



THE CONTRIBUTION OF PLANT VARIETY PROTECTION IN KENYA'S ECONOMY



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Policy and legislative
background supporting Plant
Variety Protection in Kenya



Introduction

- Kenya economy and the livelihoods like of most African States are heavily dependent upon agriculture, contributing approximately **33 percent of Kenya's Gross Domestic Product (GDP)**.
- It employs more than 40 percent of the total population and **70 percent of the rural population**.
- Seed of the right variety is critical to enhancing food security and income generation through increased farm productivity.
- The need for food security and income generation has seen the development of superior varieties with relevant attributes.



The Constitution of Kenya

- The Kenya Government through its constitution recognizes the importance of Intellectual Property Rights.
- Article 11(2) – The State shall... (b) promote the intellectual property rights of the people of Kenya.
- Article 40(5) – The State shall support, promote and protect the intellectual property rights of the people of Kenya.



The Seed Policy

- The Seed Policy (2010) has identified the **need to promote plant variety development in Kenya**.
- Specifically, the policy identified the **need to harmonize Kenyan laws with international systems that promote variety development** and international movement of seeds.
- In response to this, the Seeds and Plant Varieties Act was reviewed in 2012 to incorporate aspects of the UPOV Convention of 1991.



PVP Legislative background

- Legislation for PVP is contained in the Seeds and Plant Varieties Act, 2012 and implementing regulations .
- Kenya is a member of UPOV under the 1991 Convention and grants PBRs for all plant genera and species



