

20th October 2021

UPOV Seminar on strategies that address policies involving PB and PVP

The Plant Variety Protection System in Japan and Japan's PVP Cooperation

Teruhisa MIYAMOTO

Deputy Director

Plant Variety Protection Office, Intellectual Property Division
Export and International Affairs Bureau, MAFF of Japan



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

Objectives of MAFF's Intellectual Property Strategy 2025

- Creation, Protection, and Implementation of Intellectual Property in the field of Agriculture, Forestry, Fisheries and Food Industry, such as, **PVP**, **GI**, **Trademark**, **Genetic Resource of Wagyu beef**, etc., for enhancement of Japan's international competitiveness of Agriculture, Forestry, Fisheries and Food Industry



Especially, for **PVP**;

1) Protection against unintended outflow of protected variety

- The Amendment of Plant Variety Protection and Seed Act
- Promotion and Support for acquirement of PBR outside of Japan
- Enforcement of cooperation with PVP Offices in Asian region



2) Proper Evaluation of Intellectual Property

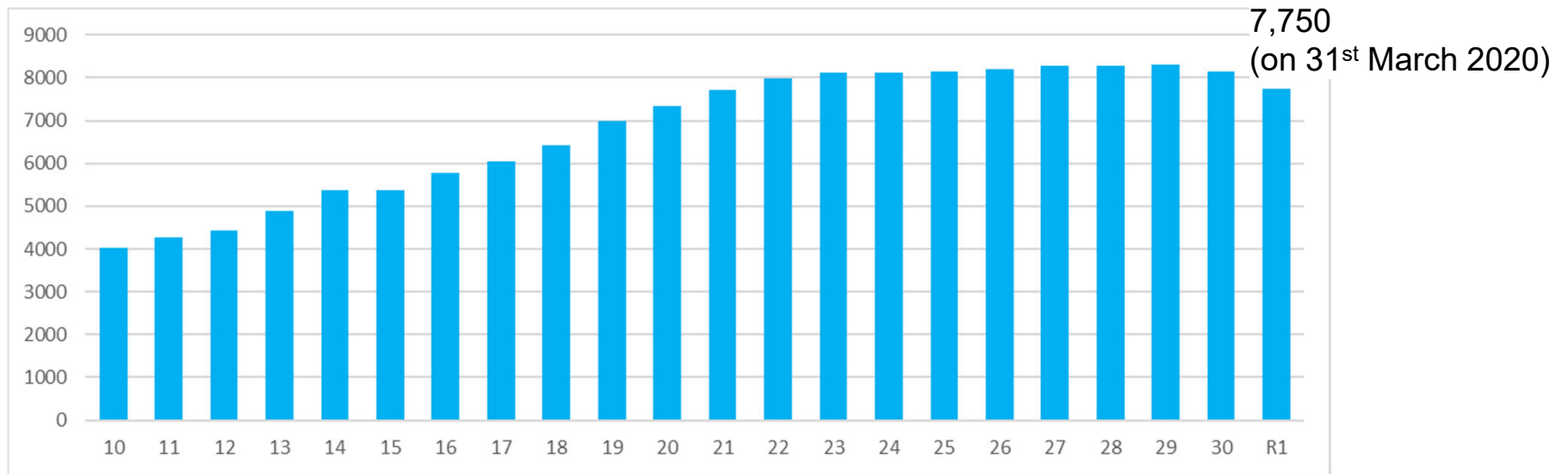
3) Promotion and Creation of production area for each crop with PVR

