

CONDITIONS AND CHALLENGES OF THE PLANT VARIETY PROTECTION IN INDONESIA

Warsidi

Head of PVP Services/
PVP Examiner

SEMINAR ON BREEDER'S EXEMPTION IN PVP UNDER UPOV
CONVENTION
JANUARY, 26th 2022



<http://pvtp.psetjen.pertanian.go.id>

Pusat PVTPP Pusat Perlindungan
Varietas Tanaman
& Perizinan Pertanian
Gedung B – Lantai 5 – Jl. Harsono RM. No. 3, Ragunan
Kementerian Pertanian Republik Indonesia



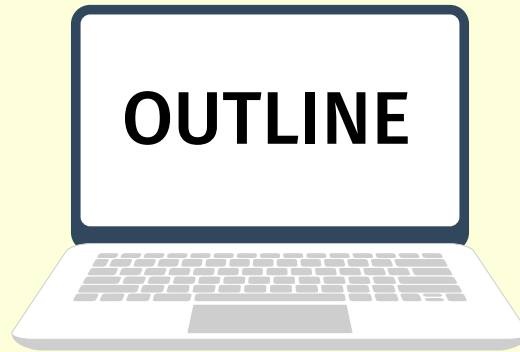
**Indonesia Seed
and Varieties
System**



**PVP Law In
Indonesia**



