



# **Benefits of Plant Variety Protection for the Philippine Plant Breeders**

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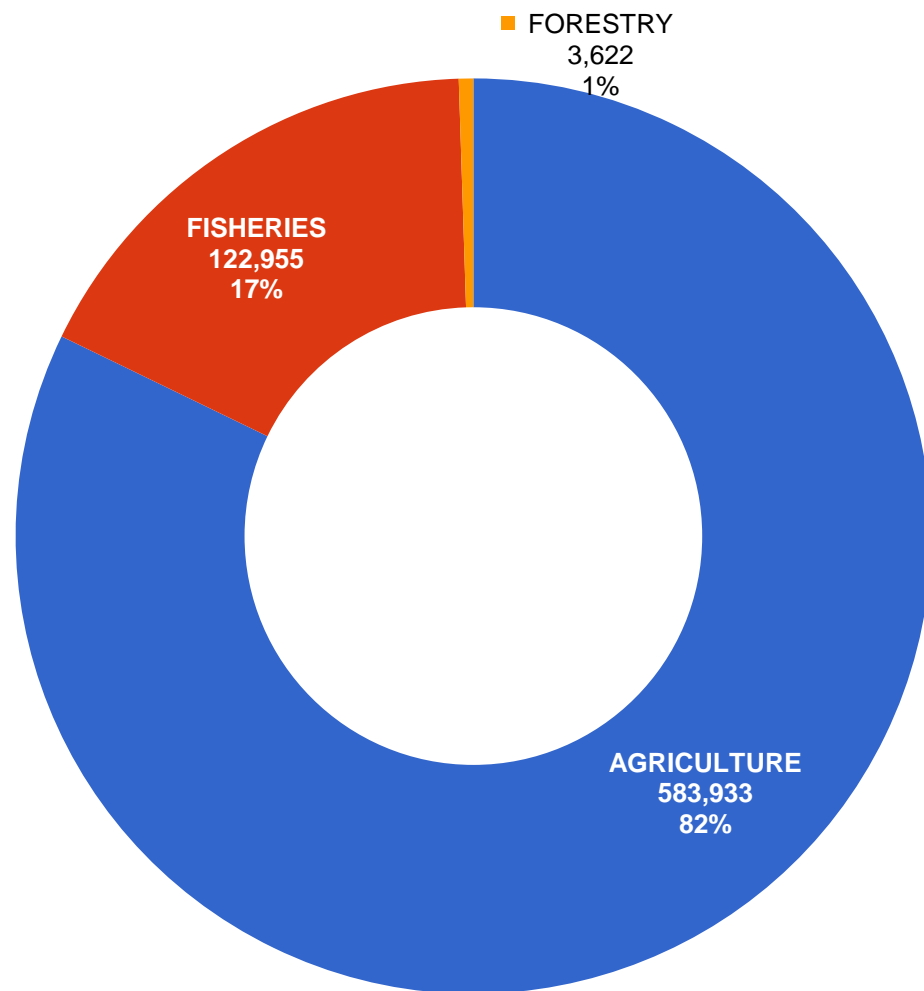
**International Seminar on the Benefits of Plant Variety Protection  
Under the UPOV System  
Vivere Hotel and Resorts  
Alabang, Muntinlupa, Philippines  
2 August 2018**