4) Enforcement of PBR to enable right holders to exercise their right

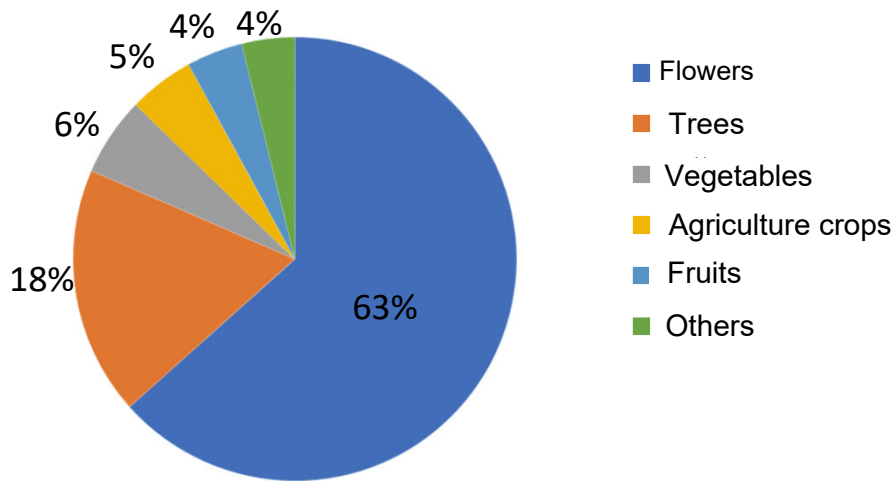
- Development of technology with DNA analysis which could identify pirated products, or infringed products

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

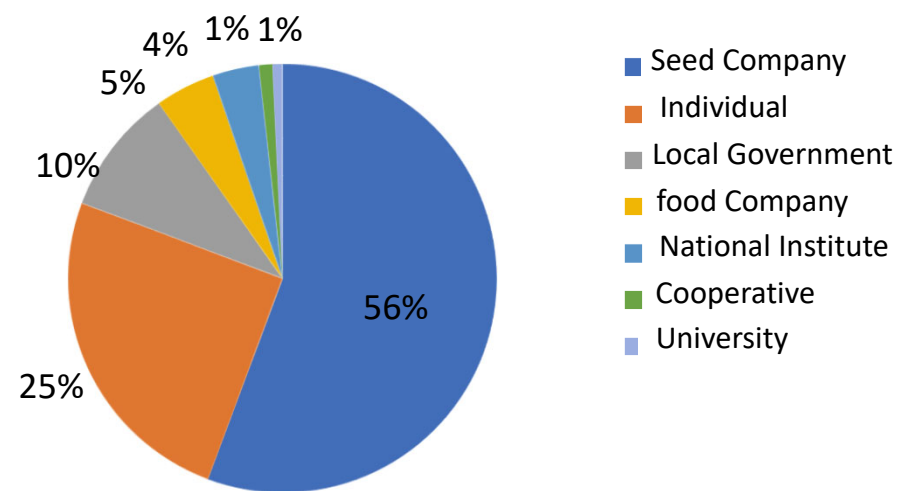
Trend of PBR Titles in force (JP fiscal year)



Percentage of protected varieties (by crop type)