**Presumption
about PVP**



**Responses to
presumption**



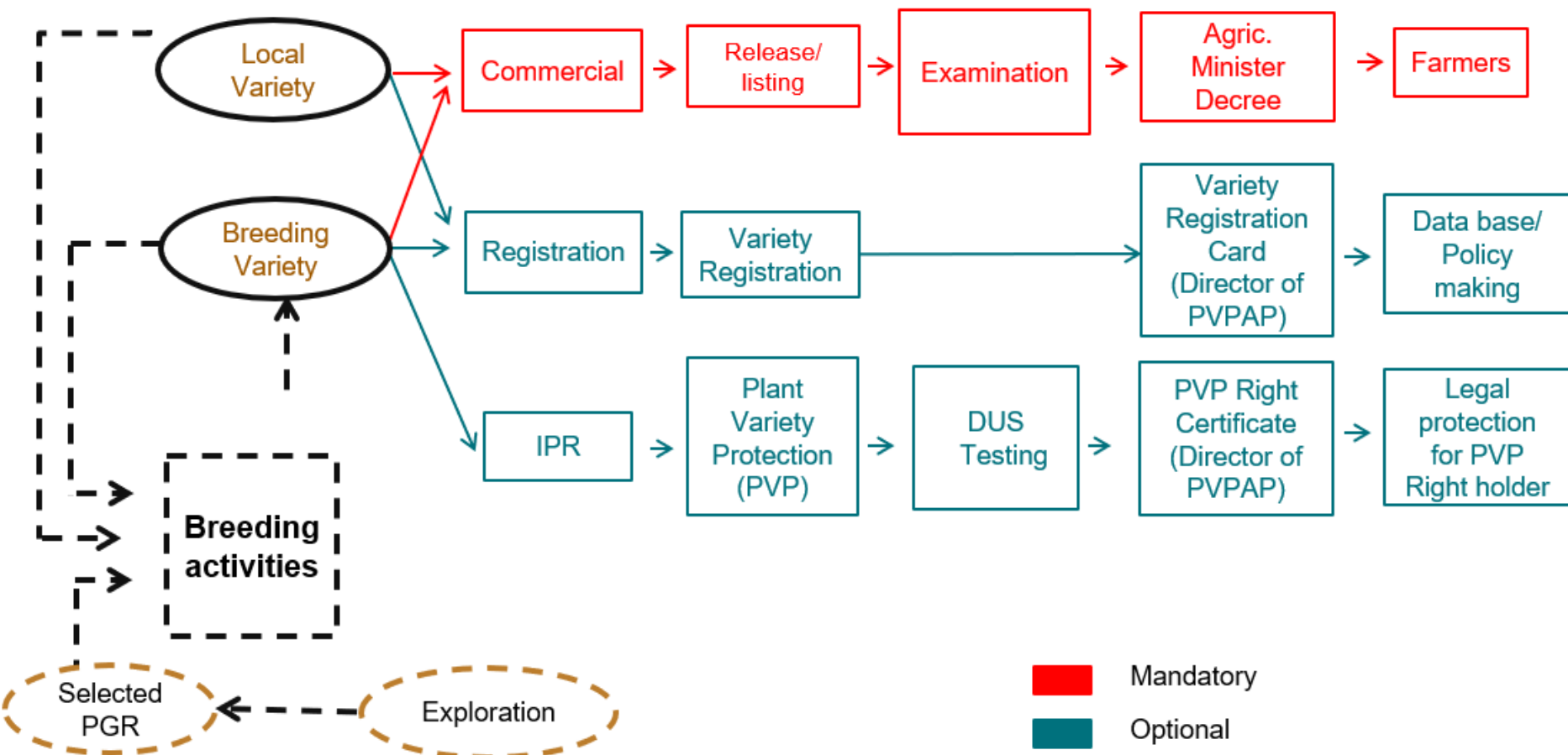
Some Efforts



**PVP
Achievement**



INDONESIA SEED AND VARIETIES SYSTEM



Why PVP ?

The plant breeding process takes a long time and high cost



Seed Companies/breeders want their investment are save and profitable



Indonesia has ratified the WTO Agreement by the Law No. 7 Year 1994

➔ Document TRIPs Annex 1C, Article 27 :

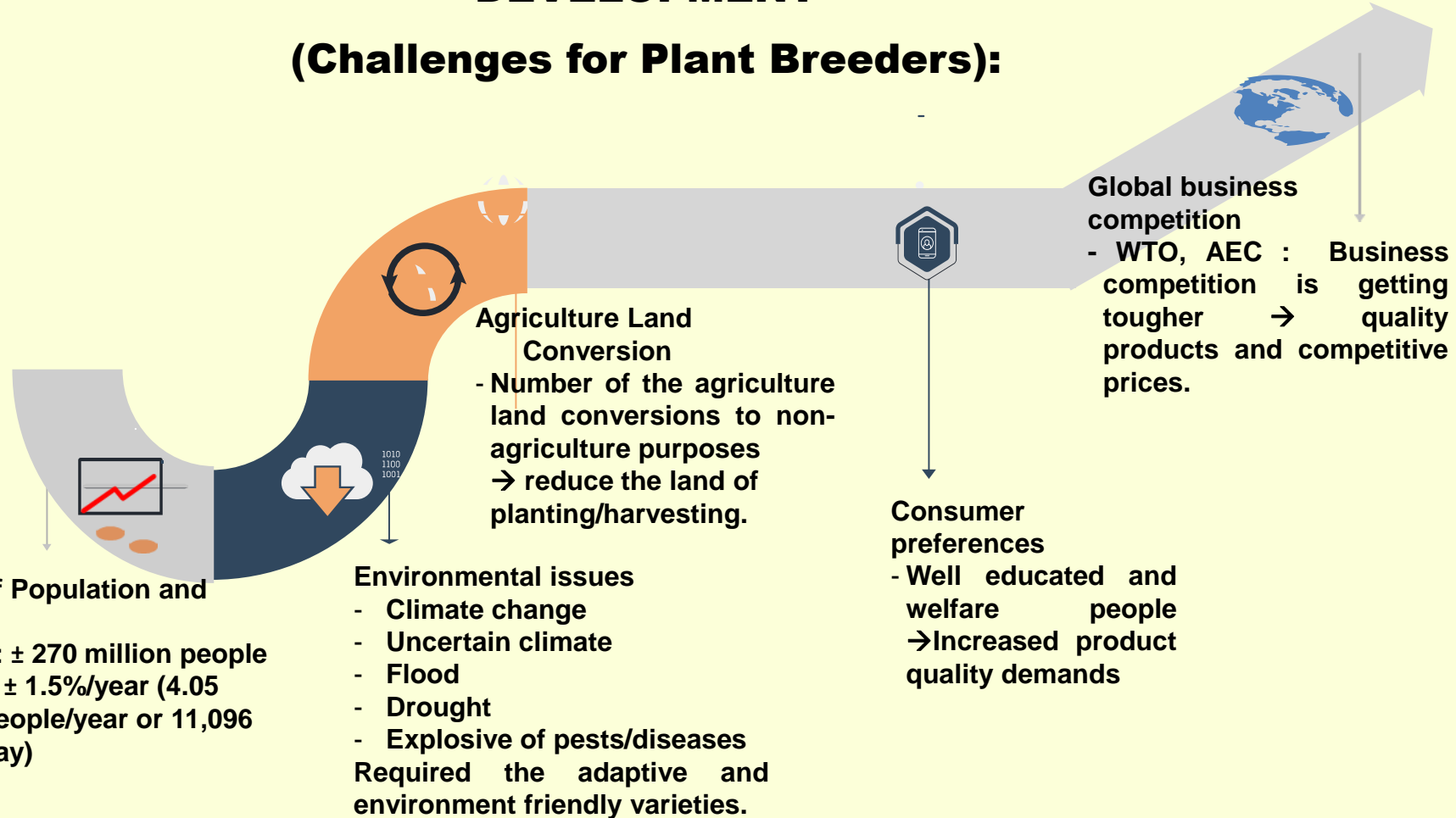
“Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof”.