# PHILIPPINE AGRICULTURE

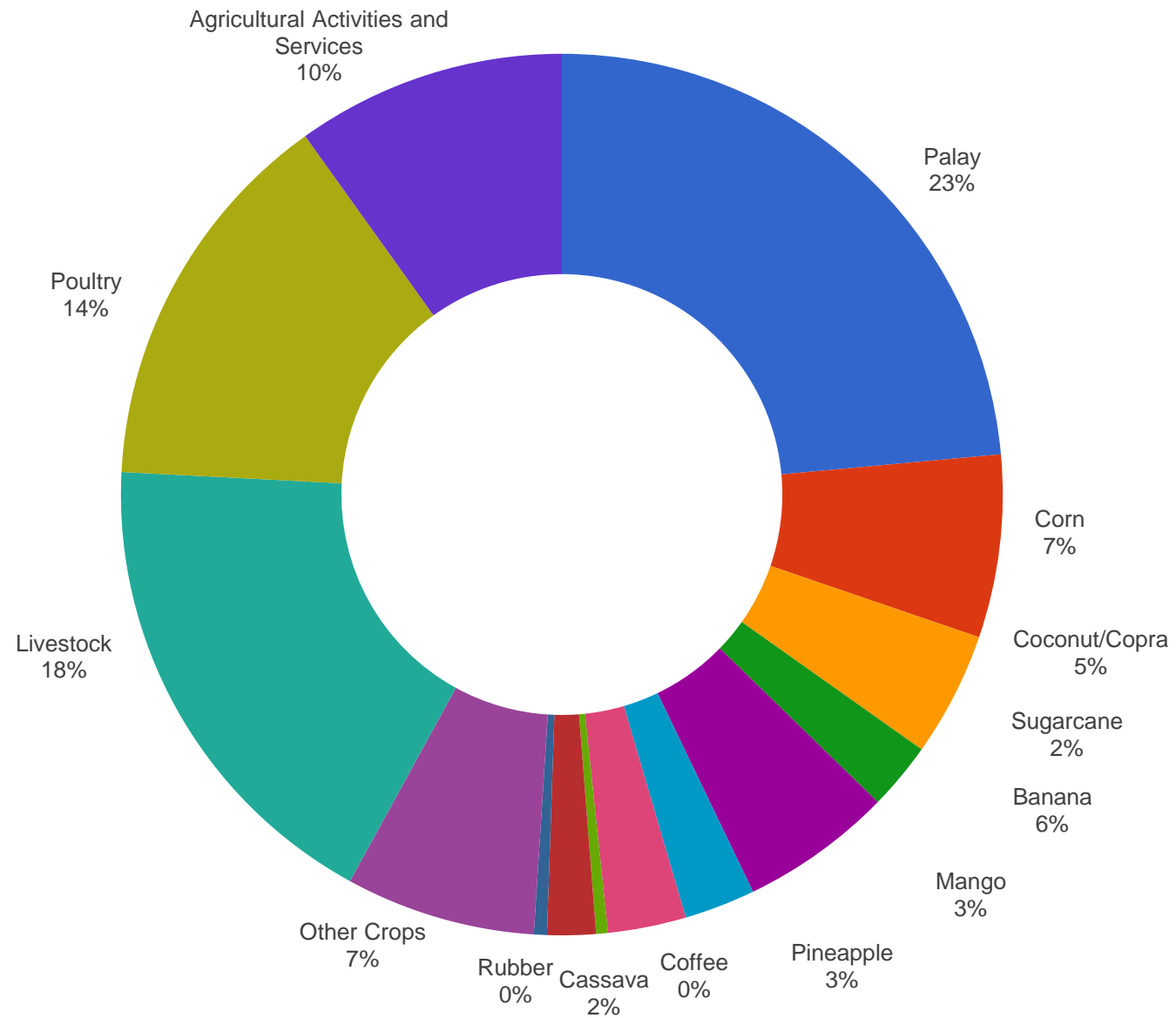


- Philippines is still an agricultural country
- Agriculture contributes 9% to the GDP
- 26% of the population is engaged in agriculture

## 2016 GVA (at 2000 Constant Prices)



## ***Breakdown of Agriculture GVA (at 2000 Constant Prices)***

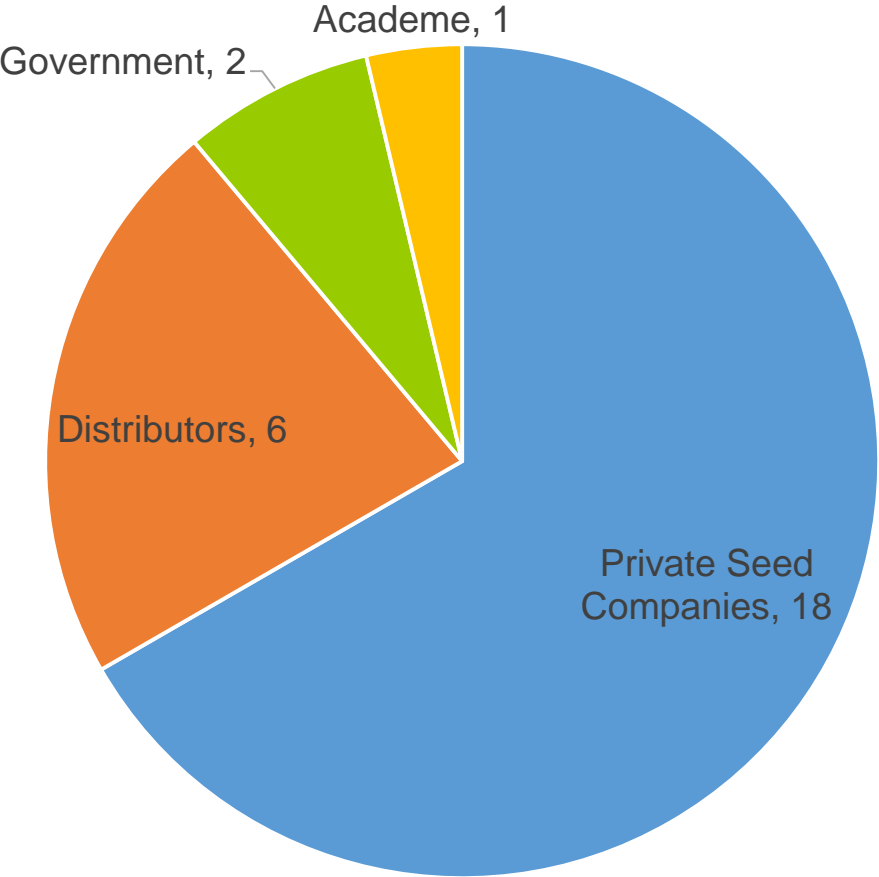


# PHILIPPINE SEED INDUSTRY ASSOCIATION



- Established in 1976
- 27 members
  - 18 private seed companies
  - 6 distributors
  - 2 government
  - 1 academe
- Multinationals: Bayer, DuPont Pioneer, East-West Seed, Kaneko, Known-Yu, Monsanto, Syngenta, Bioseed, Seedworks, Unigen
- Local seed companies: Allied Botanical, Harbest, Haverson, Ramgo, SL Agritech, BMD Seed, Keystone, LongPing