UPOV

Status of Plant Variety Protection in Kenya

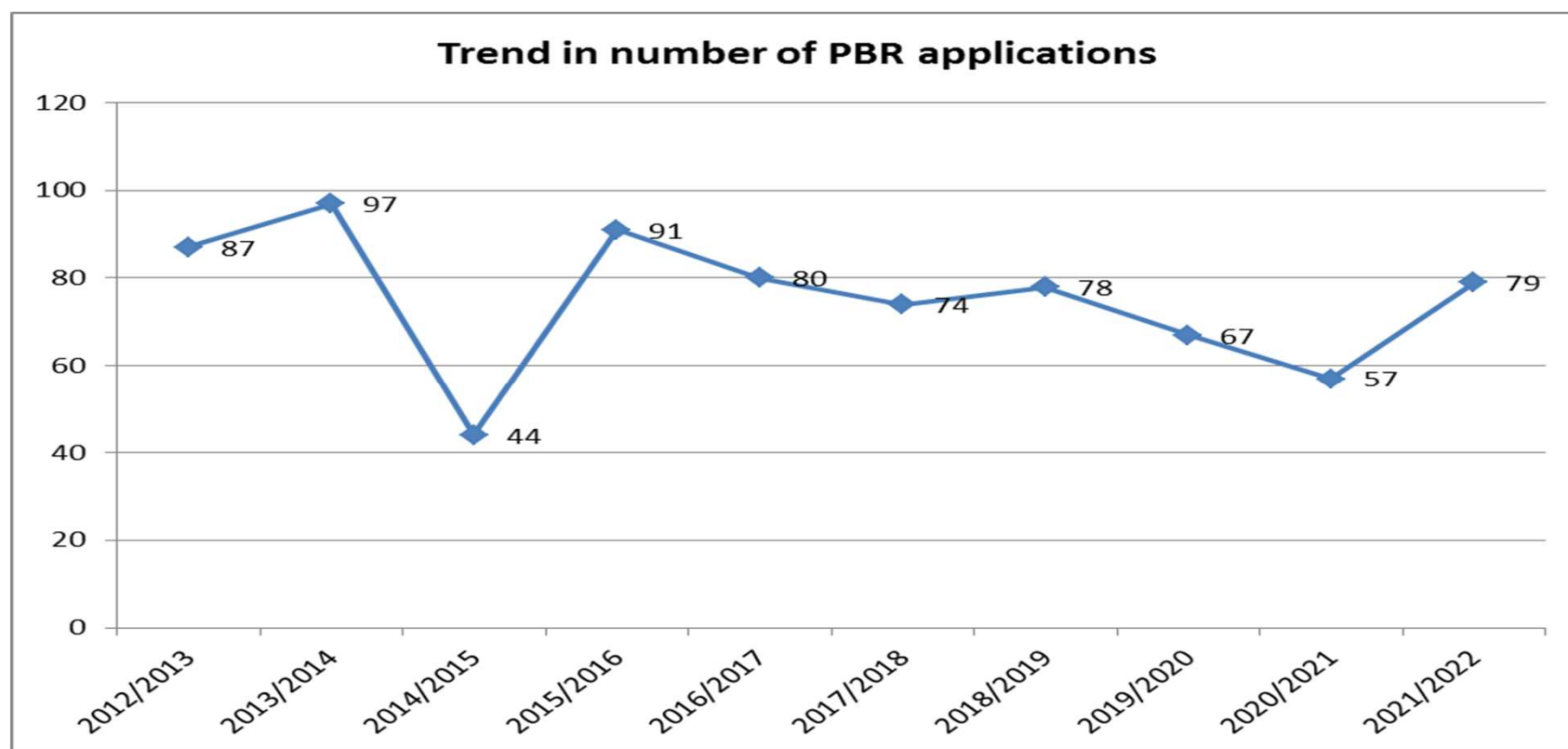


Applications for Plant Breeders' Rights

- A total of 1959 applications for PVP received by December 2022
 - Local (Kenyan) - 29%
 - Foreign - 71%
- Local applicants:
 - Public institutions - 77%
 - Private institutions - 23%
- Food crops - 36%
- Cash crops - 64%
- 199 grants were issued between 2020 - 2022



Applications for Plant Breeders' Rights





International Cooperation in DUS testing and Exchange of DUS test reports

- KEPHIS has signed cooperation agreements on sharing of DUS test reports with PVP authorities in European Union, Netherlands, Israel, New Zealand, South Africa, Japan, Korea and Germany.
- For Japan and Korea, reports are to be shared at no cost.
- Sharing of DUS reports in the region – COMESA, individual countries



Enforcement of PVP

- The enforcement of rights is by the owner of the rights – seek redress in the courts of law.
- The Act also provides for Seeds and Plant Tribunal to determine any dispute arising from PVP.
- KEPHIS being the designated Authority for Phytosanitary and seed certification matters, has the added advantage of detecting cases of infringement and has helped in arbitrating some of the cases.



Impact of Plant Variety Protection in Kenya



The Floriculture Industry

Wealth Creation

- The Kenyan floriculture market was valued at **USD 861.6 million** in 2018, and;
- **USD 1.1 billion** in 2020





