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APSA Plant variety protection (PVP) workshop – session 2 in Thailand

Plant Variety Protection System in Japan

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1. The importance of PVP System
 - merit of PVP
 - coverage of PVP
2. Japan's current issues
 - statistics
 - actual case of infringement
3. Japan's IP strategy
 - amendment of PAP and Seed Act



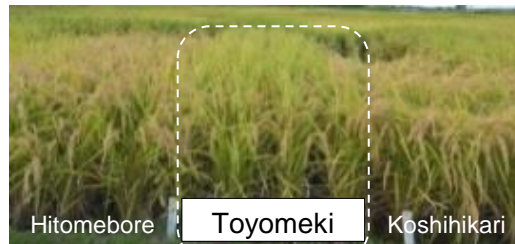
1. The importance of PVP System

Japan's Agriculture Supported by Superior New Plant Varieties

- **New plant variety** is one of important factor supporting the **development of agriculture in Japan**.
- **Both farmers and consumers enjoy a lot of benefits** from **the development of new plant varieties** that meet environmental and consumers' preferences, such as, improved productivity, better taste etc.

["super high-yield" rice]

Super high-yield paddy rice "TOYOMEKI", of which yield is 800 kg/10a or more, 1.5 times more than other varieties



["easy to peel" chestnuts]

Japan chestnut "Porotan", which can be very easily peeled and cooked.



[pears "resistant to disease and pests"]

Pears "Gold Twentieth Century", resistant to black spot disease which is the weaknesses of conventional varieties

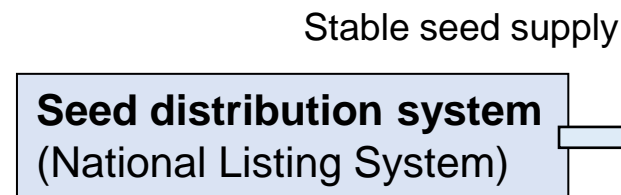
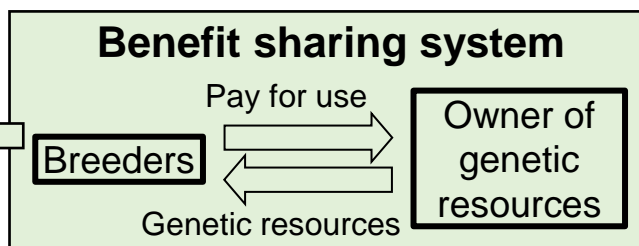
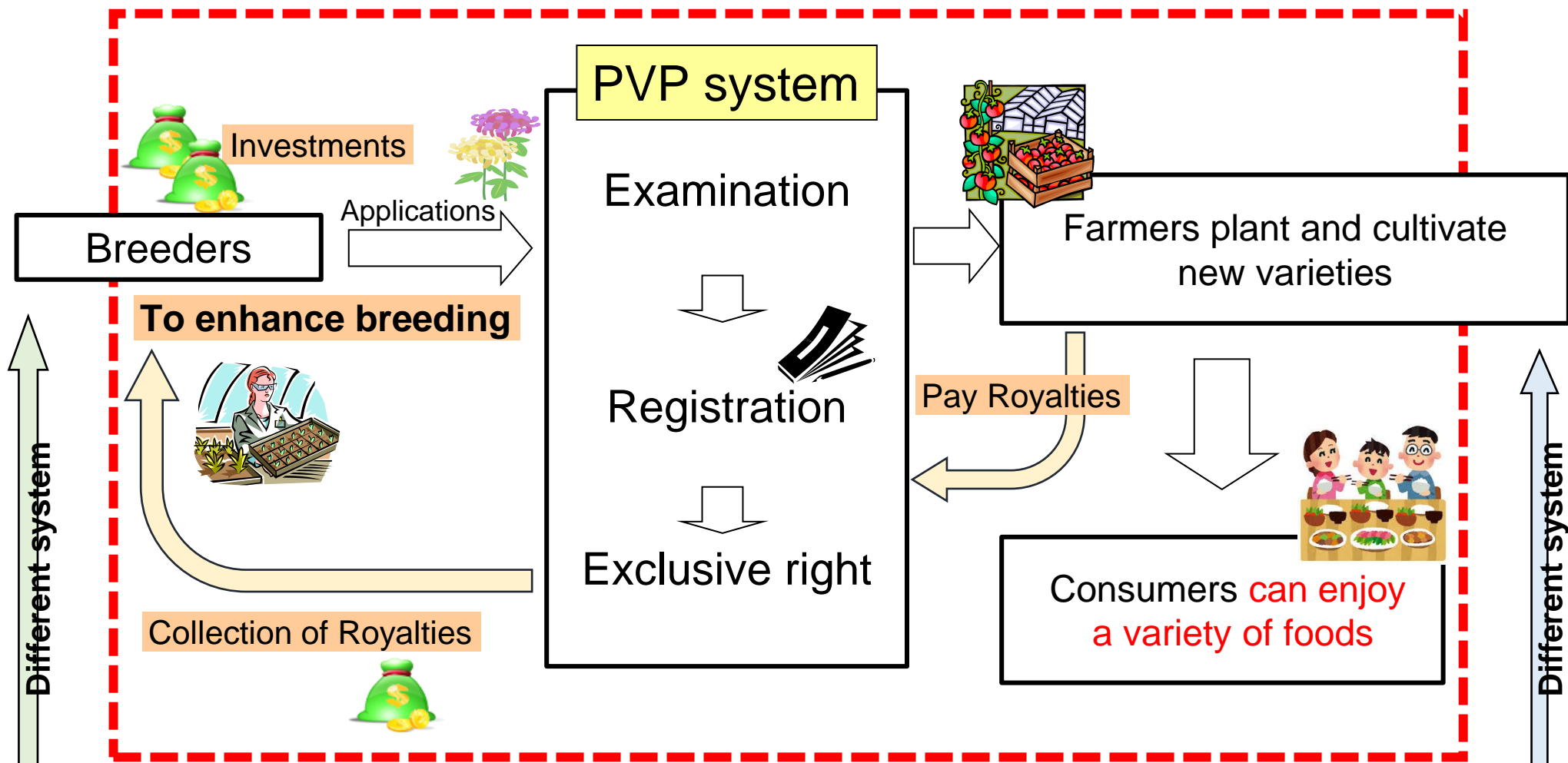