PSIA Membership



# PHILIPPINE SEED INDUSTRY ASSOCIATION



- Member of the Asia Pacific Seed Association (APSA) and the International Seed Federation (ISF)
- Member of the National Seed Industry Council and the Plant Variety Protection Board



# PHILIPPINE PLANT VARIETY PROTECTION LAW (RA 9168)

- Enacted in 2002
- Provides the legal basis of a *sui generis* system of intellectual property rights
- Provides rights to plant breeders over the propagating material of their protected variety
- An effective intellectual property system in general and the development of new plant variety in particular is vital in attaining food security for the country.





# PHILIPPINE PLANT VARIETY PROTECTION LAW (RA 9168)

- The State recognizes the indispensable role of the private sector, encourages the participation of private enterprises
- Provides incentives to needed investments in the development of new plant varieties.
- Certificate of PVP granted for varieties that are New, Distinct, Uniform and Stable



# PHILIPPINE PLANT VARIETY PROTECTION LAW (RA 9168)

- Policy formulation and implementation of the PVP Law is overseen by the Plant Variety Protection Board
- Board composed of the following:
  - a. Secretary of the Department of Agriculture – Chairman
  - b. Secretary of the Department of Science and Technology - Co-Chairman
  - c. Director General of the Intellectual Property Office - Vice Chairman
  - d. Director of the Bureau of Plant Industry
  - e. Director of the Institute of Plant Breeding
  - f. President of the Philippine Seed Industry Association
  - g. The Registrar (Ex Officio)



# PHILIPPINE PVP AND UPOV



- Philippines is not a UPOV member but is one of the countries which have initiated the procedure for acceding to the UPOV convention
- Section 43 d Exceptions to PVP  
The traditional right of small farmers to save, use, exchange, share or sell their farm produce of a variety protected under this Act, except when a sale is for the purpose of reproduction under a commercial marketing agreement. This provision shall also extend to the exchange and sale of seeds among and between said small farmers: Provided that the small farmers may exchange or sell seeds for reproduction and replanting in their own land.



# PHILIPPINE PVP AND UPOV



- The implementing rules and regulations further state that the right granted to small farmers under this provision does not include the right to sell the protected variety under the trademark or trade name of the holder which is associated with the registered denomination.

# BENEFITS OF PVP

- Contributes to further innovation and investment in plant breeding
  - Breeding is a long, tedious and expensive process
  - Seed companies spend 10-14% of their turnover on R&D
- Contributes to improved plant varieties
  - Farmers are in need of improved varieties that will increase their productivity and income
  - Climate change mandates plant breeders to develop varieties that are resilient to biotic and abiotic stress
  - With the Breeders' Exemption, plant breeders are able to do their job without restrictions