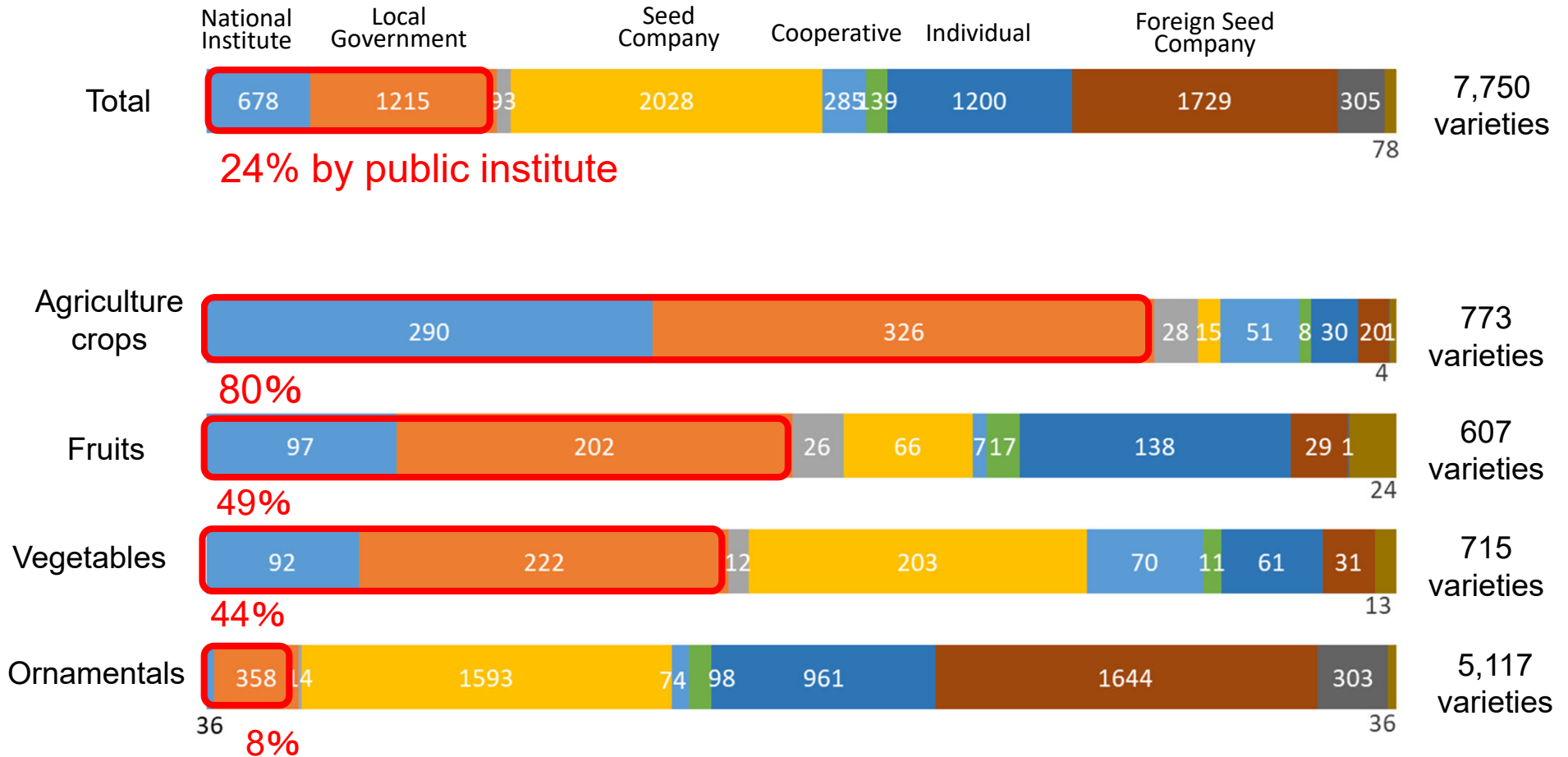


Percentage of protected varieties (by right holder type)

