



Use of Plant Variety Protection: the experience of the International Rice Research Institute

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PVP for IRRI? Impossible!?

- **IRRI**
 - Non-profit charitable organization
 - Aims to improve livelihoods of poor rice farmers and consumers in developing countries
 - Strategy is to develop improved varieties and technologies as global public goods freely available to everyone
- **Seeking IPRs on varieties incompatible with strategy?**



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IRRI's traditional approach

- **Breed elite lines of rice**
- **All rice kept in the public domain**
 - IRRI doesn't protect IPRs
- **Give seed free to anyone, subject to MTA**
 - Recipient cannot claim IPRs on the material
- **Recipient free to**
 - Use for breeding and research
 - Use the material or derivatives for production
 - Grow as a crop
 - Release as national variety
 - Commercialise through formal seed system
 - Save, exchange, sell etc in informal seed system
- **IRRI not involved in commercialisation**



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Why change?

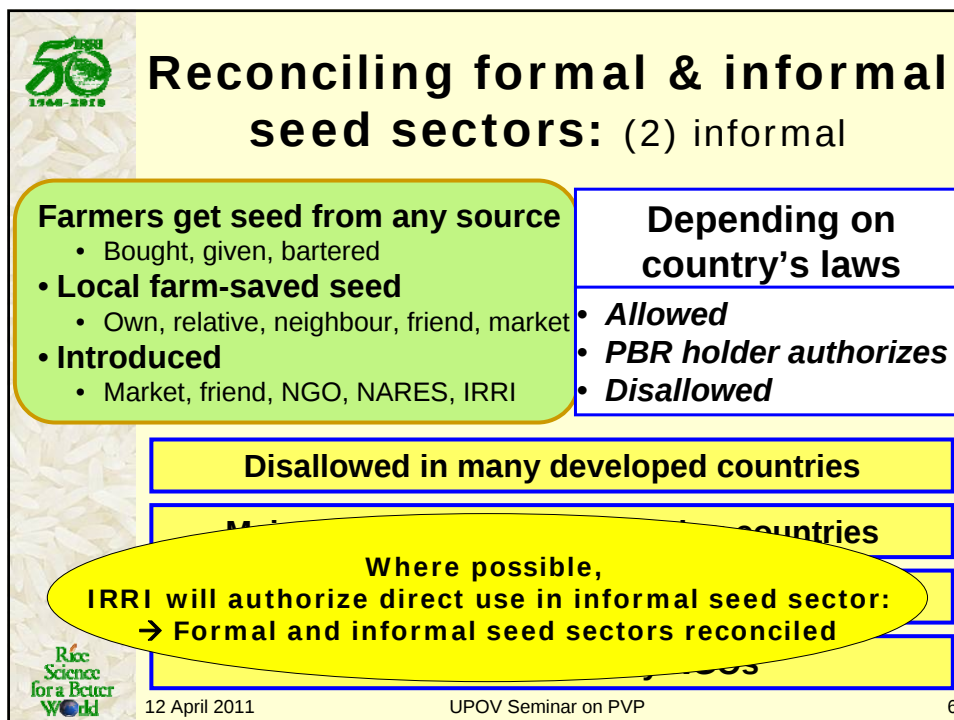
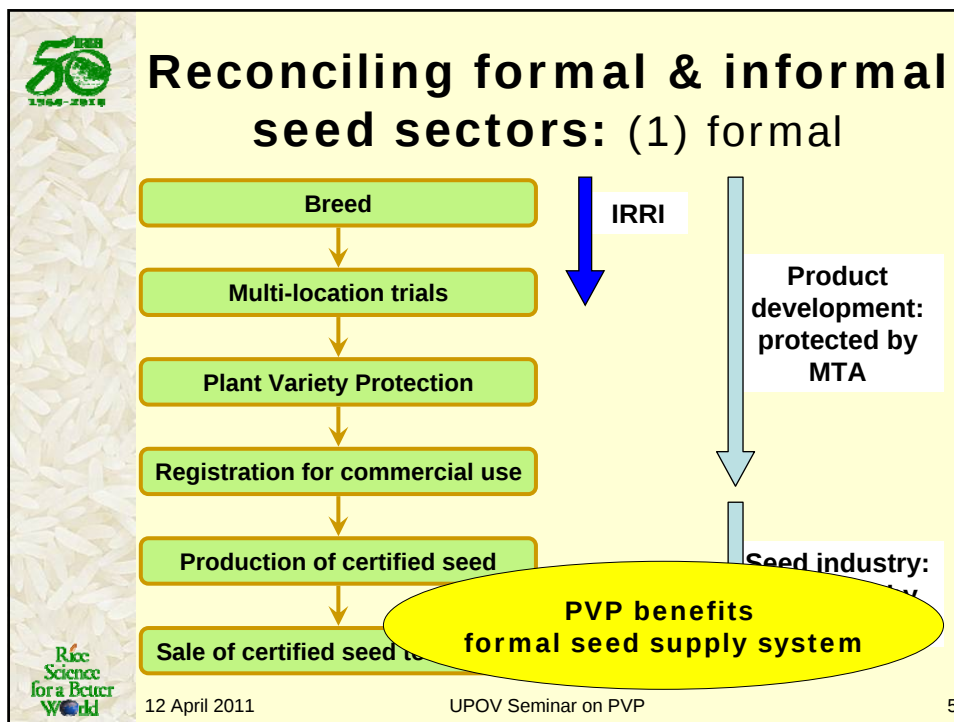
- 1. Defensive protection**
 - Partners may issue licences on IRRI varieties
 - Partners may rename IRRI varieties without acknowledgement
- 2. Enhance impact through seed production system**
 - Exploiting and building strength of other sectors
- 3. Enable public-private partnerships**
 - Private sector needs PVP
- 4. Commercialization without plant breeders' rights not permitted in some countries**



