

ENFORCEMENT OF PBR UNDER UPOV 1991 IN VIETNAM



NGUYEN THANH MINH, PVPO, MARD/VIETNAM
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OUTLINE OF THE PRESENTATION



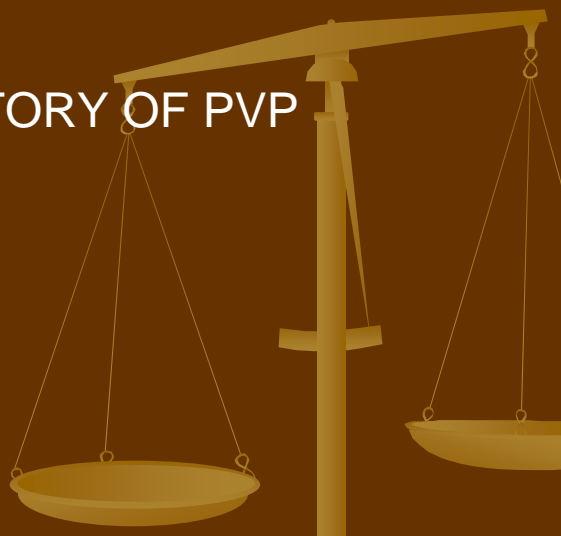
- HISTORY OF PVP
- IMPACT TO AGRICULTURE
- ENFORCEMENT OF PBR

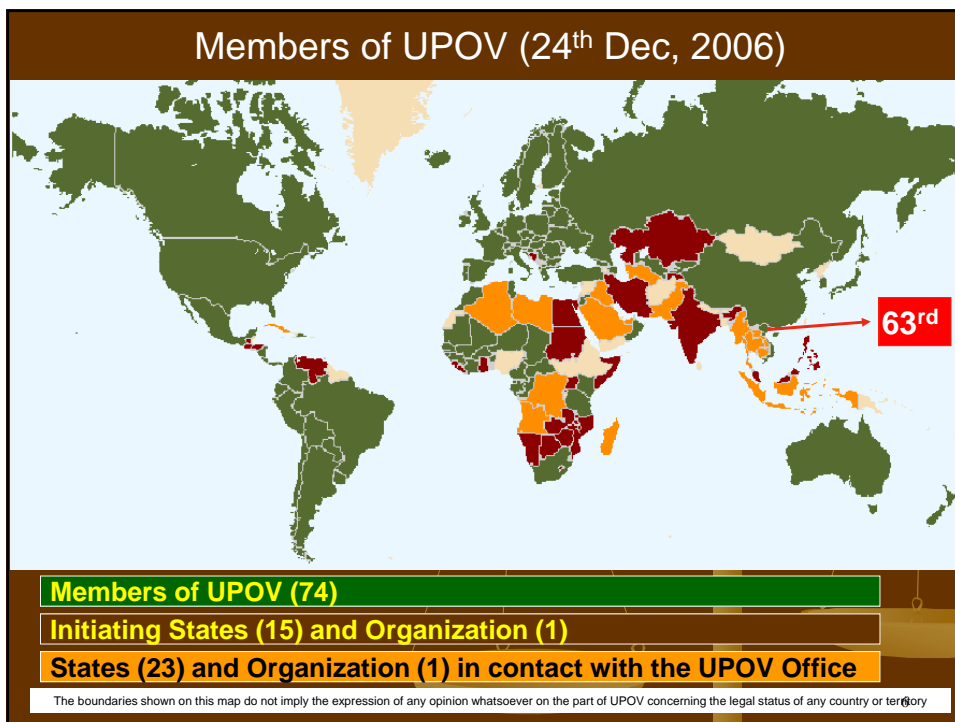
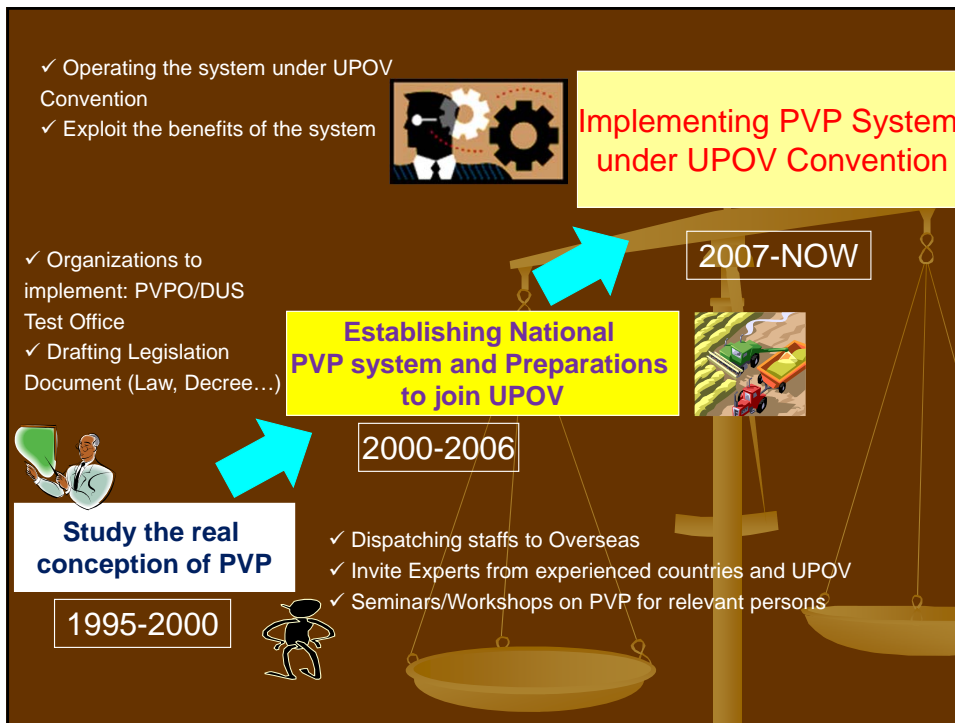
Background