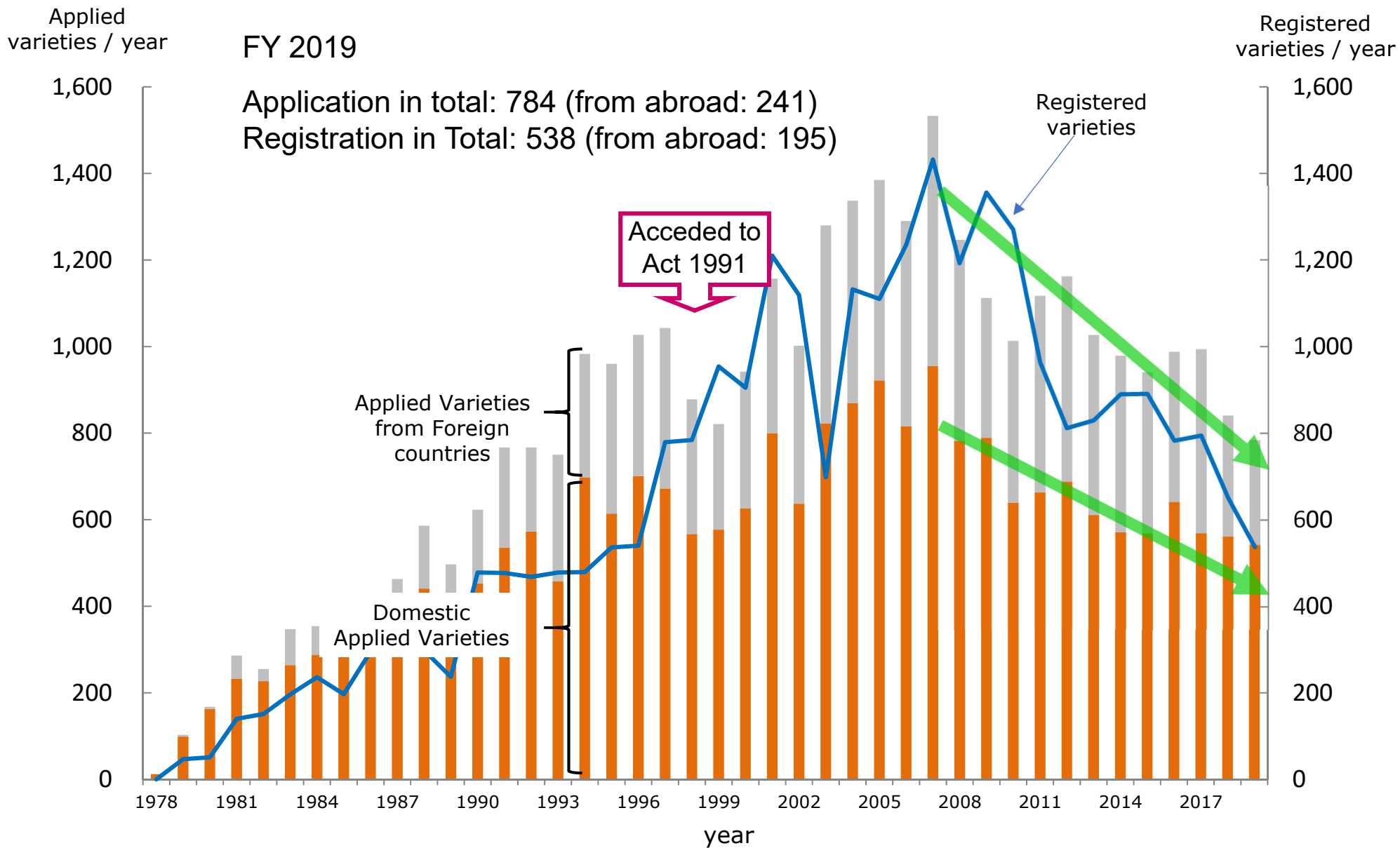


Trend of PBR Titles in force (by crop type, right holder type)

- Sensitive crops for national food security, such as, rice, wheat, beans, potato, fruits and vegetables, are bred by **public institute**, **domestic companies**, or **individual**.



Trend of annual PBR Application and Grant



Case Unintended outflow of plant varieties developed in Japan

【Japan】

Shine Muscat

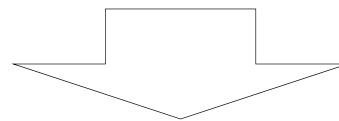


- Bred in Japan
- Registered in 2006
- Period of breeding is 33 years !!
- It has a strong sweetness, excellent taste, and can be eaten with the skin, so it is traded with high price.
- It is high expected as a main product of export.

**Japan
Brand!!!**

As the background of this case, two factors are identified:

1. Because domestic seed/seedling market was large enough to sustain breeding activities, Japanese breeders haven't tended to acquire PBRs for their new varieties outside Japan.
→ Duration of Novelty was already over, and breeders could not apply for their variety to overseas
2. 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.