["cold-resistant and delicious" rice]

Paddy rice "Kirara 397" has achieved unprecedented excellent taste in addition to cold resistance. This variety led to the later strategy of brand-name rice.

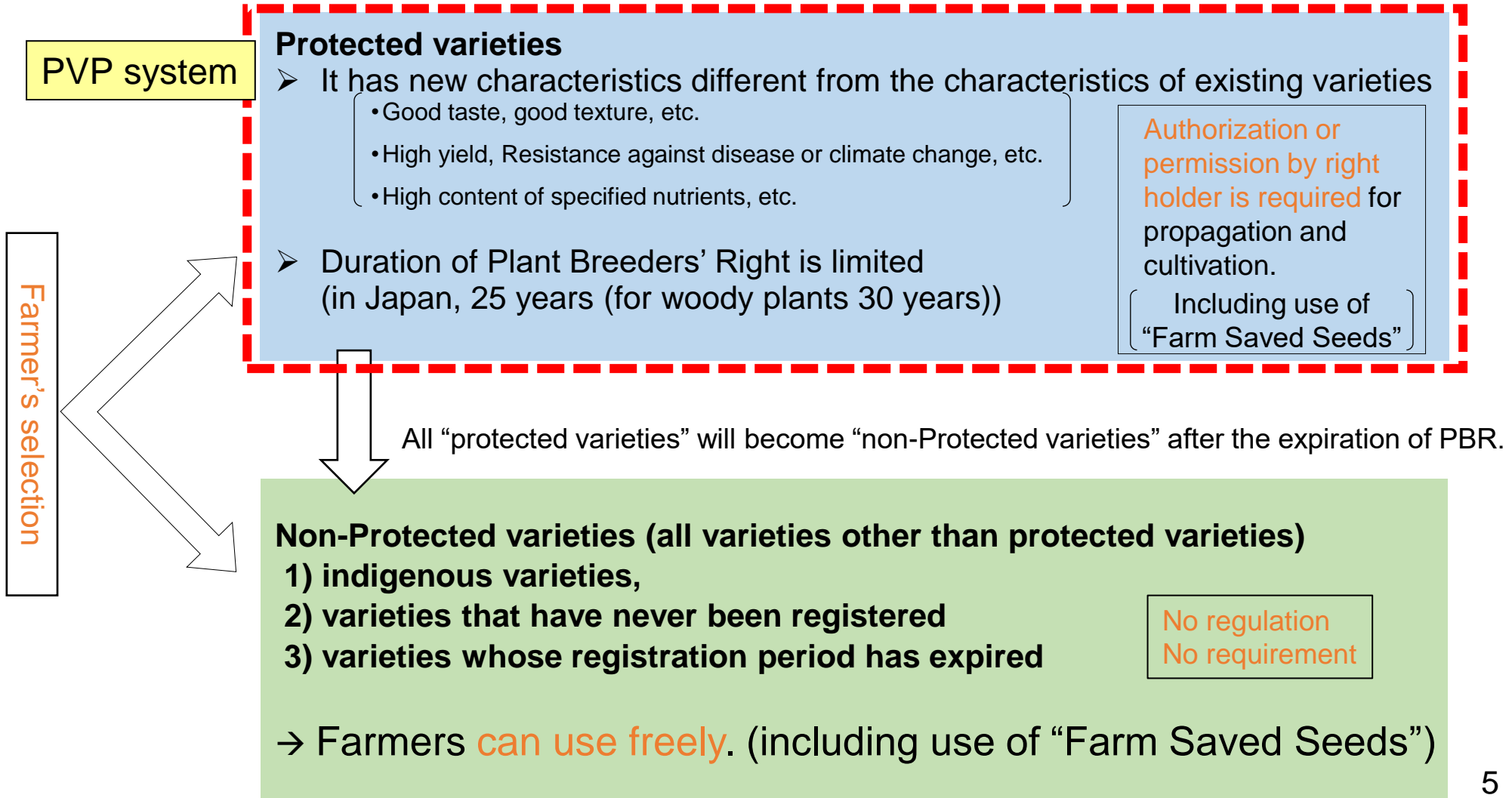


Why Plant Variety Protection (PVP) System



PVP System covers only new bred varieties (protected varieties)

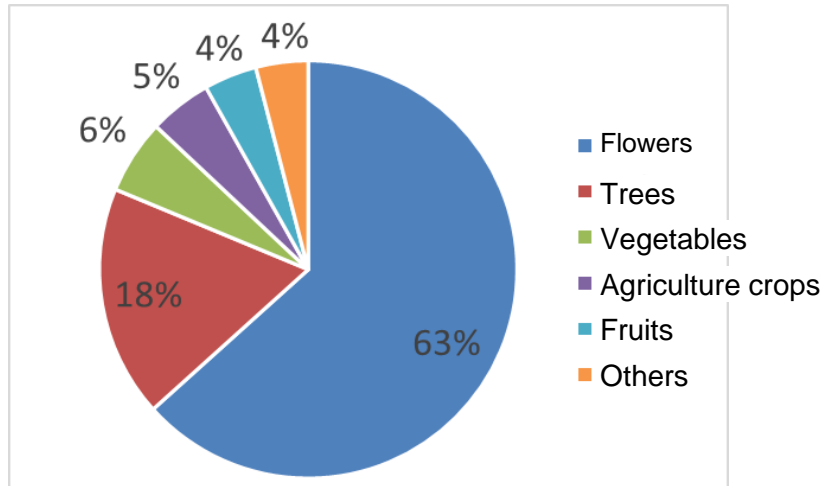
- PVP system prevents unauthorized propagation or cultivation of “protected varieties”.
- It does never force farmers to choose a specified protected variety.
- Farmers can select varieties freely to be planted, including non-protected varieties that are widely and freely available.



