


BREEDERS TRUST



“RESPECT PBRights!”

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Content



- **Who and what is Breeders Trust**
- PBR Infringements in potatoes
- Some concrete examples
- Discussion



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Who are behind Breeders Trust:

- 9 Shareholders (European Seed Potato Breeders):



















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and...




- 6 members (European Grass Seed Breeders):















Vision BT



By creating awareness and if necessary initiating enforcement actions against PBR infringements, BT “contributes to a fair production, processing and trading of plant propagation material (seed potatoes) in a level playing field for everyone.”

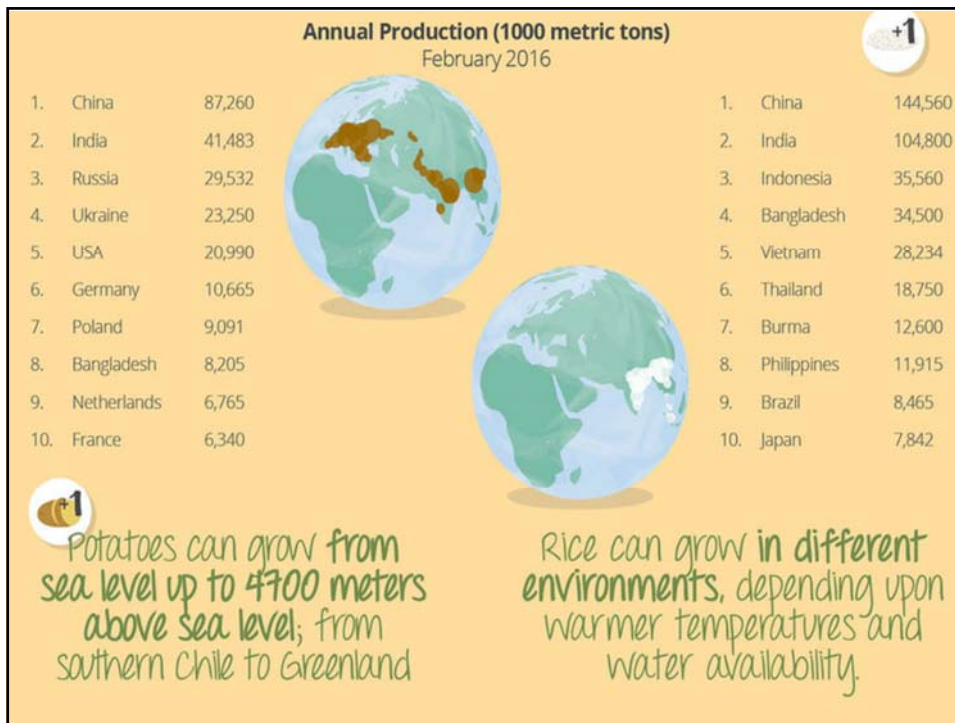


Without PBR protection no innovation.
Without innovation no food security!



The Potato value Chain!





