

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

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# 1. General Information of Intellectual Property Policy In Japan

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# 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 crops 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

## 2. General Information of PVP System In Japan

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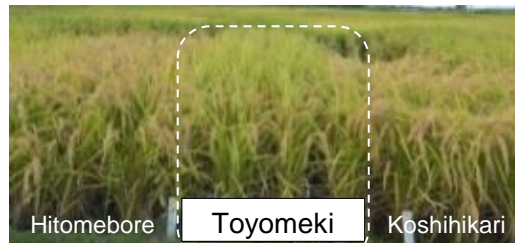
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# Japan's Agriculture Supported by Superior New Plant Varieties

- **New plant variety** is one of important factor supporting the **development of agriculture in Japan**.
- **Both farmers and consumers enjoy a lot of benefits** from **the development of new plant varieties** that meet environmental and consumers' preferences, such as, improved productivity, better taste etc.

## [Super high-yield rice]

Super high-yield paddy rice “TOYOMEKI”, of which yield is 800 kg/10a or more, 1.5 times more than other varieties



## [Chestnuts easy to peel]

Japan chestnut “Porotan”, which can be very easily peeled and cooked.



## [Pears resistant to disease and pests]

Pears "Gold Twentieth Century", resistant to black spot disease which is the weaknesses of conventional varieties



## [Cold-resistant and delicious rice]

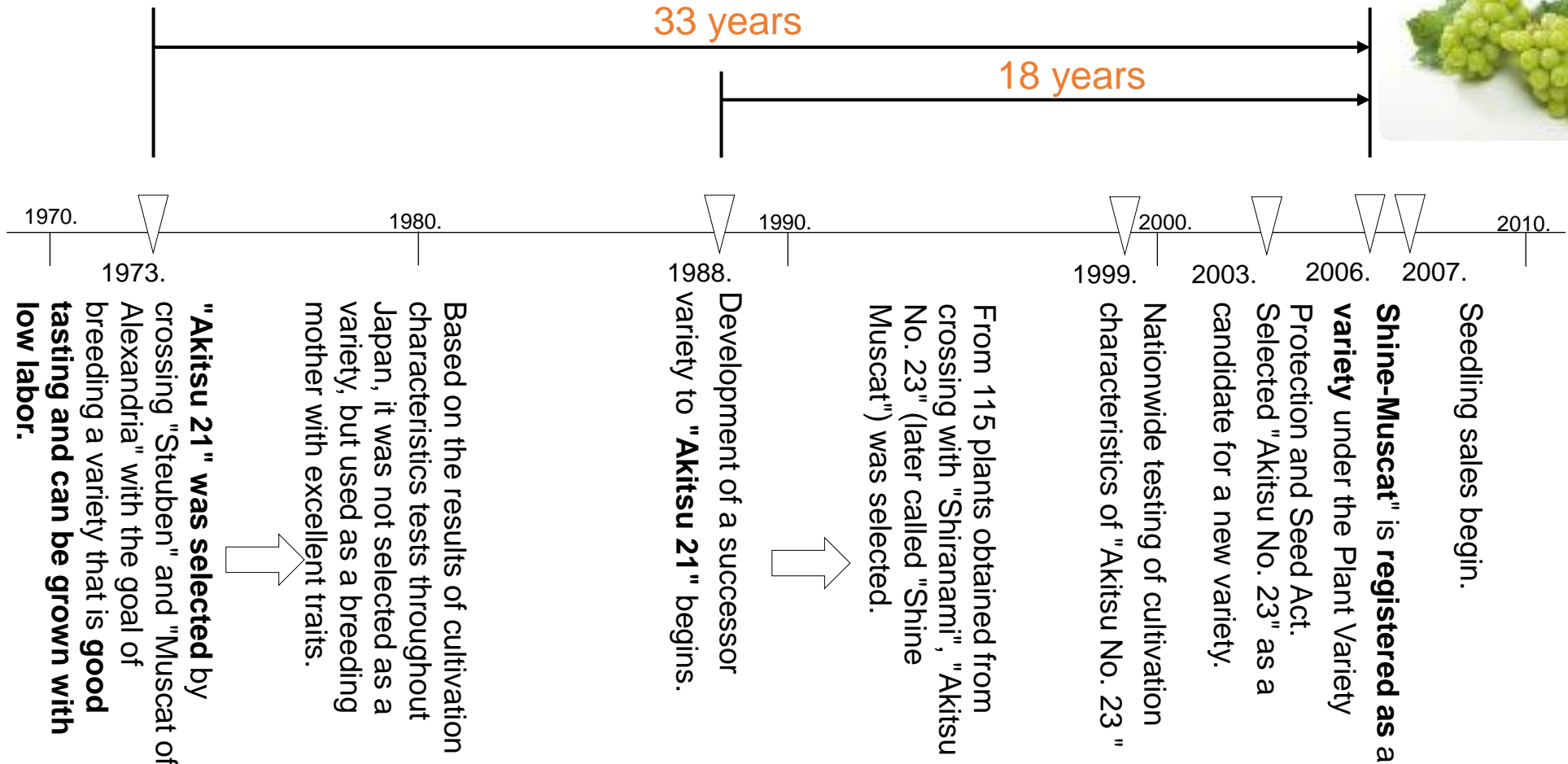
Paddy rice “Kirara 397” has achieved unprecedented excellent taste in addition to cold resistance. This variety led to the later strategy of brand-name rice.