***Galactica F1***



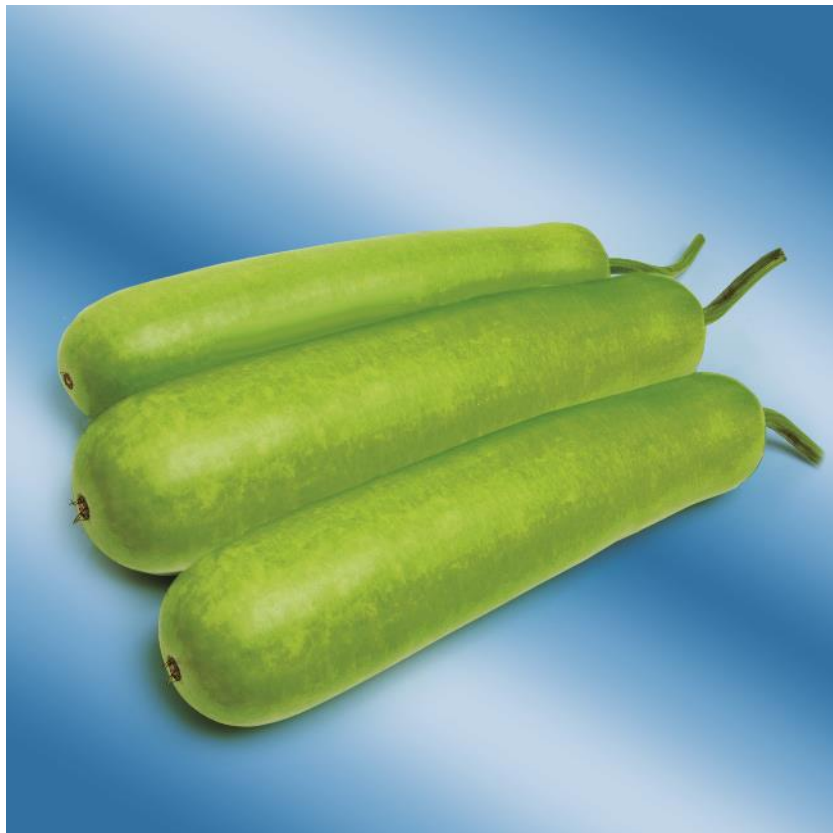
***Mestisa F1***



***Bonito F1***



***Mayumi F1***



***Himala F1***



***Magnifica F1***





*Morena F1*



*Domino F1*



*Gwapito F1*





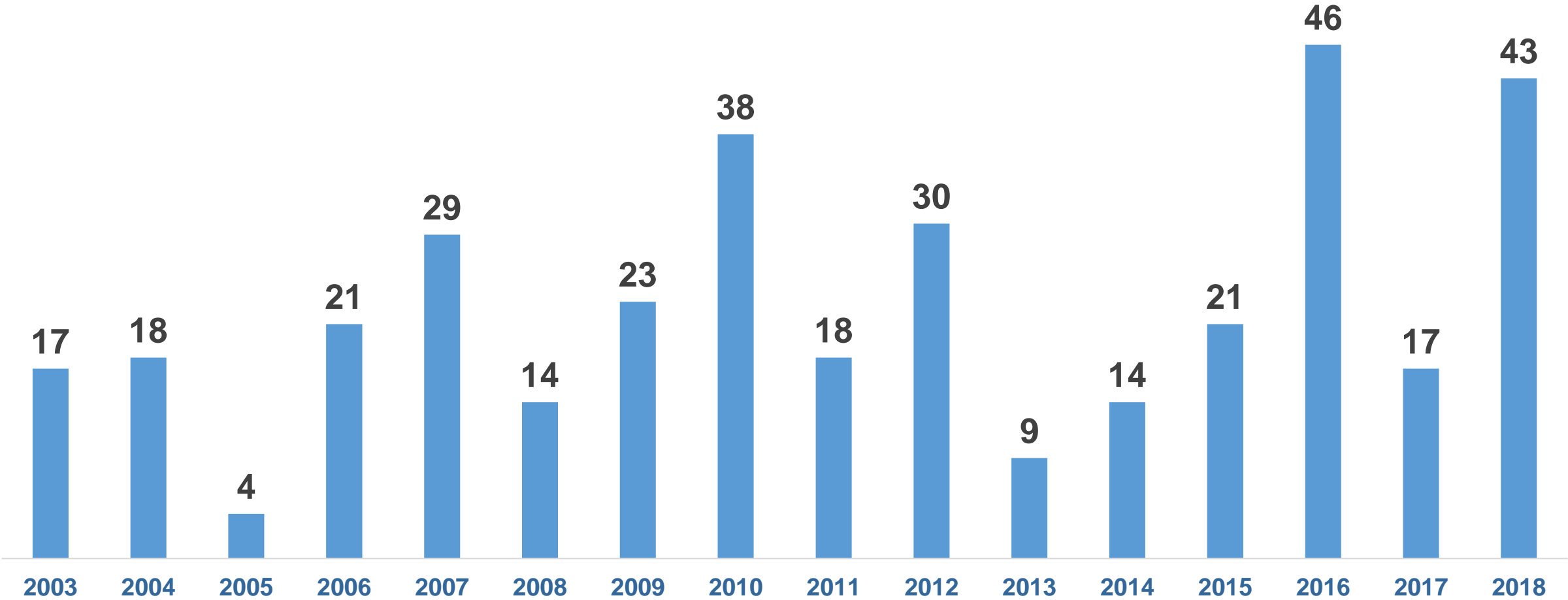
# BENEFITS OF PVP

- Stimulates plant breeding activity
- Increase in the number of improved varieties



