-networking and commercial of intellectual property.



III- Basis Content of the PBR Law in Cambodia

The Law on Plant Breeder's right in Cambodia (Promulgated on May 03, 2008) has:

- 9 chapters
- 10 Sections
- 38 Articles

A- GOAL OF THIS LAW

to provide registration and protection for the Plant Breeder's Right in the Kingdom of Cambodia in accordance with this Law and UPOV convention.



B- Objective of this Law

- ▶▶ to encourage the development of new varieties of plants, for the benefit of society”
- ▶▶ to provide incentive and sustainable development of seed for benefits of society, economy and environment.
- ▶▶ to stimulate and promotion internal and external commerce.
- ▶▶ to provide protection for Plant Breeder’s Right and to combat the infringement thereof, as well as illegal business practices.



C- Applicants for Plant variety protection

The applicant for Plant Variety protection must be:

- (a) have Cambodian nationality ; or have foreign nationality but shall be resident in the Kingdom of Cambodia, or

- (b) live in any State which, being a Contracting Party, of UOPV convention or live in any State which, grants reciprocity of treatment to the Kingdom of Cambodia.



D- Application for Plant Variety Protection

The minimum requirement for applying application of the protection of new variety of plant:

- 1- Application form
 - 2- Any necessary information, document relevant New Variety
 - 3- Material(seed)
 - 4- Payment of fees.
- } Received the filing date

Right of Priority

12 months from the date of filing of the earliest application



E- Conditions for Granting Plant Breeder's Right

Conditions of Protection: to protect all general and species
Criteria to be satisfied Under the 1991 Act of the UPOV Convention
the variety should be

- 1- NOVELTY
 - 2- DISTINCTNESS
 - 3- UNIFORMITY
 - 4- STABILITY
- } "DUS"

Other conditions for granting Plant breeder's right

- a - Variety Denomination
- b - Formalities
- c - Payment of fees



1- NOVELTY

Novelty : Sale or disposal within

- ▶▶ In the Kingdom of Cambodia in which the application has been filed earlier than one year before the date of filing of the application and
- ▶▶ Outside the Kingdom of Cambodia in which the application has been filed earlier than four years or, in the case of tree and vines, earlier than six years before the date of filing of the application.



2- DISTINCTNESS

Distantness: Must be clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of filing of the application or from the priority right date.

A variety may be considered to be clearly distinguishable if the difference in characteristics is:

- (a) consistent, and
- (b) clear



3- UNIFORMITY

- ▶ Uniformity: must be sufficiently uniform in its relevant characteristics, subject to the variation that may be expected from the particular features of its propagation

4- STABILITY

- ▶ Stability: Relevant characteristics must remain unchanged after repeated propagation or, in the case of a particular cycle of propagation at the end of each such cycle.



F- Duration of the Breeder's Right

The minimum length of protection is:

- 25 years for trees and vines after the grant of the PBR
- 20 years for other plants after the grant of the PBR



G- AUTHORIZATION OF BREEDER REQUIRED FOR

- ▶▶ Production or reproduction (multiplication)
- ▶▶ Conditioning for the purpose of propagation
- ▶▶ Offering for sale
- ▶▶ Selling or marketing
- ▶▶ Exporting
- ▶▶ Importing
- ▶▶ Stocking for any of the above purposes



H- EXCEPTIONS TO THE BREEDER'S RIGHT

The breeder's right shall not extend to

- ▶▶ Acts done privately and for non-commercial purposes
- ▶▶ Acts done for experimental purposes breeding other varieties
- ▶▶ Acts done for Farmer's privilege (Optional)



IV- Challenges of PVP

Draft Regulation of PVP system for operation

- ▶ Administrative issue under DIP-MIH
- ▶ Technical test issue under GDA-MAFF
- ▶ Legal body (both ministries)
- ▶ Human resource – trained technical staffs
- ▶ Investment to build infrastructure
- ▶ Drafting the Guidelines for Technical examination

Plant breeding

Because of climate change, agriculture being the worst hit of all sectors, such as fall in yield, desertification, erosion, forest fire, increased salinization and the appearance of new pests and diseases.



Challenges of PVP (Cont.)

Awareness of PVP

- ▶ Under PVP condition, Public-private sectors invest their time and money in developing the variety to its fullest potential.
- ▶ New varieties offer to farmers and growers improved yield and profitability, resistance to pests and diseases, input efficiency and agronomic option

Plant Genetic conservation

- ▶ It is very important of exemption for Breeder's Right to provide a mechanism to facilitate access to germplasm and means the need of all breeders . At the moment, there are 2 gene banks working in Cambodia, first located in CARDI and second in Kbal Koh station.



V- Future plan

Preparing the PBR Regulation

- ▶▶ Examine on the draft regulation for implementing the Law on PBR;

- ▶▶ Put in place mechanisms and work plan to promote cooperation between Ministries in drafting regulations;

- ▶▶ Organize Inter-Ministerial and stakeholders consultative and planning workshop for the implementation of PVP;



Future plan (cont.)

- ▶▶ Develop national PVP capacity Building through both in-house and oversea training/workshop/study visit programs;
- ▶▶ Strengthening regional cooperation with member countries of East Asia PVP Forum and UPOV,
- ▶▶ Propose the program of dispatching experts for technical assistance



VI- Conclusions

- ▶▶ Recently Cambodia tries its efforts to establish the PVP system to promote new breeding varieties as one of the observers states of UPOV;
- ▶▶ Widening the cooperation with EAPVP Forum and UPOV in exchanging information experiences for the development of Plant Breeder's Right System in Cambodia;
- ▶▶ Improving capacity by the International Cooperation in region and others.



Thank you

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