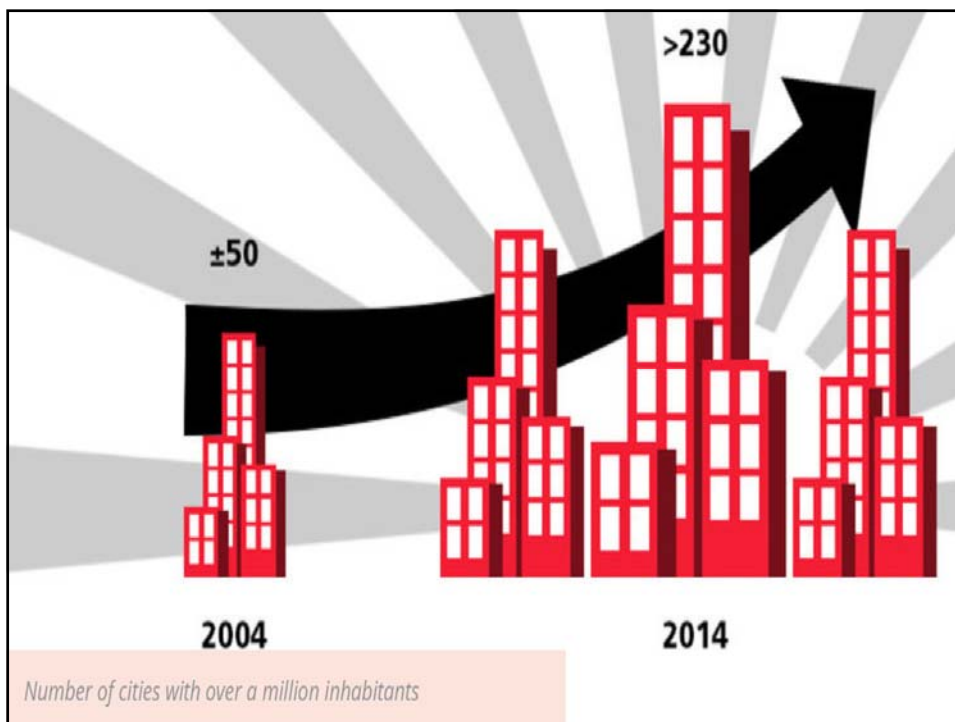
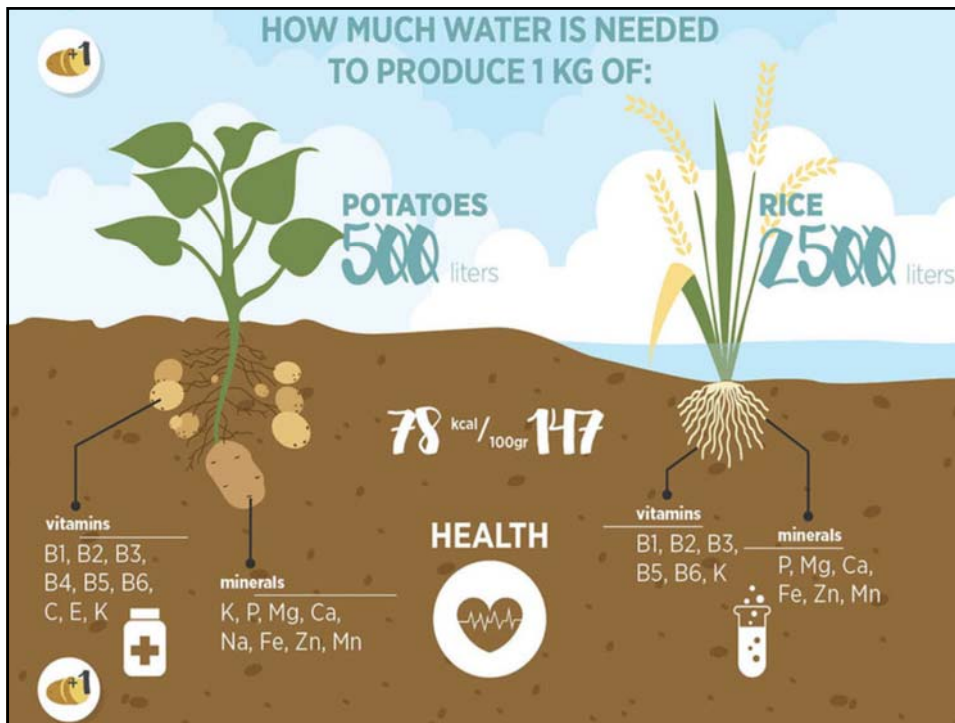
POTATOES vs RICE

A side-by-side comparison

“ 60% of consumers in urban Hanoi and HCMC believe that white rice is equally or more nutritious than potato ”

The potato is the 3rd most important food crop in the world

Rice is the 1st most important food crop in the world



fresh studio

PRO POOR POTATO

Pro poor potato: year 1

37.5MT
seed potatoes shipped to Vietnam

Field trials with **5 new** varieties

2
demo farms established

519 farmers
trained (of which 62% female)

Consumer survey among **1,000** consumers in Hanoi and Ho Chi Minh City

Growing out of poverty with potato

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Plant Breeders' Rights

The breeder:

- PBR: the legal right to protect her/his Intellectual Property
- Protection is precondition to stimulate innovation
- Developing a new variety: direct cost € 3 million (\$ 3.4 million; 75 billion VND)
- license fee is financial compensation for the efforts of the breeder

The user:

- Choosing a protected variety, means choosing to pay a license fee (you pay only if you make use of a variety!)
- License fee is 5-10% of price of the certified seed
- Added value of the new variety justifies the license fee payment



Enforcement PBR a must!