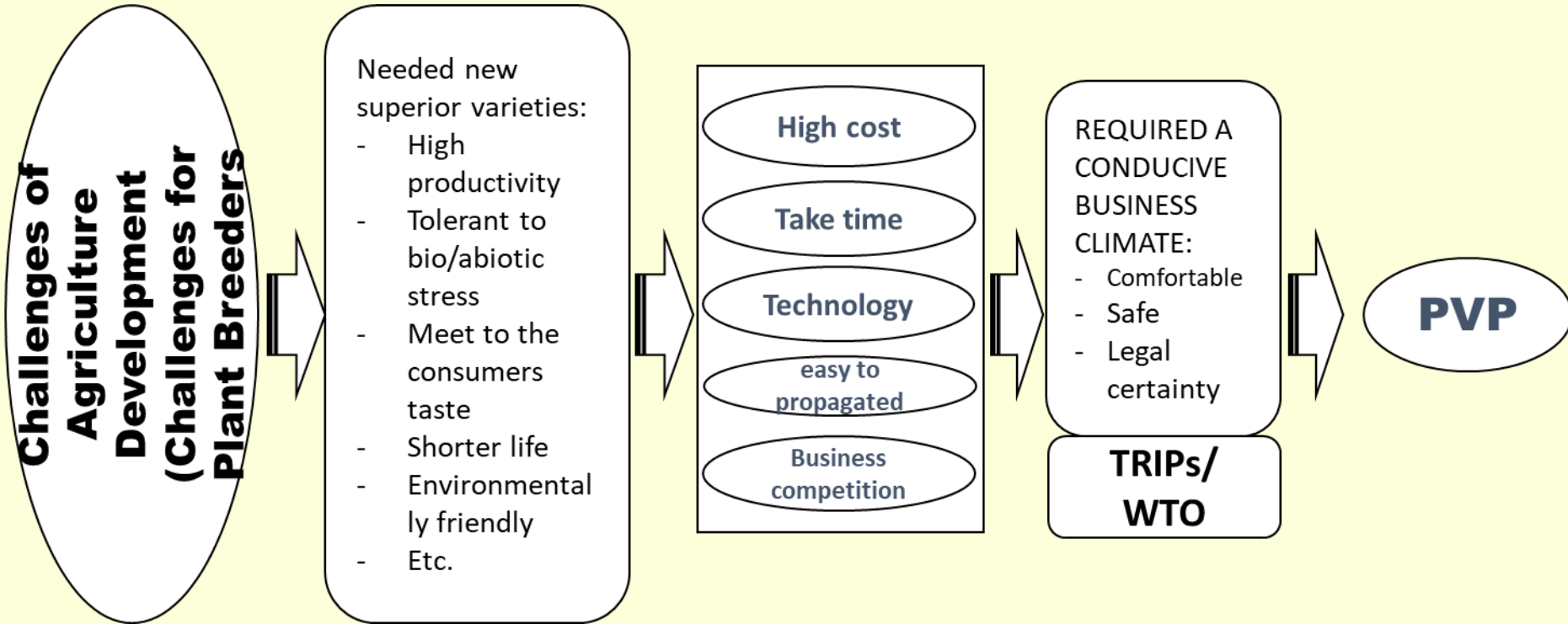
Seeds of plant varieties are easy to propagate/multiply