- Agricultural country.
- High density of population
- **Improve living standard of the people** – The current main purpose of VN's Government
- Seed Sector play an important role for the purpose – big contribution of new plant varieties

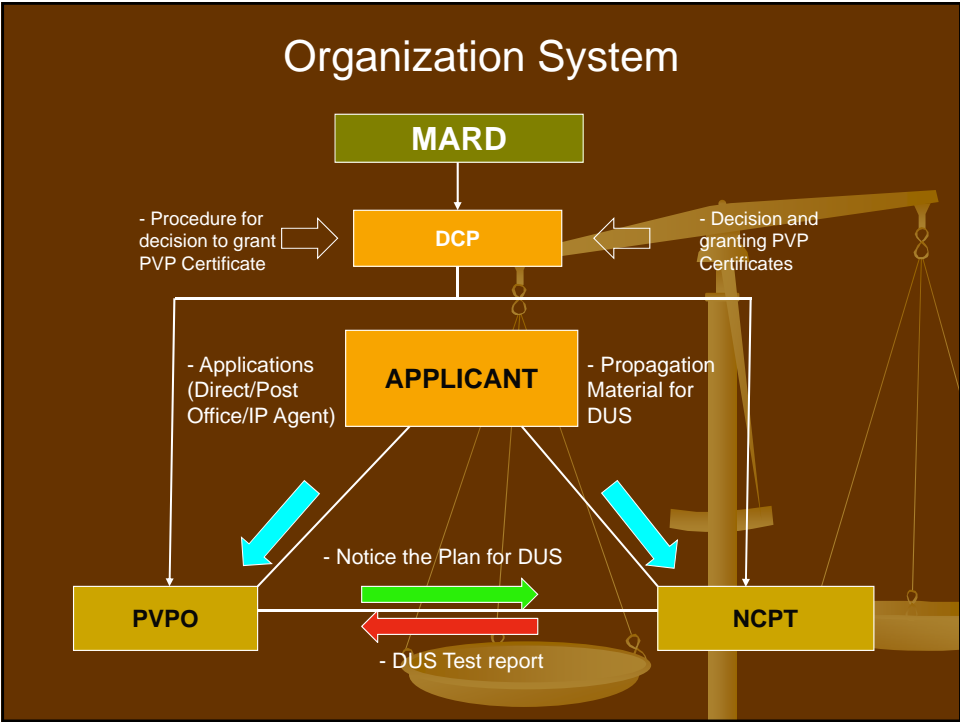


HISTORY OF PVP

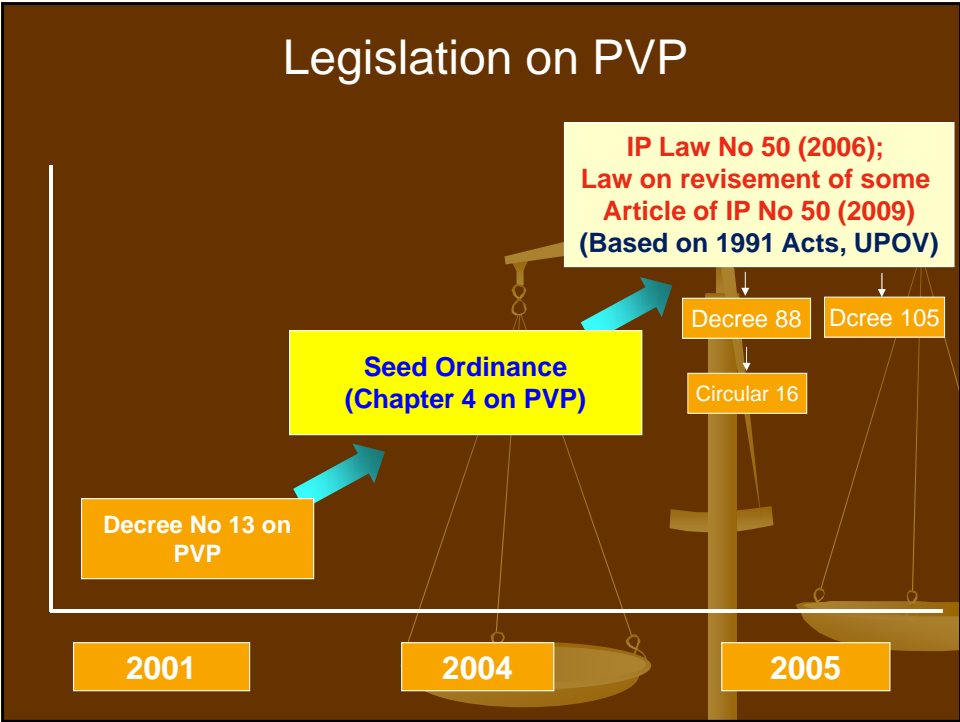




Organization System



Legislation on PVP

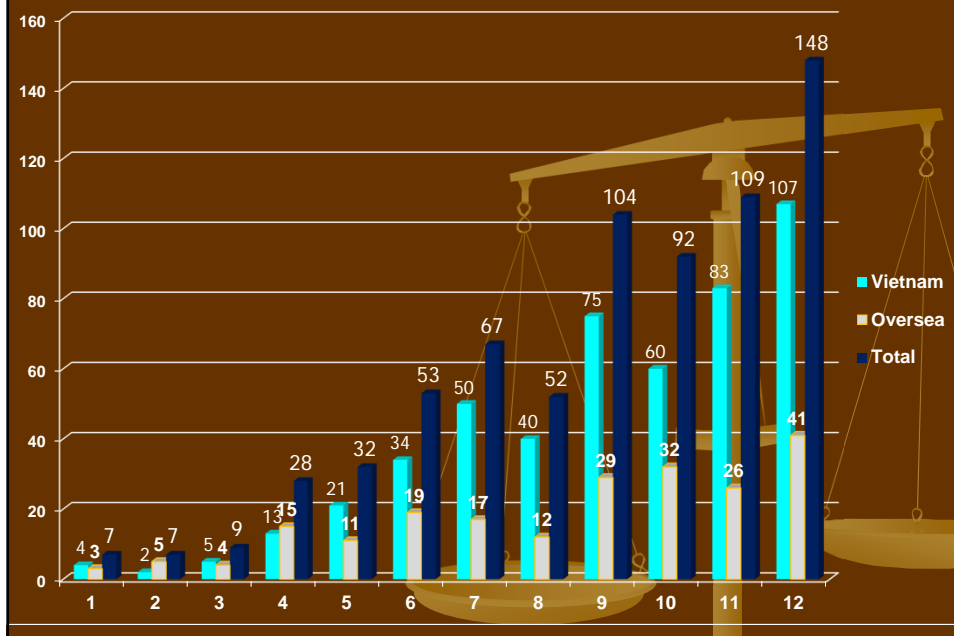


Typical for VN's PVP

- Fully Member of UPOV on 24th December 2016
 - ✓ Protect all species from 24th December: Opportunities and challenge
- Member of TPP Agreement
 - ✓ “The Parties recognise the importance of a rich and accessible public domain” (Article 18.15)
 - ✓ Need to consider on Public Varieties

IMPACT OF PLANT VARIETY PROTECTION

Applications by years 2004 – 2015



Application is increasing

- Number of application increased – Many good new varieties and new species released for farmer
- Good new var. from oversea and new species - farmer have good income