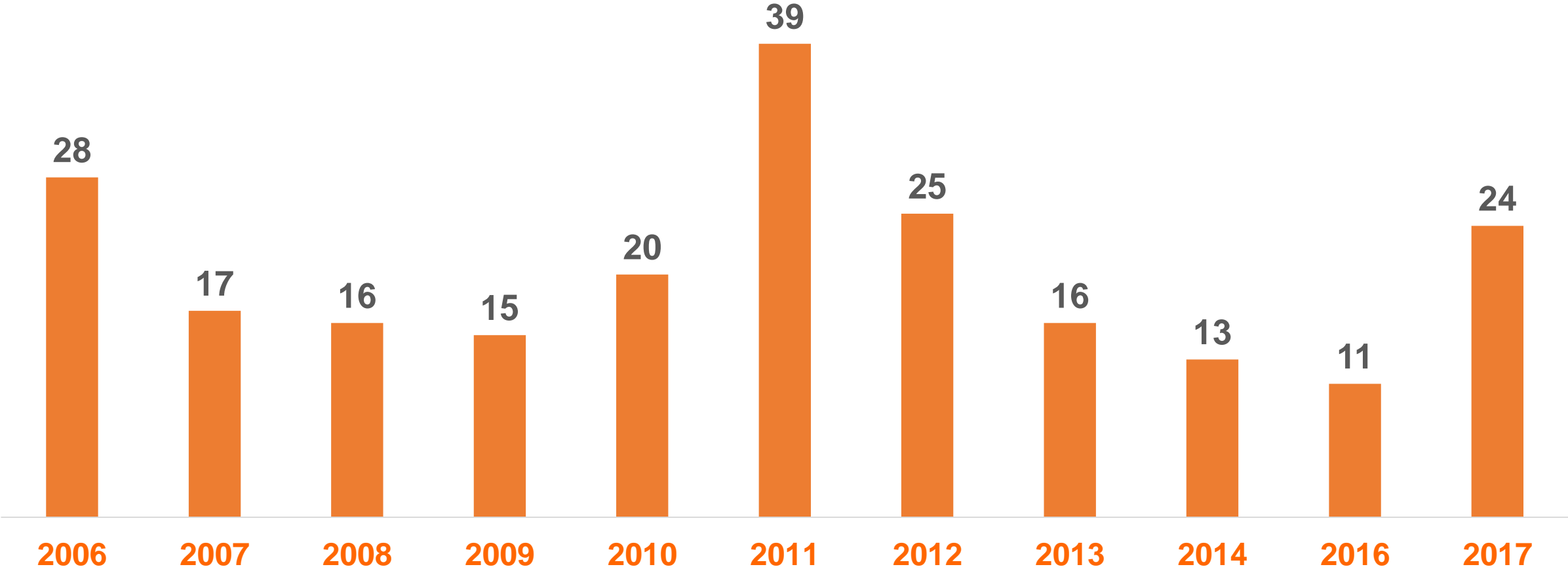
*Summary of Applications Received (2003 – 2018)*