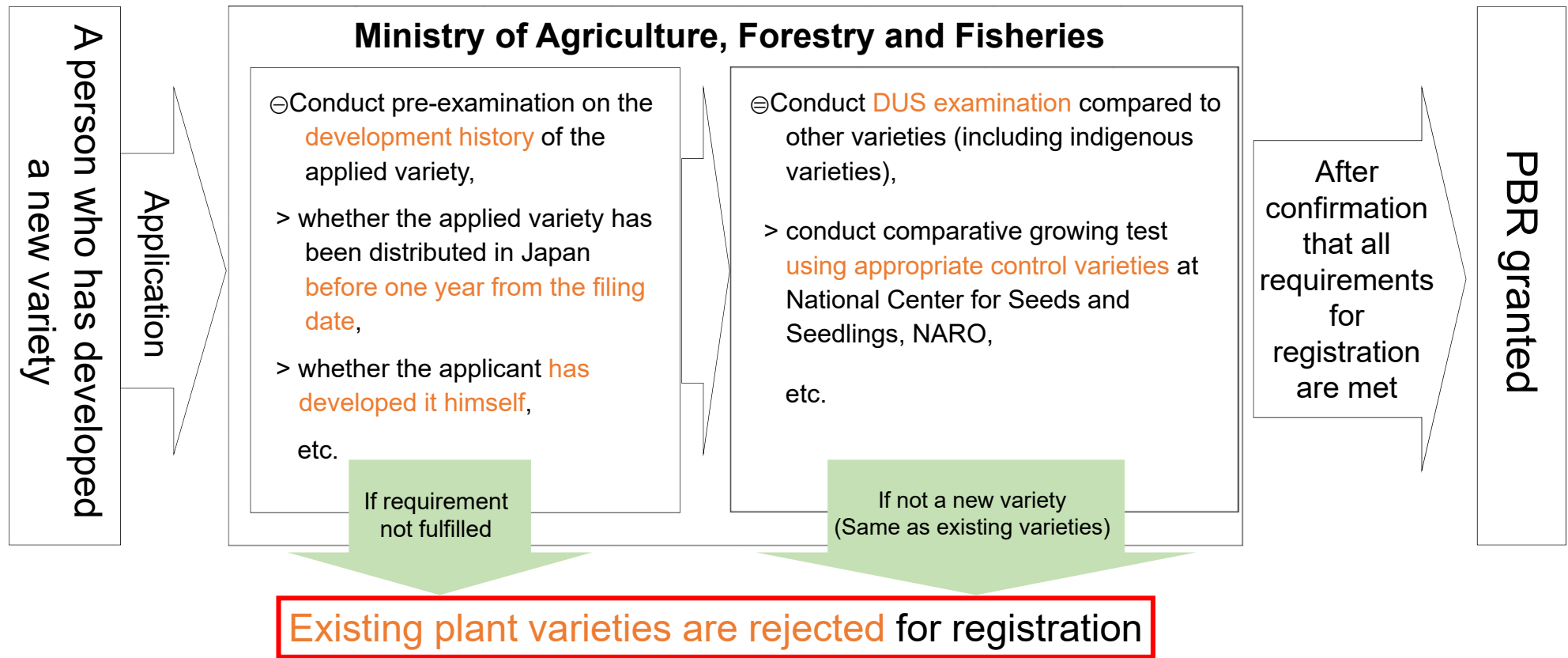
Consequently,,,,

Production, Trade, or Marketing of "Shine Muscat" has been widely spread in Asia, and which is **not the intention/strategy of the breeder of "Shine Muscat" at all.**

→ This situation caused not only a loss of Japan's export market, but also damage of Japan's Brand

Big Misunderstanding

“existing plant varieties will be registered by large companies”