THE CHALLENGES OF INDONESIAN AGRICULTURAL DEVELOPMENT

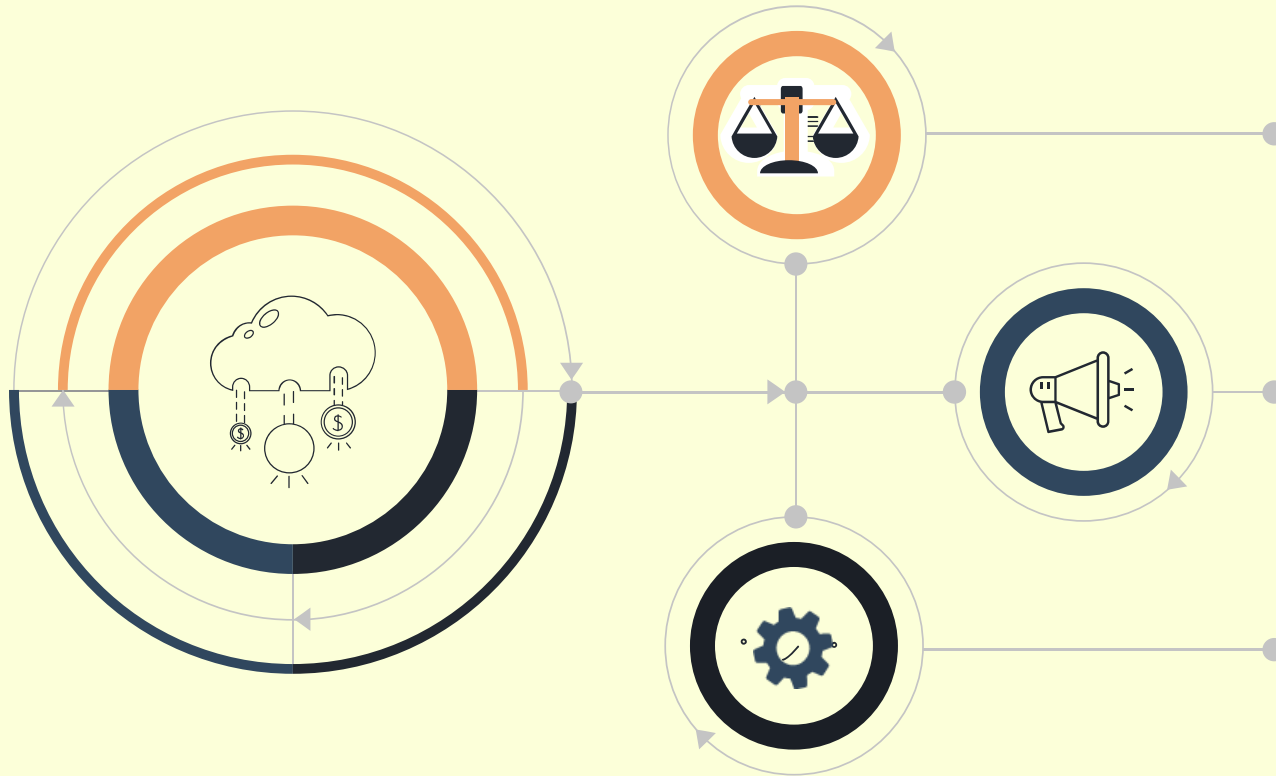
(Challenges for Plant Breeders):



LOGICAL FRAMEWORK OF PLANT VARIETY PROTECTION (PVP)



LEGAL BASIS



**Law No. 29 of
2000 concerning
the Plant Variety
Protection**

**Government Regulation No. 13 of
2004 concerning Denomination,
Registration and Use of Original
Varieties for the Production of
Essential Derivative Varieties.**

**Government Regulation No. 14 of
2004 concerning Terms and
Procedures for Transfer of PVP
and Use of Protected Varieties by
the Government.**

THE APPLICANTS OF PVP RIGHTS



Breeder



**The
institution/
party that
employs the
breeder.**



**Parties who
order
varieties to
breeders.**



**Further rights
recipients:**

- Inheritance
- Grant
- Purchase
- Court decisions

THE REQUIEREMENTS OF VARIETIES CAN BE PROTECTED

- **Breeding variety**
- **Novel**
- **Distinct**
- **Uniform**
- **Stable**
- **Denomination**

IT IS NOT CONSIDERED AS A VIOLATION OF THE PVP RIGHTS (Exception)

Article 10 paragraph (1) of the Law No. 29 of 2000:

It is not considered as a violation of the PVP rights, if:

- a. The use of a part of the harvest of protected varieties is not for commercial purposes.
 - individual activities, especially small farmers for their own purposes and does not include disseminating activities for the needs of their groups.
 - the market share for the protected varieties is maintained and the interests of PVP rights holders are not harmed.

