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Submission on Review of the New Zealand Plant Variety Rights Act 1987

My company is involved in plant variety breeding/protection/development/licensing/ commercialisation, and utilises intellectual property rights protections including Plant Breeders Rights internationally.

A primary consideration for us when developing varieties in other countries of the world is the relevant intellectual property legislation available in each territory. We give priority to countries that are signatories to the UPOV 1991 Convention as we believe this demonstrates their commitment to supporting modern Plant Breeders Rights or Plant Variety Rights legislation.

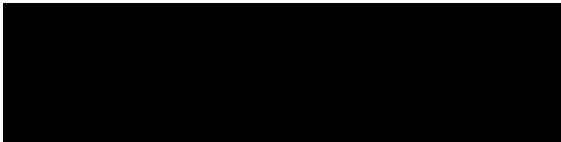
For the crops and clients that we work with, some of the specific benefits of legislation based on UPOV 1991 are:

1. The extension of rights to essentially derived varieties. The breeding of new varieties in many crops involves long and complex cycles of traditional hybridisation and selection of promising individuals among the resultant populations. The process of developing a new variety may therefore take 20 years or more. If another party is able to rapidly and independently develop a mutant of a variety then it undermines our ability to generate a return on our breeding investment. Breeders must therefore be afforded some control over the development of any essential derivations of their varieties whether they might be considered a “copycat” or not.

2. The extension of the scope of rights to include harvested material. For many new varieties the commercial goal is not to sell propagating material but instead to deliver high quality harvested material either directly to consumers or to processors for further development into consumer goods. An ability to manage the production and distribution of harvested material is therefore an essential component of sustainable programmes to deliver many new varieties of fruit, vegetables, cut flowers, cereals etc.
3. The extension of rights over the import and export of varieties is a fundamental requirement to reduce the potential misappropriation of valuable new plant varieties that may be grown in regions of the World where the breeder has no opportunity to assert their intellectual property rights.

As part of the review of your Plant Variety Rights Act, we hope that New Zealand will join the other 58 countries and organisations who are full members of UPOV 1991.

Sincerely,



Casey K. Whelan
Assistant General Counsel