Misregistration cases have never happened in the past, but,

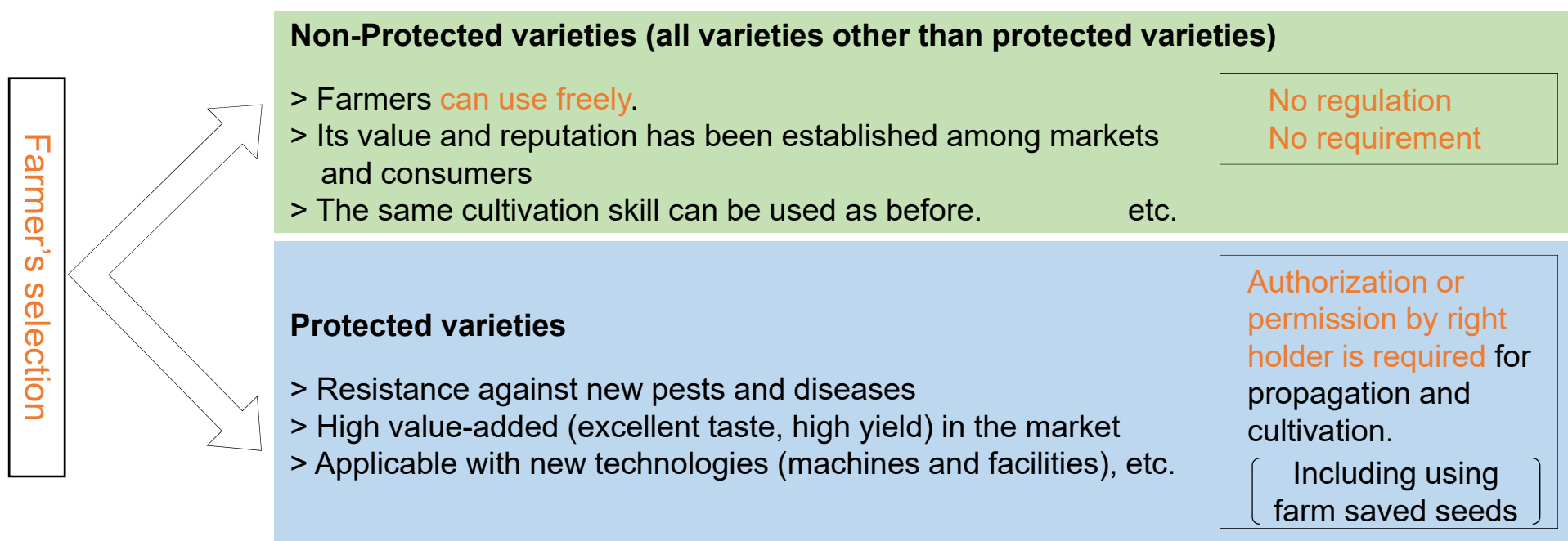
- In case it is found that an existing variety (including indigenous varieties) is registered by mistake,
⇒ **Nullity of registration**
- In case it is found that the information on the application for the registered variety is false, such as, declaring false development history on purpose.
⇒ **Criminal penalties** (individuals: imprisonment for not more than 3 years or a fine of not more than 3 million yen; corporations: a fine of not more than 100 million yen)

Big Misunderstanding

“Farmers are forced to use a particular protected variety”

- The PVP and Seed Act is a system to prevent unauthorized propagation or cultivation of “protected varieties”.
- This Act does never force farmers to choose a particular protected variety.
- Farmers can select varieties freely to be planted, including non-protected varieties* that are widely and freely distributed.

* non-protected varieties : 1) indigenous varieties, 2) varieties that have never been registered, 3) varieties whose registration period has expired



	Rice	Mandarin Oranges	Apple	Grape	Potato	Vegetable
Percentage of protected varieties	17%	3%	5%	13%	10%	9%

Main points of the amended Plant Variety Protection and Seed Act

- I. Designation of export destination country by right holders [Effective]
→ PBR holders will be able to restrict their protected varieties to be brought to foreign countries.



- II. Mandatory labeling as a protected variety [Effective]
→ all protected varieties should be accompanied with labeling on each package,
1) The fact that the seed has been registered as a protected variety,
2) That there are restrictions by right holders on bringing overseas.



- III. Any acts in respect of the propagating material of protected varieties shall require the authorization of right holders (except with “Compulsory exceptions”)
[Effective from April 1, 2022.]

→ PBR are strengthened to extend to any acts, including the propagation of protected varieties by farmers.