**Total: 362**

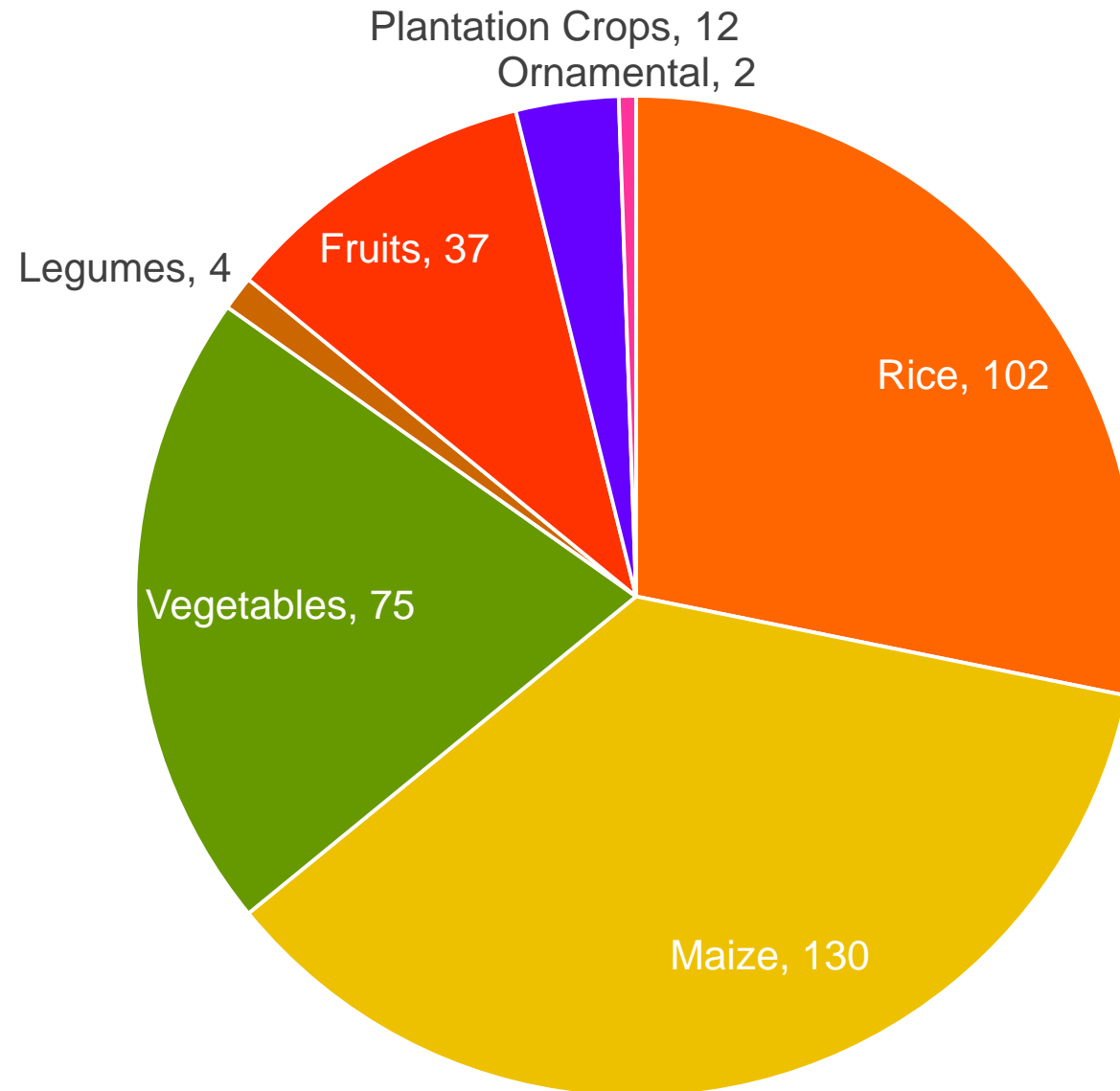


*Summary of Grants (2006 – 2017)*

**Total: 224**



***Summary of Applications Per Crop Commodity (2003 – 2018)***

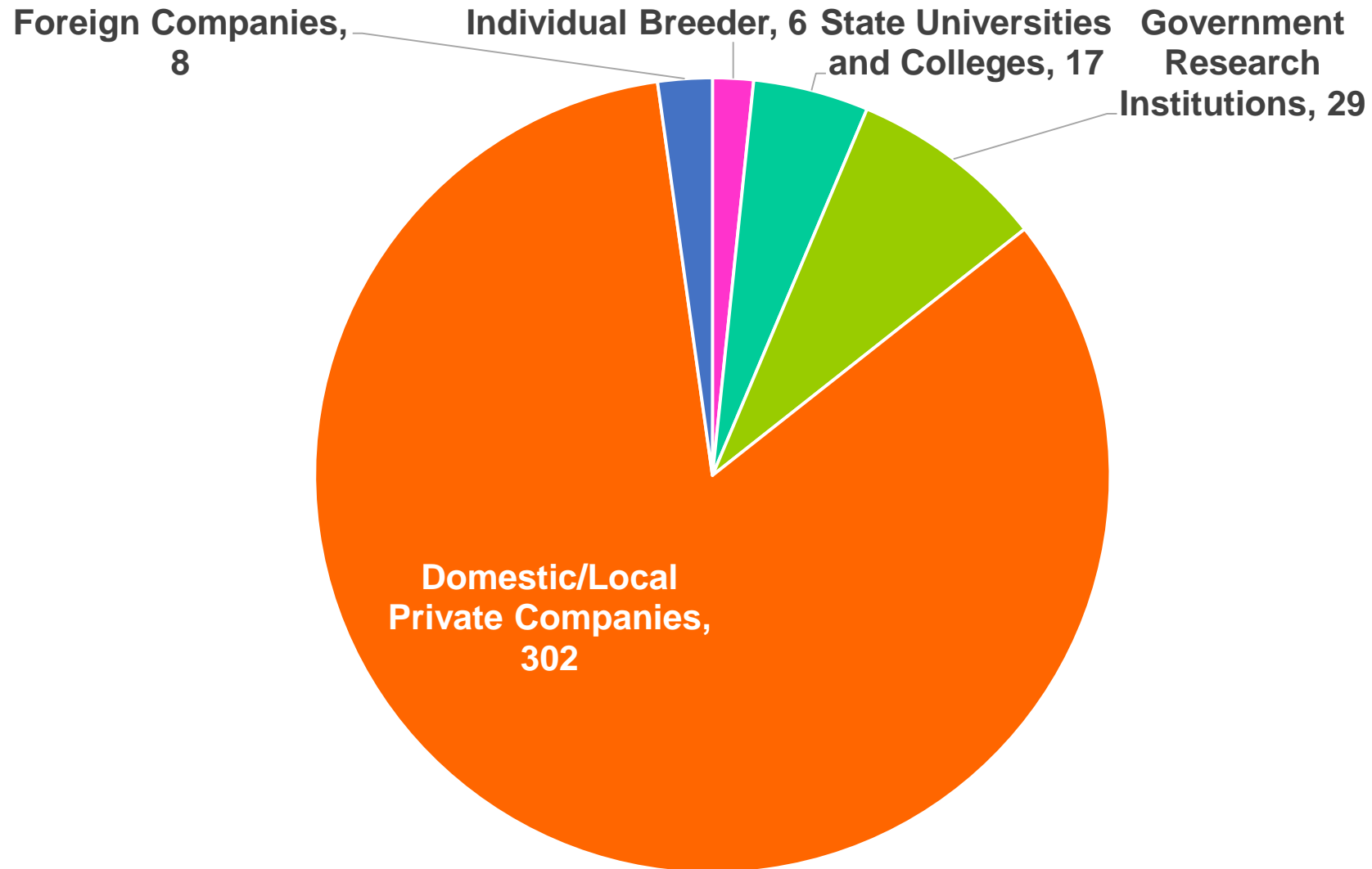


# BENEFITS OF PVP

- Increased diversity in plant breeding activities

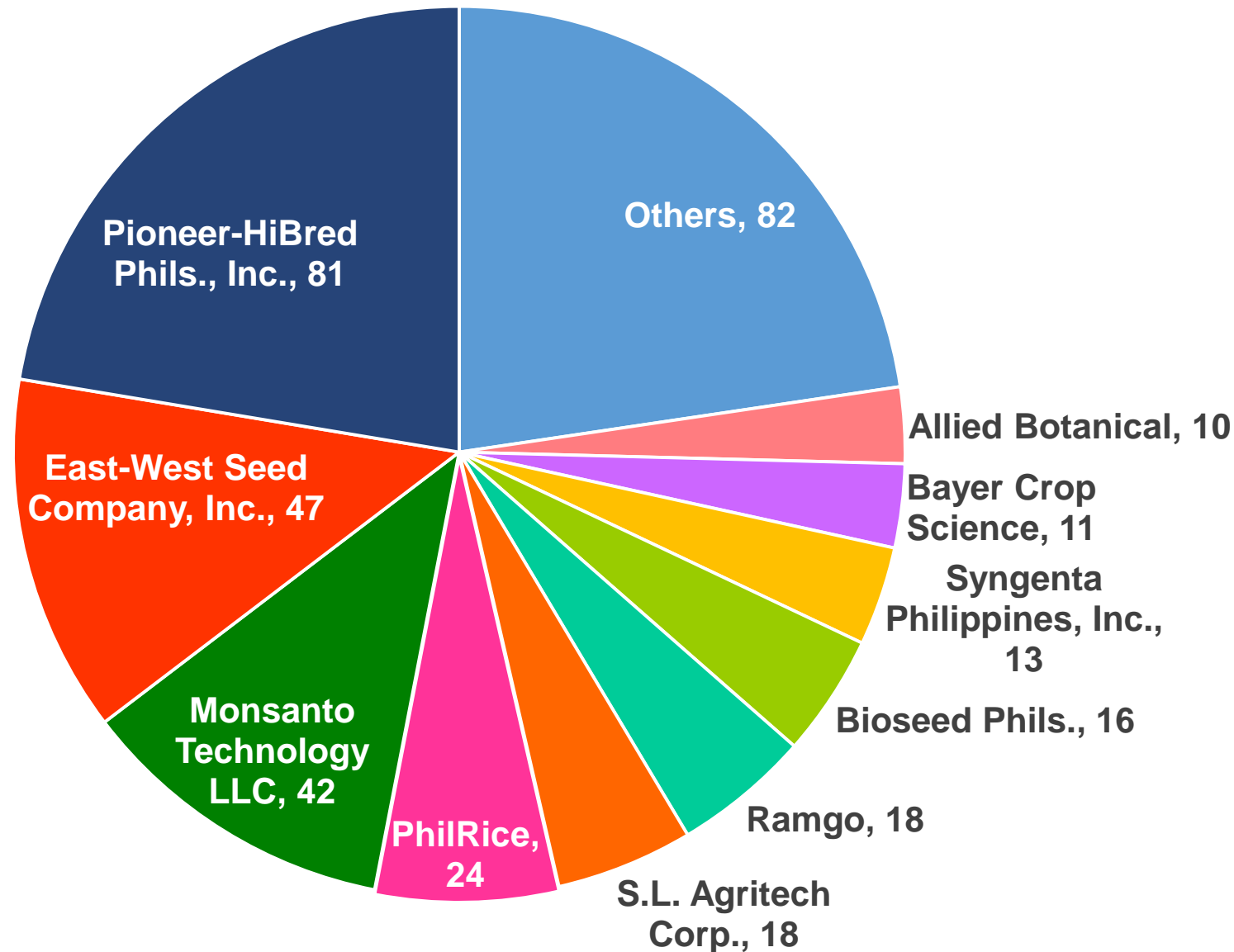


Domestic/local private companies make up the huge majority of PVP applications (302)





Among the seed companies the top three with the most number of PVP are: Pioneer-Hi-Bred - 81; East-West Seed - 47 and Monsanto Technology - 42.



# BENEFITS OF PVP

- Contribute to access to foreign varieties
  - Important source of genetic diversity for domestic breeding programs
  - Wider choice of crops/varieties for farmers
  - Foreign applications were received for banana, blueberry, raspberry, strawberry, blackberry and poinsettia



## OTHER BENEFITS UNDER THE PVP LAW

### Gene Trust Fund

- For the benefit of bonafide organizations or institutions managing and operating an accredited gene bank
- Up to 20% of the fees and charges
- Access to genetic resources is essential to plant breeding and gene banks maintain genetic diversity and provides easy access to it.