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Reconciling IRRI's mandate with private sector needs

- **UPOV protects the breeder's right to commercialise**
 - IRRI can issue limited-exclusive licences to commercialise
 - Meets the needs of the private sector
- **UPOV denies the breeder a right to control access for private purposes, research and breeding**
 - Meets IRRI's need to keep materials freely available
 - Even protected varieties under limited-exclusive licence remain freely available for breeding and research

→ Reconciled



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Why change?

5. Path to commercialisation under the International Treaty on Plant Genetic Resources for Food and Agriculture

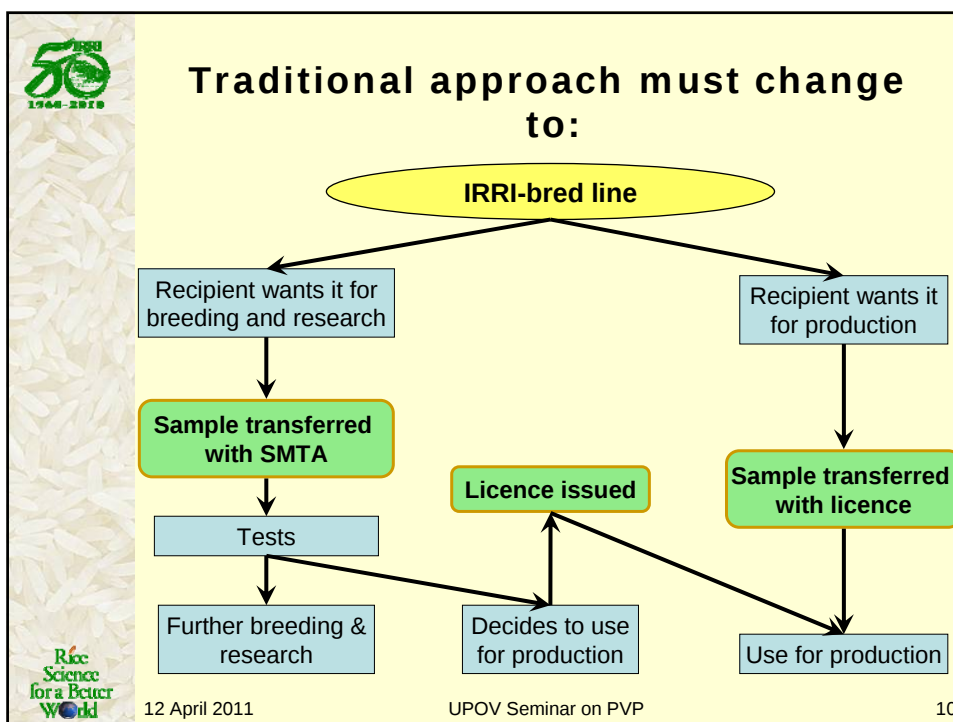
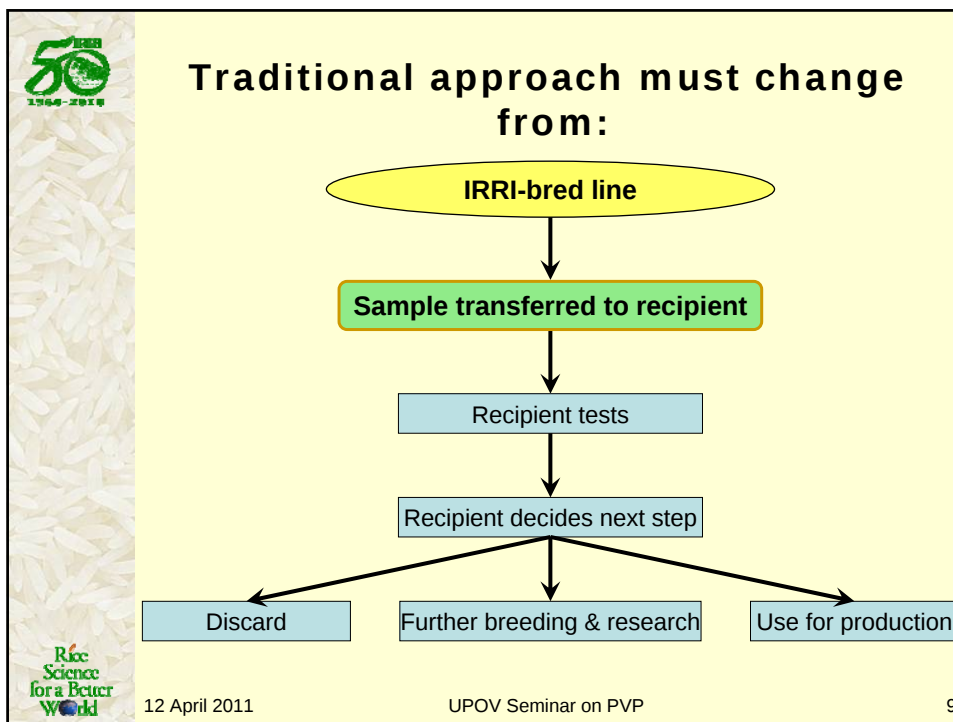
- Breeding lines shared with Standard Material Transfer Agreement (SMTA)
 - SMTA permits only “research, breeding and training for food and agriculture”