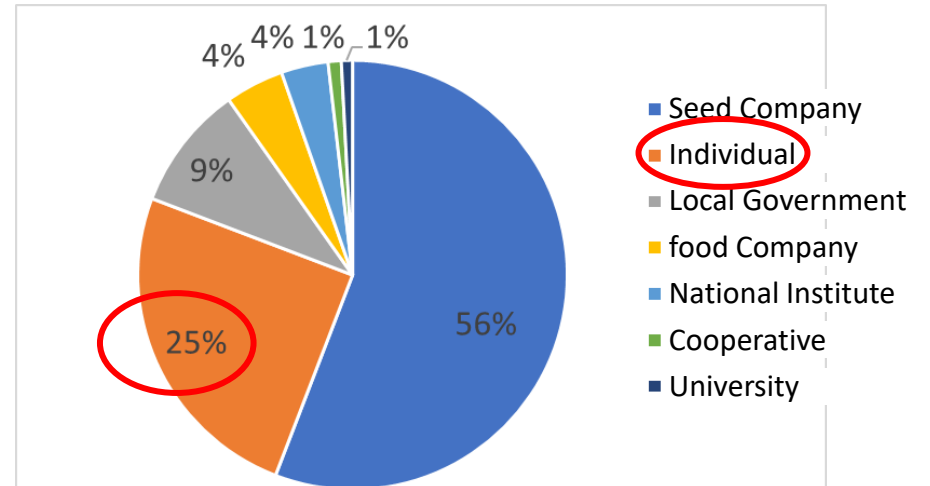
2. Current issues surrounding PVP System

PBR Titles in force (by crop type, right holder type)

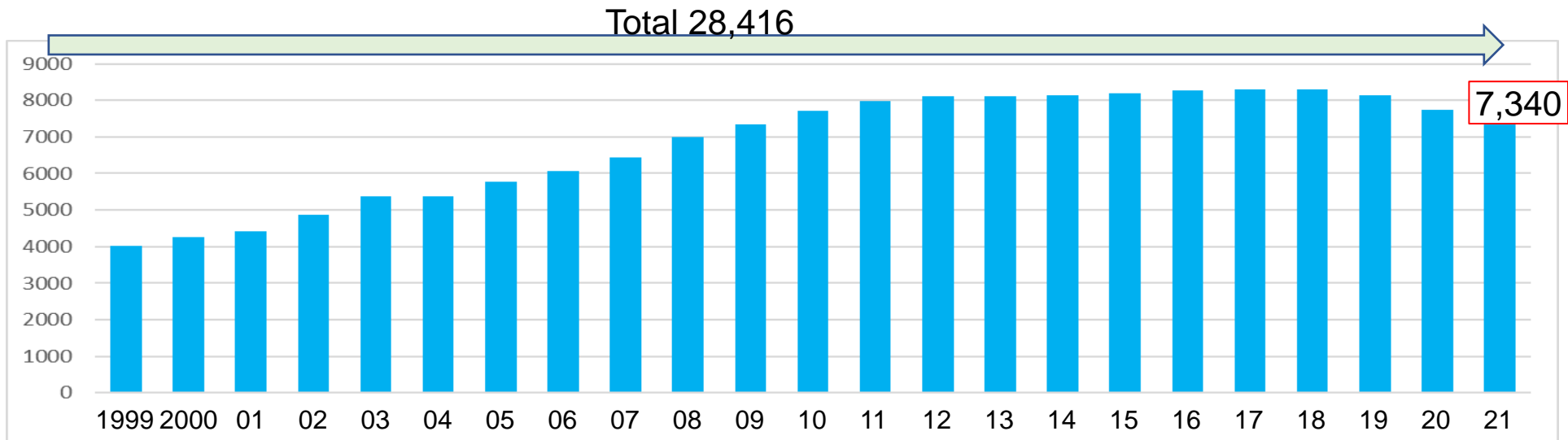
Percentage by crop type
(Total from 1999 to 2021)



Percentage by title holder type
(Total from 1999 to 2021)



Trend of PBR Titles in force (JP fiscal year)



Actual Case : Infringement on Japan's Protected Varieties

Plant	Name of Variety	Infringement
cherry	<p>Benisyuhou (~ Sep. 2009)</p>  <p>PBR holder (Yamagata pref.)</p>	<p>In 2005, PBR holder has filed a criminal complaint against foreign farmer who had brought seedling, then, repropagated, harvested and intended to export to Japan illegally. The seedling was given by one Japanese local farmer illegally. one seedling became more than 7,000 fruits trees!! In 2007, the settlement was made on the condition that “defendant could never export until 2012”. This case implies that infringement could be occurred from any farmer. The scale of farming does not matter, infringement will occur even by one seedling.</p>
strawberry	<p>Benihoppe (~ July 2022)</p>  <p>PBR holder (Shizuoka pref.)</p>	<p>“Benihoppe” were reproduced, cultivated in China or other countries, without authorization of PBR holder. (The route of outflow of propagating material is still unknown)</p>
rush	<p>Hinomidori (~ Jun. 2021)</p>  <p>PBR holder (Kumamoto pref.)</p>	<p>In 2005, the Nagasaki Customs caught "Hinomidori" about to be imported from China, and PBR holder has filed a criminal accusation of the importer. The importer was sentenced to a fine of 1 million yen, a sentence of 1.5 year in prison, a suspended sentence of 4 years, and the confiscation of about 8.8 tons of rush.</p>