### Plant Variety Gazette

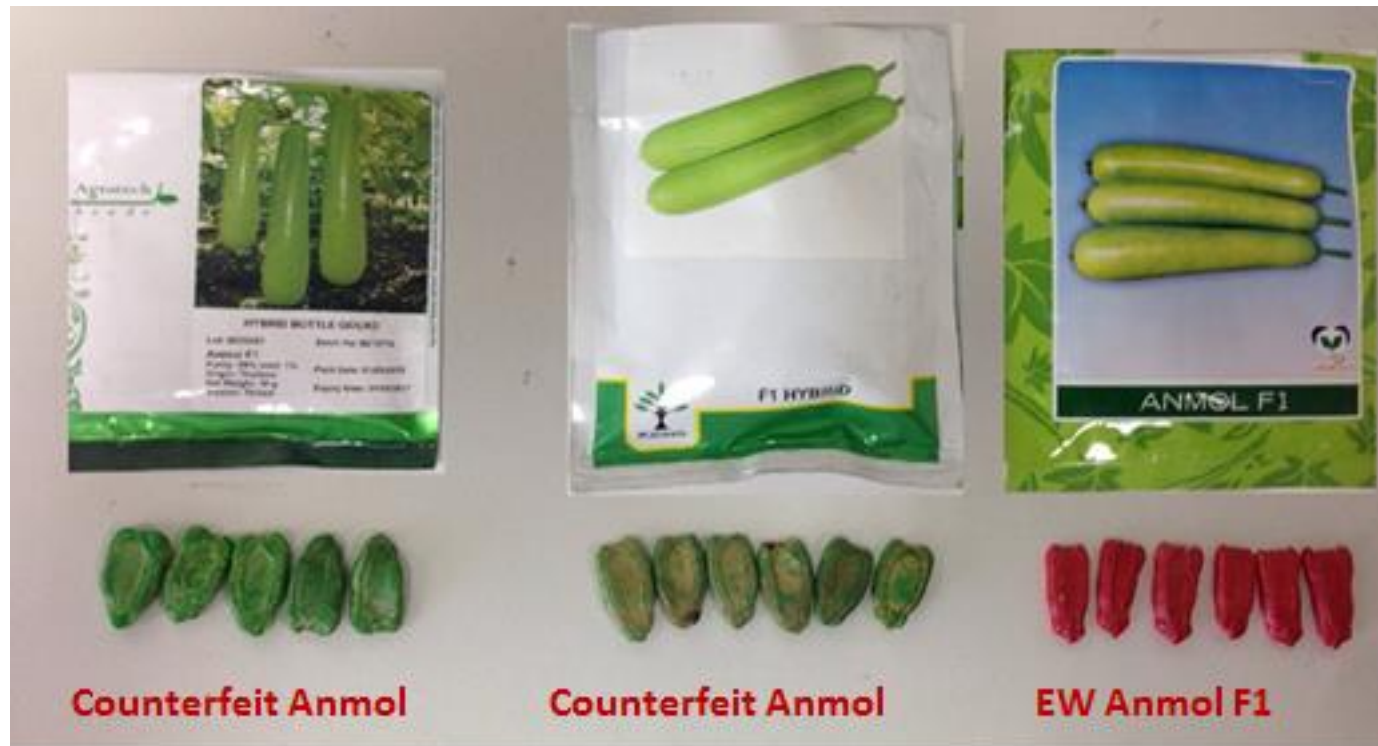
- Enables plant breeders to search PVP varieties online





# PVP CHALLENGES

- No assurance of protection due to weak enforcement of PVP Law in Asia
  - is the court equipped with judicial expertise to evaluate the cases
  - IP infringement – An EWS Example



One importer selling the same variety name from two different companies of different origins in Pakistan is evident proof of malpractice.

DNA analysis showed that the imitated variety is not the same as EW Anmol F1

**Legal rules do not deter copycats, physical protection of product is key priority measure to prevent infringement.**

# PVP CHALLENGES

- Not all crops are eligible for PVP application
  - due to the absence of DUS test guidelines the benefit of PVP is delayed or not realized
  - PVP registration is limited to the species notified by the government
- PVP Law in Thailand combines aspects of UPOV and biodiversity (CBD, ITPGRFA) which complicate acquisition and utilization of genetic resources for plant breeding and variety development. There is no clear-cut implementing rules on access and benefit-sharing scheme.
- PVP in TH gives only 12 years of protection to vegetable crops. This is too short to recover R&D investment considering that variety development takes 10-15 years; less protection gives little incentive for further R&D.
- India rule requires submission of seeds of parental lines for F1 PVP application along with the corresponding F1 seed samples. This poses threat to seed security of hybrid parental lines.

# PVP ASPIRATIONS

- Country judiciary to have expertise in PVP, not only in the registration capacity but also in the capability of investigation and enforcement
- Harmonization of PVP laws and DUS test guidelines
- Creation of separate platform for Access and Benefit Sharing and not as integral part of the country PVP regulation
- PVP-registered varieties must be publicly searchable online with timely and adequate information





**Plant variety protection is essential in ensuring food and nutritional security, providing increased income to farmers and improving the quality and diversity of food crops available to consumers.**



**Thank you.**