- UPOV members have UPOV compliant legislation
(e.g. Viet Nam: Seed Breeding Regulations: Decree 114/ND-CP)
- Infringements PBR and illegalities lead to:
 - > Disruption of the market
 - > Image attack (loss of exclusivity)
 - > Lower turnover plant breeder (loss license fee)
- Royalty income from breeders:
 1. Certified seed (certifications and granting licenses)
 2. FSS income (equitable remunerations)



3 types of Infringers PBR

Action BT:

1. **Unwitting** -> Educate and create awareness
2. **Unwilling** -> Raise awareness and convince them
3. **Undeterred** -> Start up legal proceeding and set example

Critical successfactors



In case of PBR infringements: maintaining good contacts with Authorities is crucial:

- Phytosanitary regulations: **Phyto sanitary Service**
- Seed law offence: **Seed Inspection agency**
- Unfair Competition: **Anti Fraud Agency**
- Tax evasion and fraud: **Customs / Police**



Other critical succesfactors

- Start with healthy seeds from reliable source
- Smooth registration procedure new varieties (easy access to newest import varieties)
- Registration 1 variety (incl. labour, seeds, trials, etc.) -> ± € 20.000,- (\$ 23.000,- / VND 500.000.000,-) in 1 country: is too much!



BT Approach



- Hints infringements from local agents/informants
- Internal investigation (collect evidence)
- Determine strategy with local lawyer
- 3 options:
 1. **Warning:** (friendly settlement / abstinence st.)
 2. **Civil action:** (the lead with BT * but expensive)
 3. **Penal action:** (hand files over to authorities; cheap but BT not in command)

* Press release: naming and shaming



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Plant Breeder's Rights!

- UPOV Art 14.1 Scope of the Breeders Rights

Rights Conferred on the Holder

ARTICLE 14- Breeder's right shall confer on the holder following exclusive rights for protection of the variety:

- (a) production or reproduction.
- (b) conditioning for the purpose of propagation.
- (c) offering for sale.
- (d) selling or other marketing.
- (e) exporting or importing.
- (f) stocking .

The holder may subject his rights referred in the provisions mentioned above to conditions and restrict these rights.



Types of infringements in seed potatoes

- Producing / trading ware potatoes for seeds
- Multiplication without consent of variety owner
- Trading with forged certificates
- Misuse of Farm Saved Seed (FSS)



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Farm Saved Seed (FSS)



UPOV 1991 Convention:

- Art. 15(2): optional exception to the breeder's right to allow farmers to use for propagating purposes the product of the harvest they obtained by planting the protected variety on their own holdings.

FSS: legal permission of re-using a protected variety on the own farm but.. paying a fair share to the variety owner (equitable remuneration).



1) Illegal FFS trading in NL (Joint cultivation contracts)

Notorious Dutch lawbreaker multiplies, sells and exports already for many years (FSS and ware potatoes for seeds)

- BT sued this trader in a summary proceedings
- BT proved illegal transaction + illegal joint cultivation contracts
- Court ruling:
 - € 4.500,- (\$ 5.100,- VND 113.000.000,-): compensation Lawyers costs BT
 - € 5.000,- (\$ 5.600,- / VND 126.000.000,-): per hectare in event of repeated infringement!



2) Our actions in Italy

- Feb. 2014: BT signed agreement with Sicasov-Italy to collect the FSS remunerations potatoes on line
- Mai 2015: AIB + BT prolonged convention with 2 Italian Authorities
 - Inspection Authority (CRA-SCF)
 - Food Safety Authority (ICQRF)
 - Intensive contacts with AGCOM (Financial Control Authority)



3) Counterfeit EU certificates Turkey

- Certified seed potatoes are exported to Turkey
- Certificates are being copied and attached on ware potatoes
- => Unknown lots receive new identity
- Export afterwards from Turkey to North Africa (Syria)
- => Intensive contacts with SASA, NAK, SOC/GNIS and ALV (improve quality certificates: forged proved!)



Thanks for your attention!