 - Not direct use / commercial use
- Need different instrument for direct/commercial use
- Need to demonstrate IRRI's right to do so
 - IRRI = breeder → IRRI has the right
 - Cf no such right on material received with SMTA
 - Publication as “variety of common knowledge” with pedigree is sufficient
 - PVP claims stronger right



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Protection in multiple countries

- **UPOV protects new varieties**
- **First sale initiates window of opportunity to seek PVP**
 - 1 year in country of sale
 - 4 years in other countries
- **IRRI must know date of first sale and inform all other partners**
 - To allow other partners the chance to follow the example of the first
- **Do so through INGER (International Network for Genetic Evaluation of Rice)**



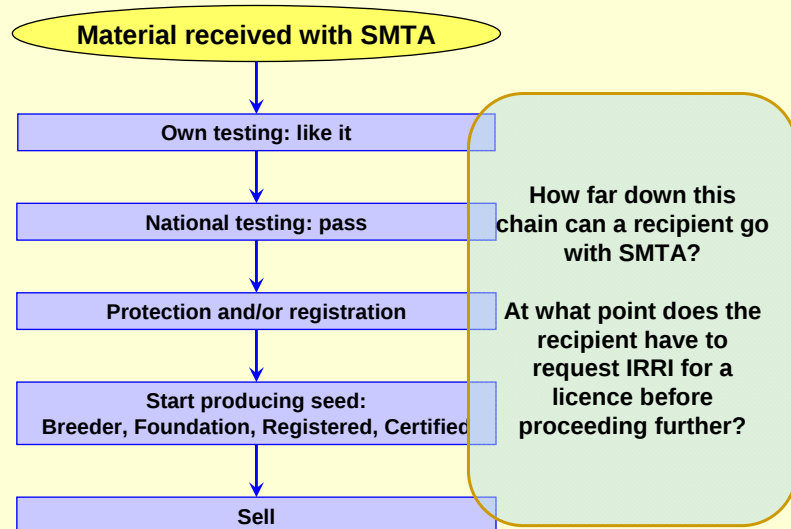
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The transition from development to commercial use: when?