- b. Use of protected varieties for research purposes, plant breeding and create new varieties.
- Breeders are given the freedom to use protected varieties for breeding activities as parent crosses, as long as they are not used as original varieties to create the Essential Derived Varieties.

- c. Use by the Government of protected varieties in the framework of food and medicine procurement policies (with due observance of the economic rights of PVP rights holders).

Government Regulation No. 14 of 2004 concerning the requirements and procedures for the transfer of PVP and the use of varieties protected by the government.

This provision is intended to accommodate the possibility of food insecurity and threats to health. The use by the government is one way to overcome this threat. However, its implementation must still pay attention to the interests of breeders or PVP rights holders, therefore the stipulation must be stated in the form of a Presidential Decree.

SOME PRESUMPTIONS OF THE INDONESIAN PEOPLE ABOUT PVP

PVP will erode the national genetic resources

PVP is long time process (about 1,5 - 2 years)

NO farmer rights in the PVP Law

PVP causing price of seed are expensive

Using of farm saved seeds of protected variety is subject to sanctions;

PVP will facilitate the entry of transgenic varieties that are harmful to the environment



#1. PVP CAUSES THE SEED PRICES HIGH (?)

PVP ensures that the circulating seeds are of different varieties than the existing ones, uniform and stable.

PVP rights are not considered in determining the price. PVP is more towards security.. if there is a violation case, we have guidelines to act...

(PT. EWSI).

PVP is related to legality, does not directly affect the price of seeds. The production component is a factor main price of seeds.. Even though PVP has become a symbol of luxury varieties.

PT. AMP

PVP is not be a consideration in determining the price of seeds

The factors affect seed prices:

1. Seed quality (production cost, purity, and vigor)
2. Factors of production (research, marketing costs)
3. Market price competition with competitors

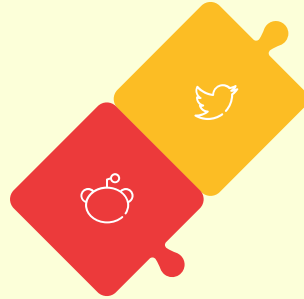
PVP ensures that the circulating seeds are of different varieties than the existing ones, uniform and stable PVP is related to legality, does not directly affect the price of seeds.

#2. PVP → legal sanctions for Farm saved seed users (?)

- Use of harvested seeds (farm saved seeds) for non-commercial purposes is allowed.
- Prohibited : use for commercial purposes (selling harvested seeds) and distributing them to other parties.



#3. PVP will facilitate the entry of transgenic varieties that are harmful to the environment (?)



PVP application requirements for transgenic varieties must pass the food safety and environmental safety test from the Biosafety/Food Commission.

- Article 3 of the PVP Law:

Varieties that cannot be given PVP are the varieties that use are contrary to the prevailing laws and regulations, public order, morality, religious norms, health, and environmental sustainability.



#4. PVP will erode the national genetic resources (?)

- PVP will stimulate plant breeding in Indonesia, so that our germplasm will be protected by itself when used as a source of assembly material by researchers from national seed companies/breeding farmers who conduct selection/breeding of local varieties.
- In essence, the erosion of SDGs occurs not because of the implementation of the PVP system, but rather on irresponsible human behavior in exploring SDGs and selling them without complying with applicable legal rules.
- In the process of applying for PVP rights, a search is carried out on the origin and breeding activities.
- Explanation of Law No. 29 of 2000

“In accordance with the objectives of national development, the development of the agribusiness system must be directed at mobilizing the entire potential of the nation in utilizing biological diversity in the form of germplasm through the development of science and technology to produce new superior varieties that are beneficial to the welfare of farmers and the wider community. Given that currently there are no laws and regulations that comprehensively regulate and provide protection for businesses to produce and develop new varieties, the existence of the Law on Plant Variety Protection (PVP) is very important. This law is expected to provide a strong legal basis for efforts to encourage the creation of new superior varieties and the development of the seed industry. In its implementation, this law is based on basic principles that balance the public interest and PVP rights holders.”