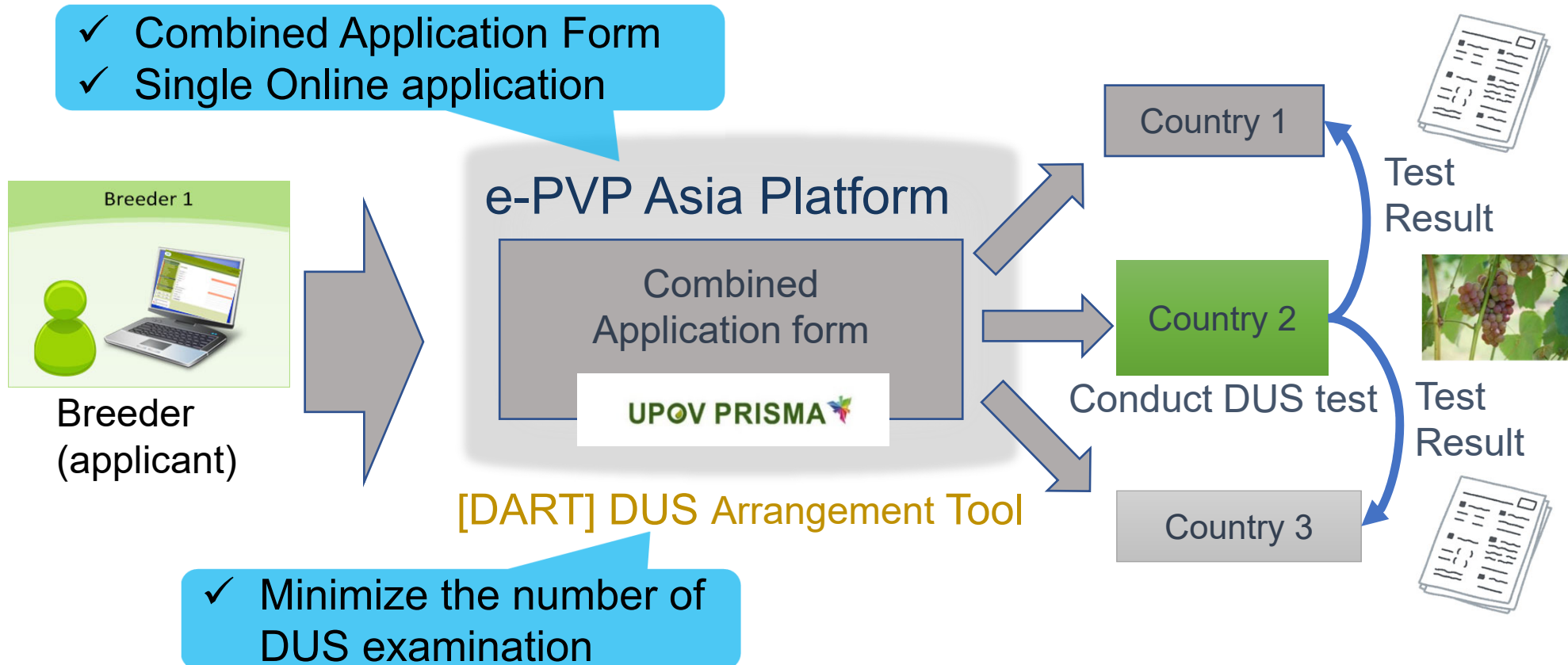


- IV. Change of Examination, Application and Registration fees [Effective from April 1, 2022.]
→ to cover the actual cost for growing trial or on-site inspection,
to reduce the total cost of maintaining the registration for a long period.



- V. Other revisions

What is “e-PVP Asia”



- Current participating countries: JP, VN, BN, MM, MY
Observers: other EAPVP Forum members
- Resource partner: UPOV Office

Thank you very much for your attention !!



Teruhisa MIYAMOTO (Mr.)
Deputy Director of Plant Variety Office, Intellectual Property Division,
Export and International Affairs Bureau, MAFF

e-mail teruhisa_miyamoto170@maff.go.jp