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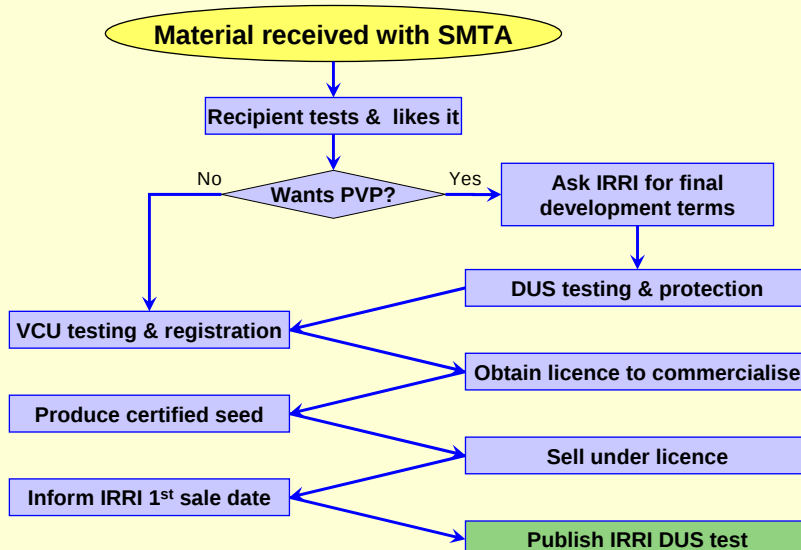
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The transition from development to commercial use: when?

- **SMTA definitions**
 - PGRFA under development is material not ready for commercialization. Period of development ceases when the material is commercialized
 - “To commercialize” = to sell for monetary consideration on the open market
- **“Development” therefore =**
 - Breeding = genetic development +
 - Final development = all subsequent testing, registration, production before first sale
- **All development with SMTA**
- **Under development until the first sale**
 - After the first licence, no longer under development

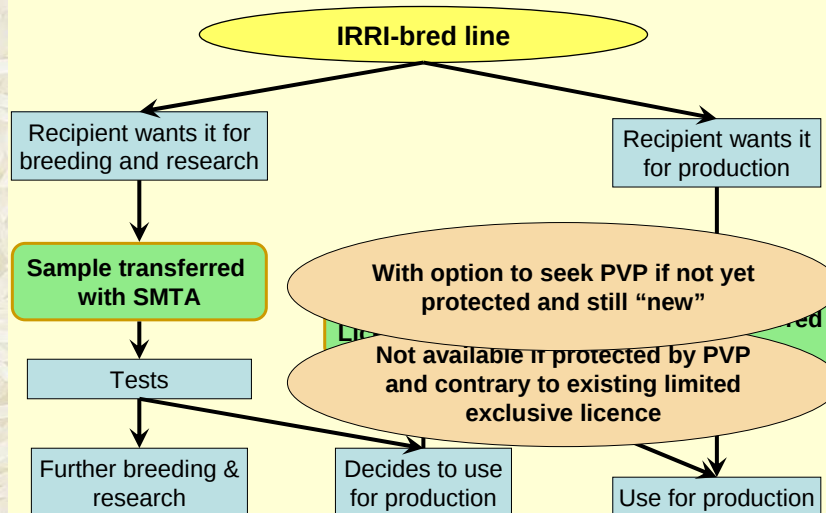
Pathway to first commercial use



PVP and licence

- **Recipient to apply for PVP in breeder's name**
- **Fee-free royalty-free non-exclusive licence to non-profit organization**
 - Option to charge fees or royalties for limited-exclusive licence
- **Simple authorization for direct use by farmers in informal seed supply system**
- **IRRI will supply seed to others with SMTA for further breeding and research**
 - As a final product
 - Even if limited-exclusive licence

After first commercial use





Conclusions

- **PVP should improve delivery to farmers through formal quality seed system**
- **IRRI has developed a system that**
 - Fully complies with the International Treaty & SMTA
 - Embodies requirement to distinguish commercial use from research & breeding
 - Does not change policy on genebank accessions
 - Reconciles needs of formal and informal seed sectors
 - Reconciles needs of private sector with IRRI's public good mandate
 - Improves knowledge of impact
- **Remaining issues**
 - Need final approval from key national partners

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