The Floriculture Industry

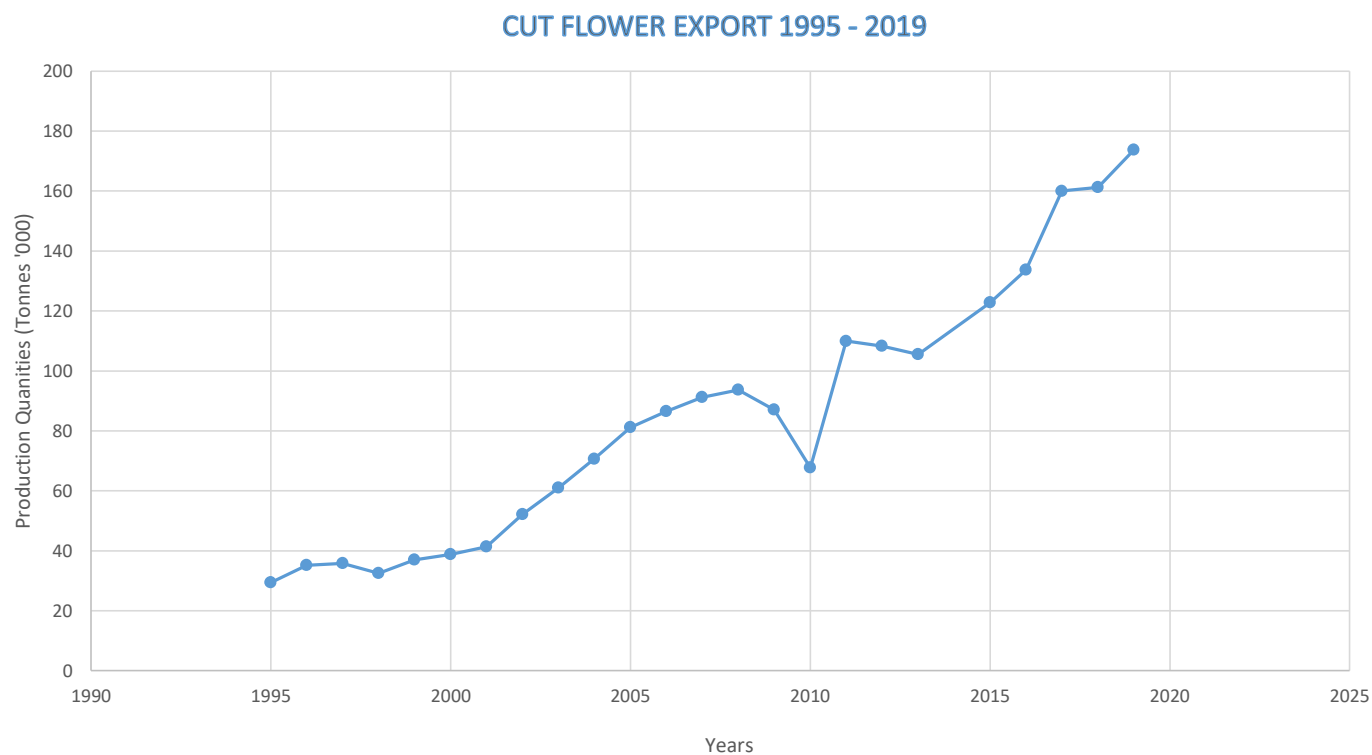
Employment creation

- It is estimated that the floriculture industry employs over **500,000** people and impacts more than **2 million** livelihoods indirectly.