Big Impact on Japan's PVP System (outflow of "Shine Muscat")

Shine Muscat



【Japan】

- Bred in Japan
- Registered in 2006
- Period of breeding is 33 years !!

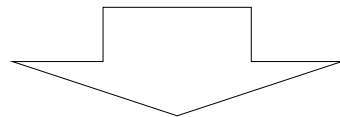
Strong sweetness, excellent taste, can be eaten with its skin

→ traded with high price both domestic and foreign market



The cause of this matter:

1. Because right holder has focused on only domestic cultivation and market,
the right holder hasn't applied PBRs for their new varieties outside Japan immediately.
→ Duration of Novelty was already over, and breeders could not apply for their variety to overseas
2. Under the old Japan's PVP Act, the PBR would be exhausted on export once a protected variety is placed to the market.



Propagating material has outflow overseas.
The route of outflow is still unknown.

The production, trade, and marketing of "Shine Muscat" has been widespread throughout Asia, which was not intended by the breeder.

→ This situation negatively impacted both Japan's export market and its brand.

3. Japan's IP strategy

- amendment of PAP and Seed Act -

MAFF's Intellectual Property Strategy 2025 on the field of PVP

◆ Protection against unintended outflow of protected variety

< Japan's current concerns >

- Although Japan has developed many superior varieties, insufficient measures against infringement of PBRs overseas has led to **the unauthorized cultivation overseas**.
- Under the Japan's PVP Act before its amendment, once a protected seedling is released to the market, **PBR of that seedling is exhausted on export**.

Amendment of PVP Act

- **PBR holders can restrict** their protected varieties **to be brought overseas**.
 - **Mandatory labeling** as a protected variety.
 - Even **using "Farm Saved Seeds"** (of protected varieties) on farmers' own field shall **require authorization of PBR holders**. etc.
- ▼
- Protect the new plant varieties (Japan Brand).
 - Strict management would rather assist to protect value of productions, **maintain high and stable income for farmers**.

Promotion of Application for PBR overseas

- **To promote application for PBR overseas**.
 - To support all inclusive costs for the application overseas.
- ▼
- PBR holders can conduct countermeasures overseas against infringement, such as, injunction against distribution in foreign markets, compensation claims for unauthorized cultivation.

Enlargement of International cooperation

- PVP system is not yet sufficiently spread throughout ASEAN countries, that constitute potentially huge markets.
- ▼
- To **provide DUS test report** to foreign PVP Authority to make examination process faster.
 - To establish a single online platform used for submitting application data to various authorities ("**e-PVP Asia**").

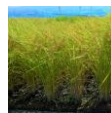
The use of “Farm Saved Seeds” of protected varieties under new Act

Sample condition on FSS by one right holder, under new PVP Act

Protected Varieties

As long as complying with “the designated conditions”,
for propagation on the farmers’ own field;

1. Agricultural products (Cereals, Soybeans, etc.)



→ no fee, no licensing procedure



Farmers can use FSS on their own field
as before without any new procedures.

2. Potato, Sweet potato, Strawberry, etc.



→ require licensing procedures, but no fee



Farmers need to apply for the use of
FSS, but it’s free of charge as before.

3. Fruits tree (Grape, Citrus, Pear, etc.)



→ require fee and licensing procedures,



Farmers need to apply for the use of
FSS, and pay for royalties.

The level of royalties are very cheap.
ex) 0.5 US\$ / tree ~

“the designated conditions”

- ✓ Must not transfer as a propagating material to a third party whether it is for a fee or free of charge.
- ✓ Must not bring any propagating materials to overseas.
- ✓ Extra propagating material shall be disposed without delay or used for food. etc.

* All non-protected varieties

No Regulation



No Change
(no fee, no condition, as before)

Thank you very much for your attention !!



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