Current situation of Agriculture

- Exporter on agriculture products
- For rice: 5/10 protected varieties are cultivated in biggest area for exporting
- New varieties of flowers (rose, cymbidium...) is introduced to VN by foreign countries



Increasing the income of farmer

- A cuttings of new rose varieties may reach 10 – 15 times more expensive than old Var.
- New variety is introduced in VN
- Farmer have chance to increase their income



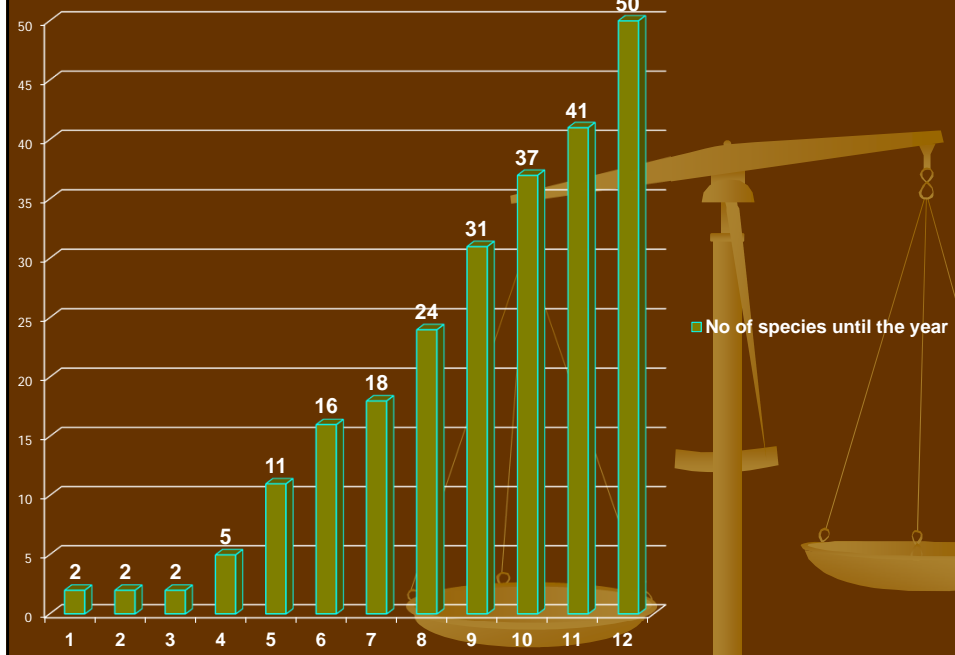
Farmer produce under license from Owners