Production Trend in Cut-Flower Export (1995 – 2019)



Source : HCDA
: Floral Daily



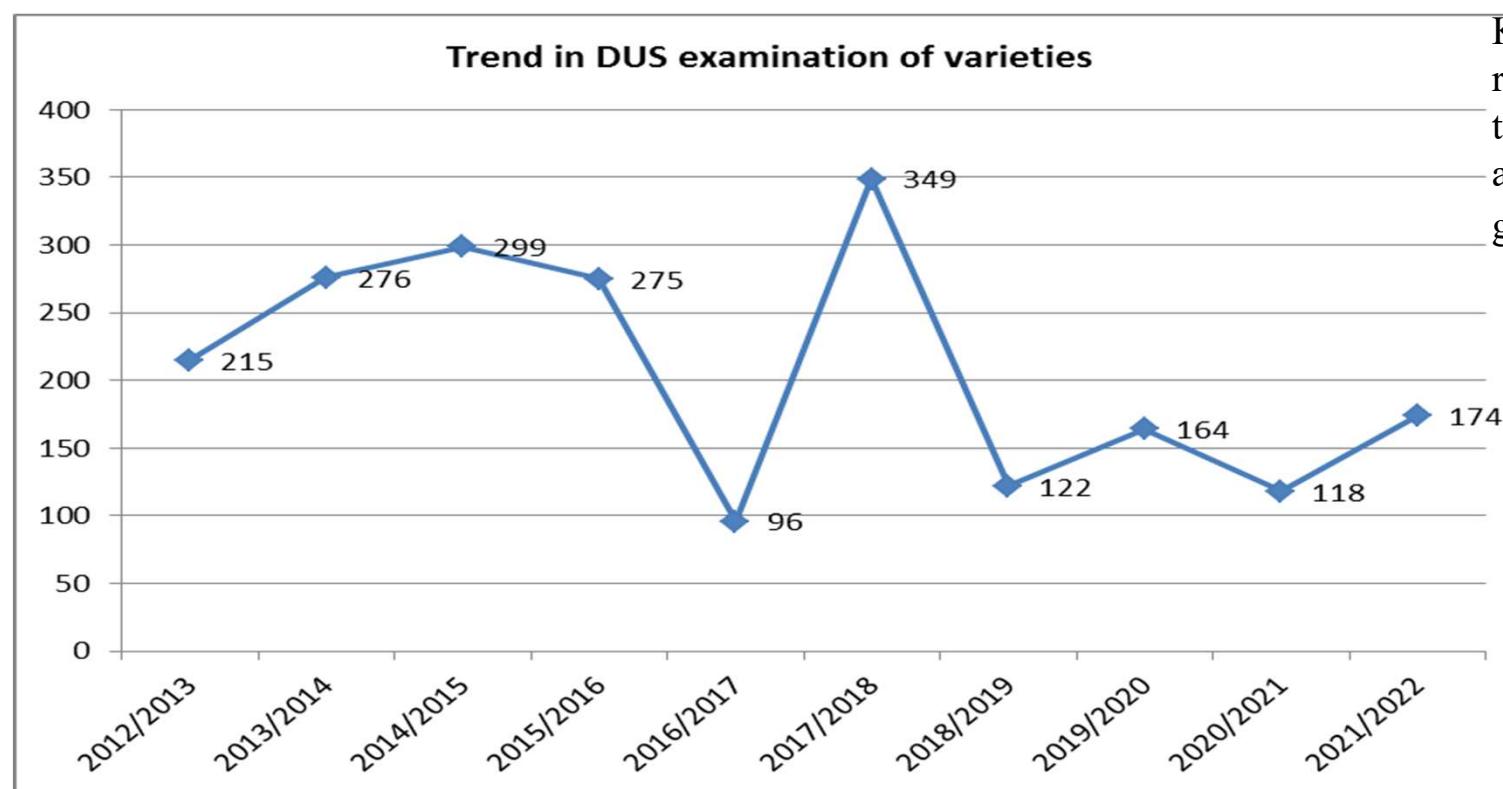
Increased Introduction of Crop Varieties: Food Security