#5. PVP is expensive (?)

- Consistent with the Law of PVT and Government Regulation No. 35 of 2016, all fee related with the application, examination and annual fee are charge to the applicant.

- There are some differences :

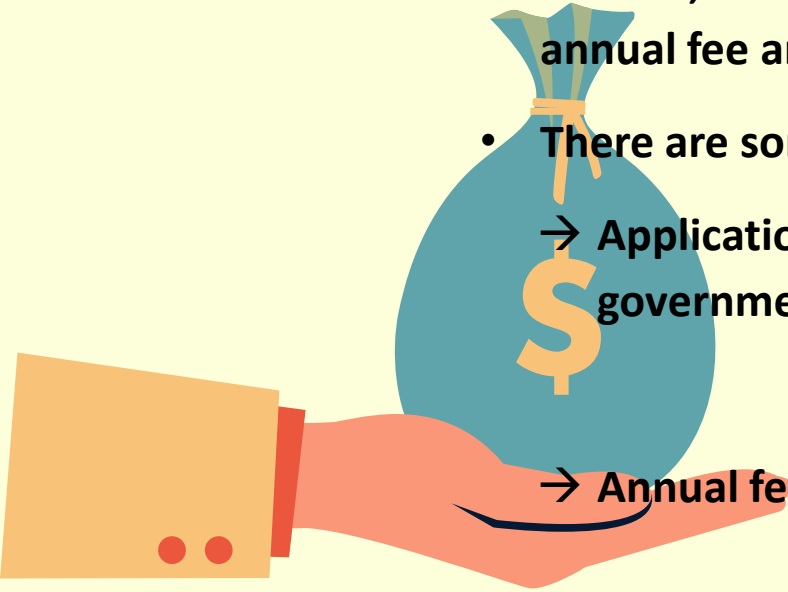
→ Application fee : - Group I (Individual breeders/farmers, governments, universities) : Rp.150k

- Group II (others) : Rp.250k

→ Annual fee : - Group I : Rp.750k

- Group II : Rp.1500k

→ In the future Government will give more attractive incentive for Group I, including examination fee.



#6. There are no Farmer's Rights in the Indonesia PVP Law (?)

Article 10 paragraph (1) of the Law No. 29 of 2000:

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→ the market share for the protected varieties is maintained and the interests of PVP rights holders are not harmed.