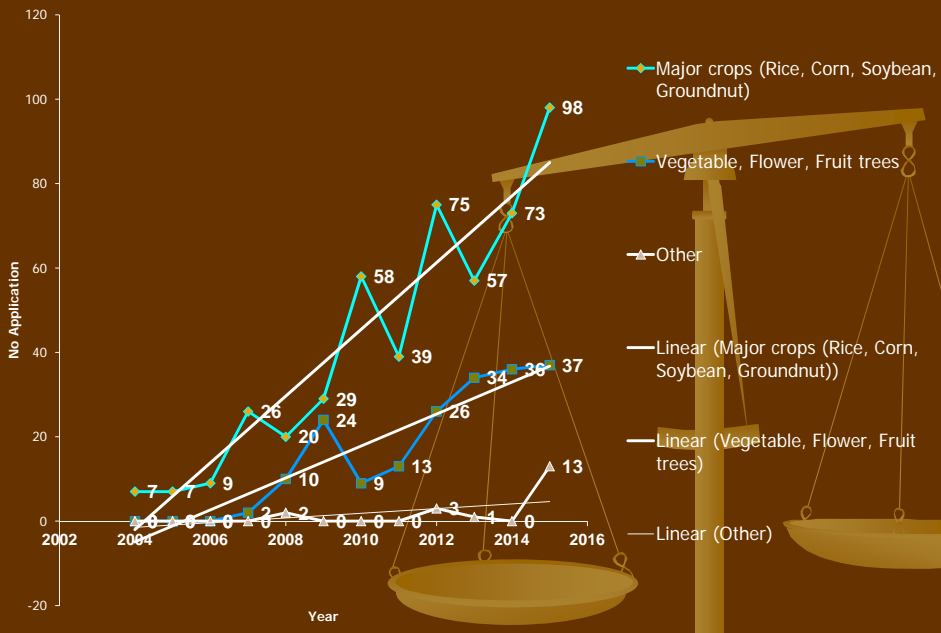
Waiting to the aircraft for exportation



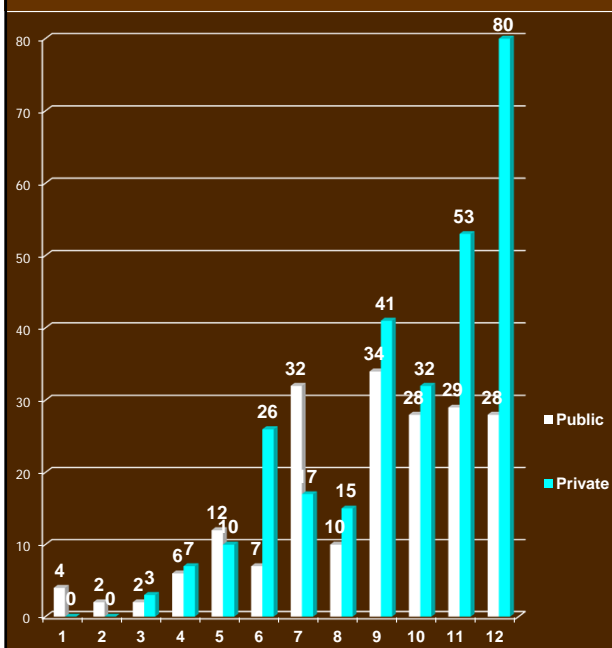
No of species until the year (2004-2015)



Applications by Groups (2004-2015)



Vietnam's applications: Private and Public sectors