- Increase in introduction of crop varieties due to enhanced variety description and protection:-
 - Readily available UPOV test guidelines for most of the Agricultural crops
 - Trained personnel by UPOV on development of national test guidelines
 - **Cooperation in DUS testing and Exchange of DUS test reports**

This has facilitated accelerated access to superior varieties



DUS examinations conducted by KEPHIS over the period beginning 2012/13 to 2021/22

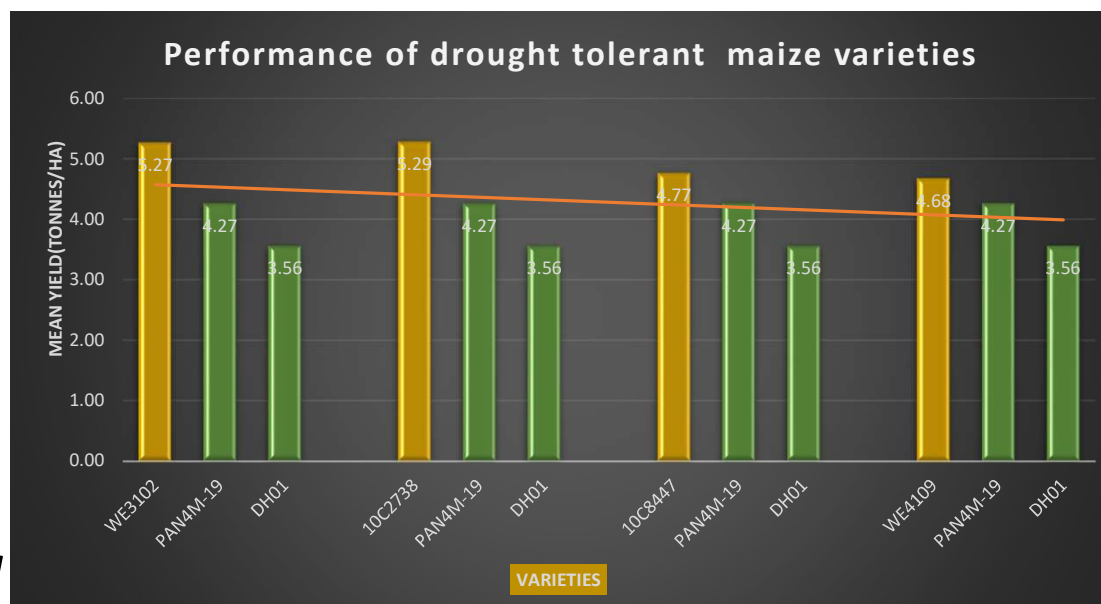


In the year 2021/22, KEPHIS requested and received 46 DUS reports thereby enabling timely and cost effective way of granting PBR.



Development of Climate Smart Varieties: Food Security

Increased production through breeding of better
yielding and drought tolerant varieties



Legend

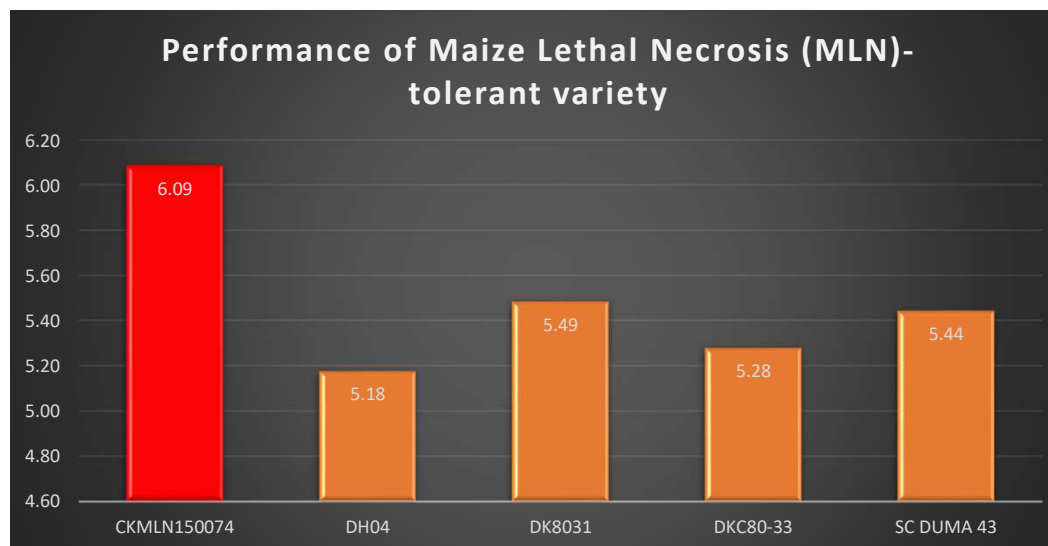


Source: KEPHIS VCU Data - 2017

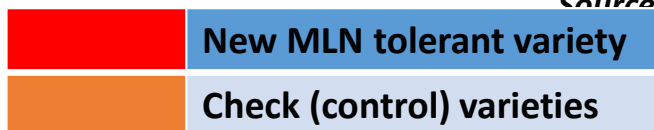


Development of Disease Tolerant Varieties: Food Security

- Development and release of MLN tolerant varieties thus improved yields



Legend:



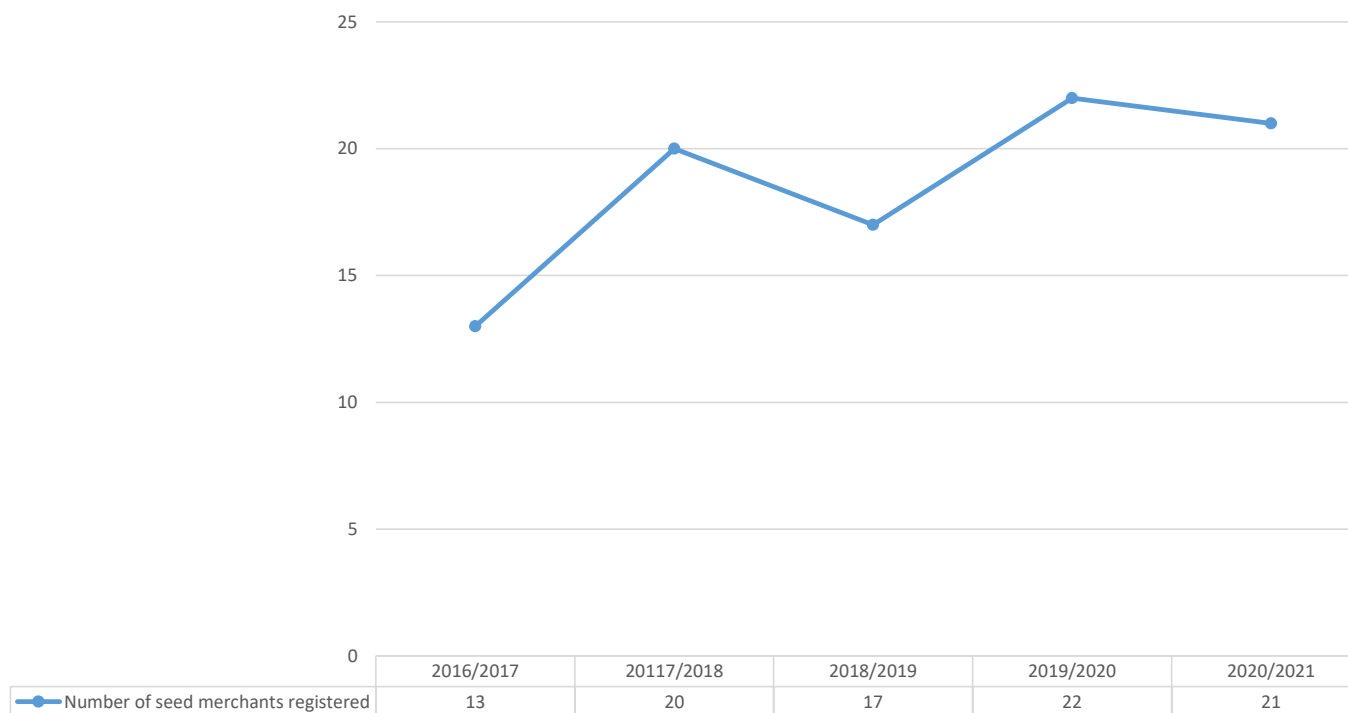
Source: KEPHIS VCU Data;2015



Growth in the Seed Sector – Seed Merchants trends

21

Five years trend for the number of seed merchants registered





Plant Variety Protection and Seed Trade

- Lead exporters of seed in the East, Central and Southern African Region are countries with functional PVP system
 - e.g. South Africa, Kenya, Tanzania (UPOV members), Zambia, Zimbabwe.



Impact of Plant Variety Protection in Kenya

Promotion of breeding activities by farmers:

1. Bird of paradise variety (already granted);
2. Milkweed (application pending);
3. Apple



Kenya's Role in Regional/International PVP Arena

- Participation in UPOV meetings including development of Test Guidelines
- Development of regional PVP law – ARIPO (Arusha Protocol) and East African Community (Seeds and Plant Varieties Bill).
- Capacity building (training) on PVP – participants from SADC, EAC, COMESA.
- Exchange of DUS Reports – UPOV members, COMESA, Individual countries



Challenges

1. Facilities for DUS testing of ornamental varieties (which form the bulk of PVP applications)
2. Maintenance of Reference collections
3. Staff shortages
4. Changing of laws takes a long time



Opportunities

- Increased cooperation in DUS testing in the African continent with increased adoption of PVP.
- Capacity building for countries developing PVP systems.
- Fast growing seed industry – need for increased variety development
- Growing population – increased demand for food and agricultural products hence the need for superior varieties
- Diverse agro-ecologies hence need for diverse varieties.
- Diversity of crops – need to develop National/Regional test guidelines.



Conclusion

Plant Variety Protection in Kenya has enhanced food security, employment creation and improved farmers' livelihoods by encouraging:

- Development of high yielding climate smart varieties of diverse crops.
- Access to elite internationally bred crop varieties.
- Breeding activities among farmers.



Thank you

**For more information
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