**EFFORTS HAS
BEEN DONE BY
THE CENTER FOR
PVP**

1

**Seminar/webinars/
workshop on PVP
(national,
international)**

2

**Cooperation
with
universities to
introduce PVP**

3

**Formulating
harmonization DUS
Testing with the
adaptation tests for
VCU.**

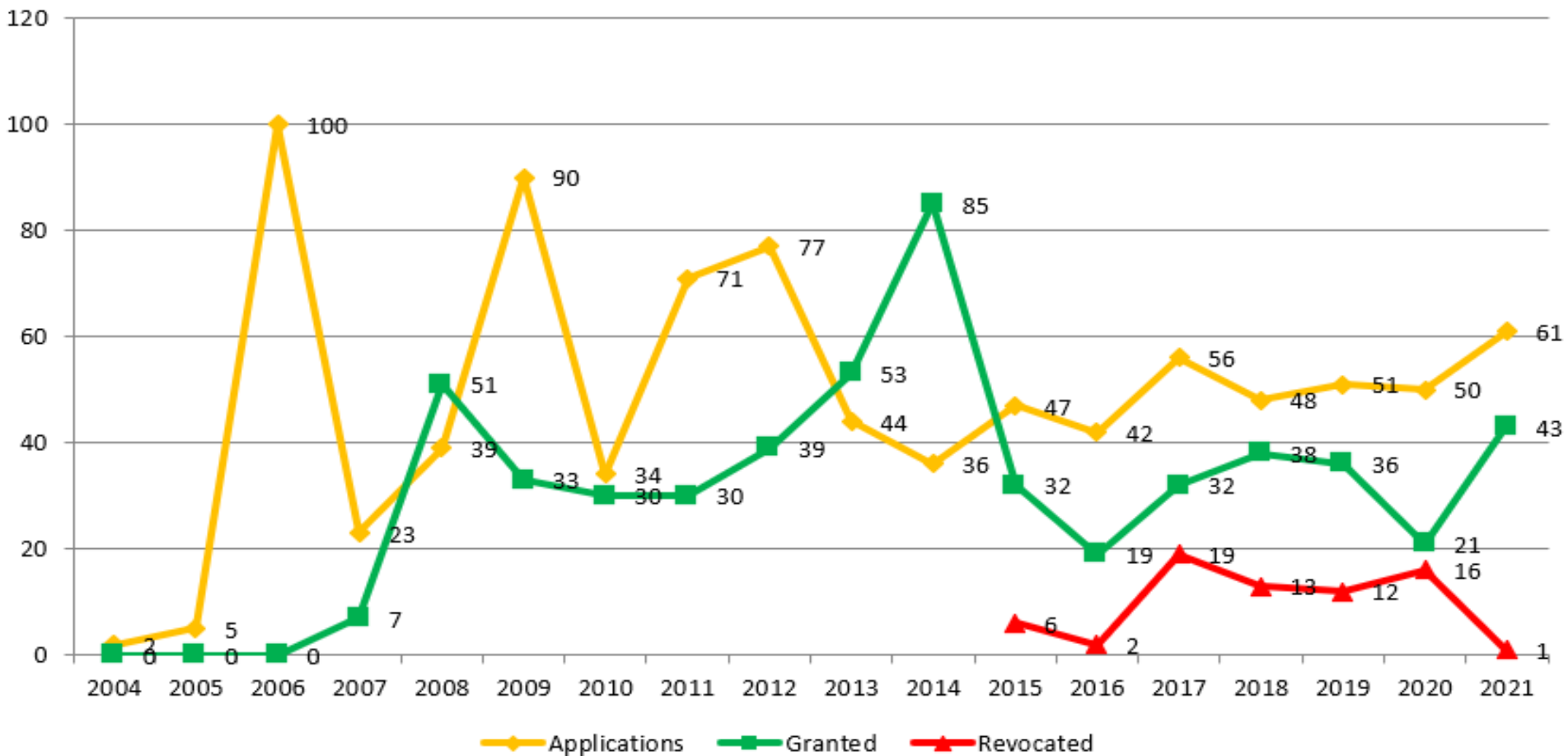
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**Revision tariff
for PVP, divided
into 2 group**

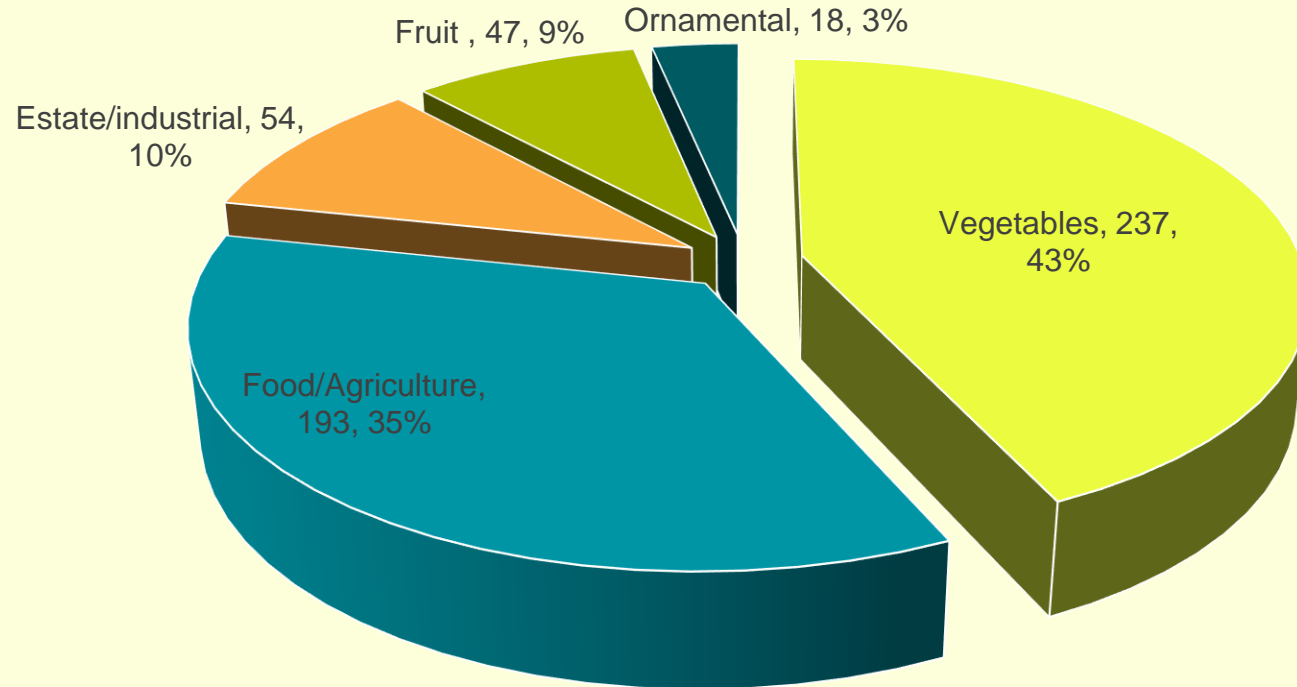
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**Online
application
services**