Public sector (Government Budget):

- ✓ Research Institutes
- ✓ Universities
- ✓ Research Centers (Central Government and provincial level)

Private sector:

- ✓ Individual
- ✓ VN's Seed Company

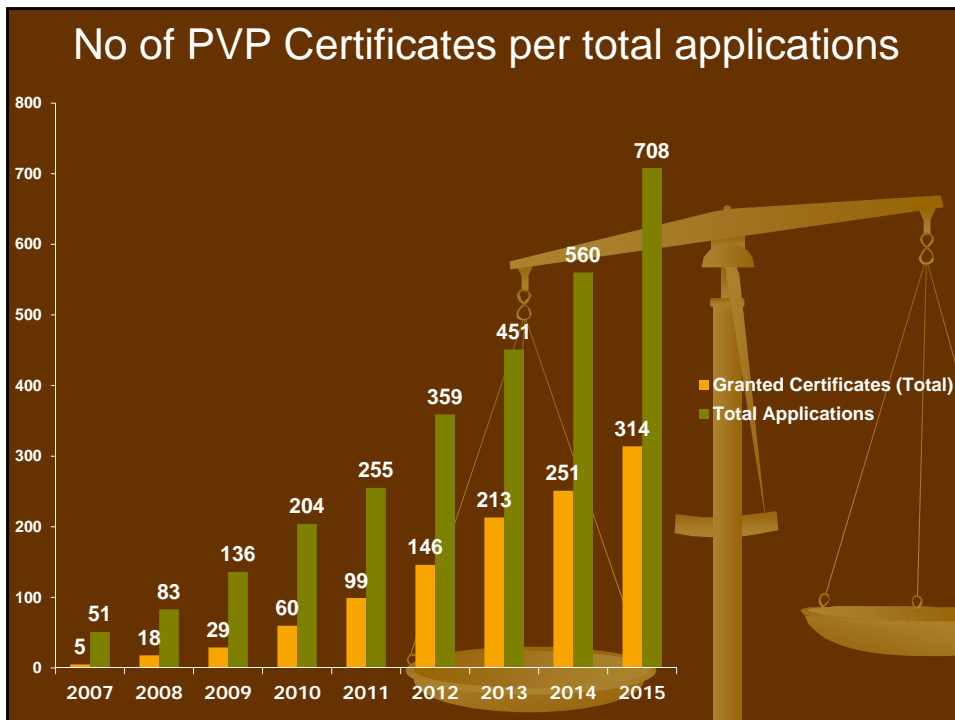
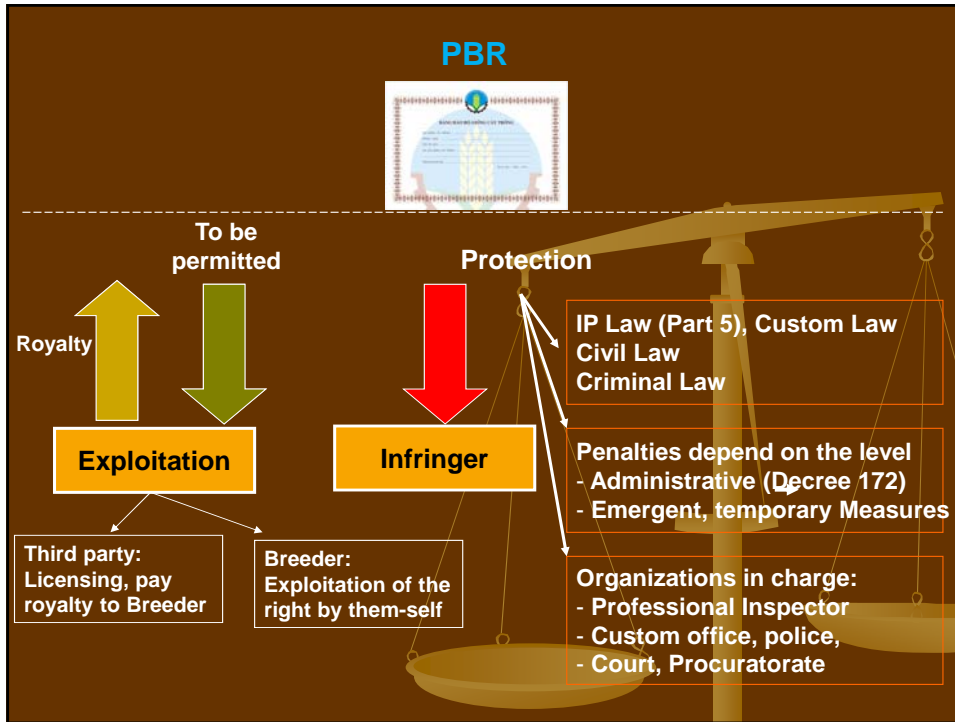
Recent years:

MARD did not invest to Public Sector for breeding by traditional methods

Positive impact to SMEs

- Before PVP system established in VN: almost of them are trade company (not interest in RD)
- When PVP system is established:
 - ✓ Beginning: they are licensed to exploit PBR from owner (transferred)
 - ✓ They develop breeding facility
- Now, many of them have own breeding facility
- Some of them become big with very good breeding facility.

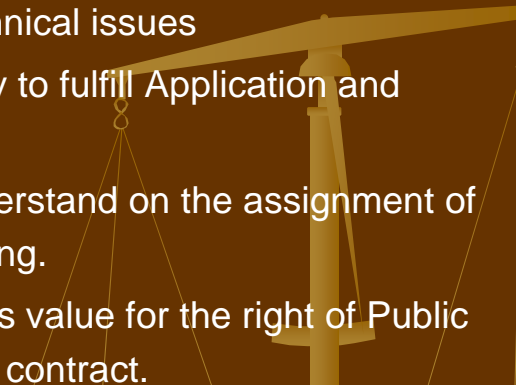
ENFORCEMENT OF PBR



Specializing in introduction of a new variety

- For the Varieties from Research Institutes:
 - ✓ Transferred the right to seed companies
 - ✓ Establishing IP Division to exploit of the right in some Research Institutes
 - The specialization in development new variety make more effective in exploiting new varieties
 - Fair Competition in trade: Who invest to the R/D more, they have more benefits for re-investment to R/D
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Shortcomings

- Duration from filing application to grant Certificates still long due to technical issues
 - For SMEs: Not easy to fulfill Application and relevant document
 - There were misunderstand on the assignment of the right and licensing.
 - It's difficult to assess value for the right of Public Varieties in transfer contract.
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Transfer the rights of using and assignment

- According to Art. 192, IP Law: *“Transfer the rights of using means the permission of Holder of the right of the variety given to other person to conduct one or some acts of his right of the variety”*.
- Assignment of the right (Art.194): *Means Holder of the Right transfer all the right of the variety to Assignee. The assignee become Owner of PBR.*
- For the varieties from Public Research Institutes: Is it easy to access when right of the varieties is assigned to private sector?

Thank you for your attention

➤ Detail Information:

➤ PVP Office

✓ Room No 105, A6 Build.

No 2 Ngocha Badinh, HANOI

✓ Tel: (844)38435182;

✓ Fax: (844)37342844

Website: <http://pvpo.mard.gov.vn>