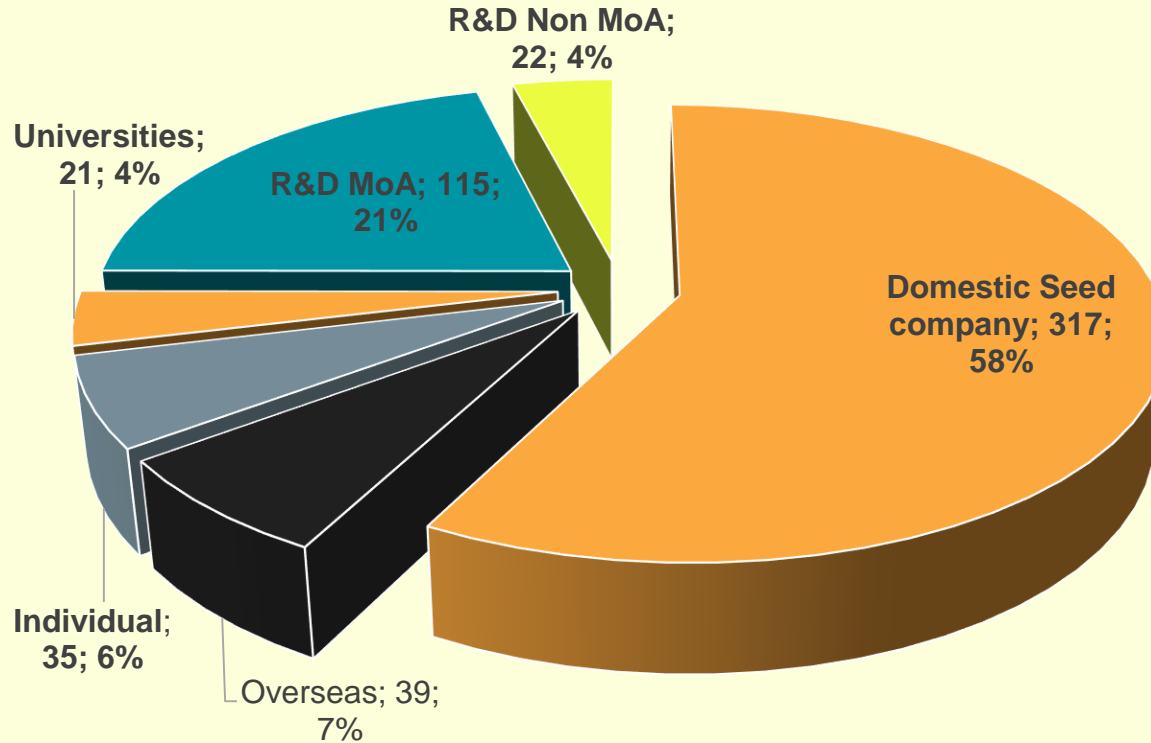
Achievement of The PVP in Indonesia, 2004-2021



PVP Right by crop, 2021



PVP Right by Holder





Terima kasih
Thank You