# New Plant Variety Development requires a lot of time and cost.

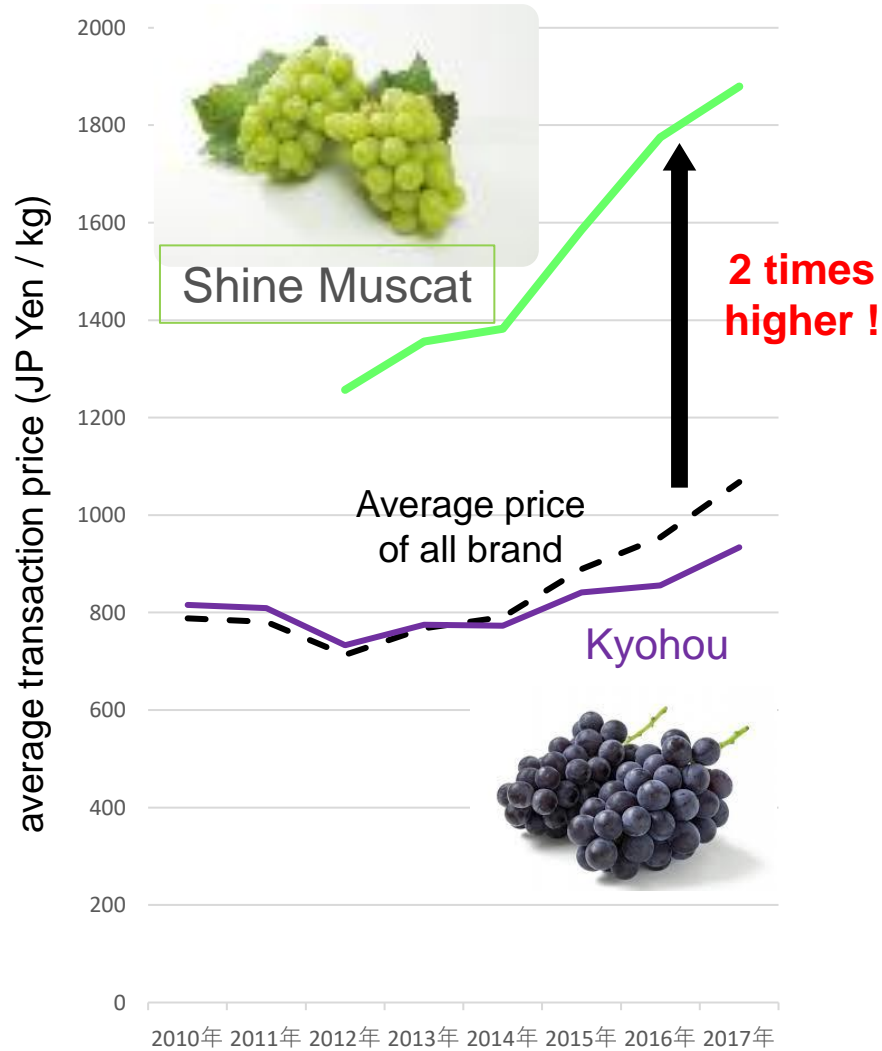
- The grape variety "**Shine Muscat**" developed by the National Agriculture and Food Research Organization(NARO) took **33 years** from the selection of the parent line "Akitsu 21" to its registration, and **18 years** from the start of crossbreeding tests of "Akitsu 21".
- In the last 18 years alone, **13 researchers have been involved in the development of the variety.**

## Long Progress in the development of "Shine Muscat" variety at NARO

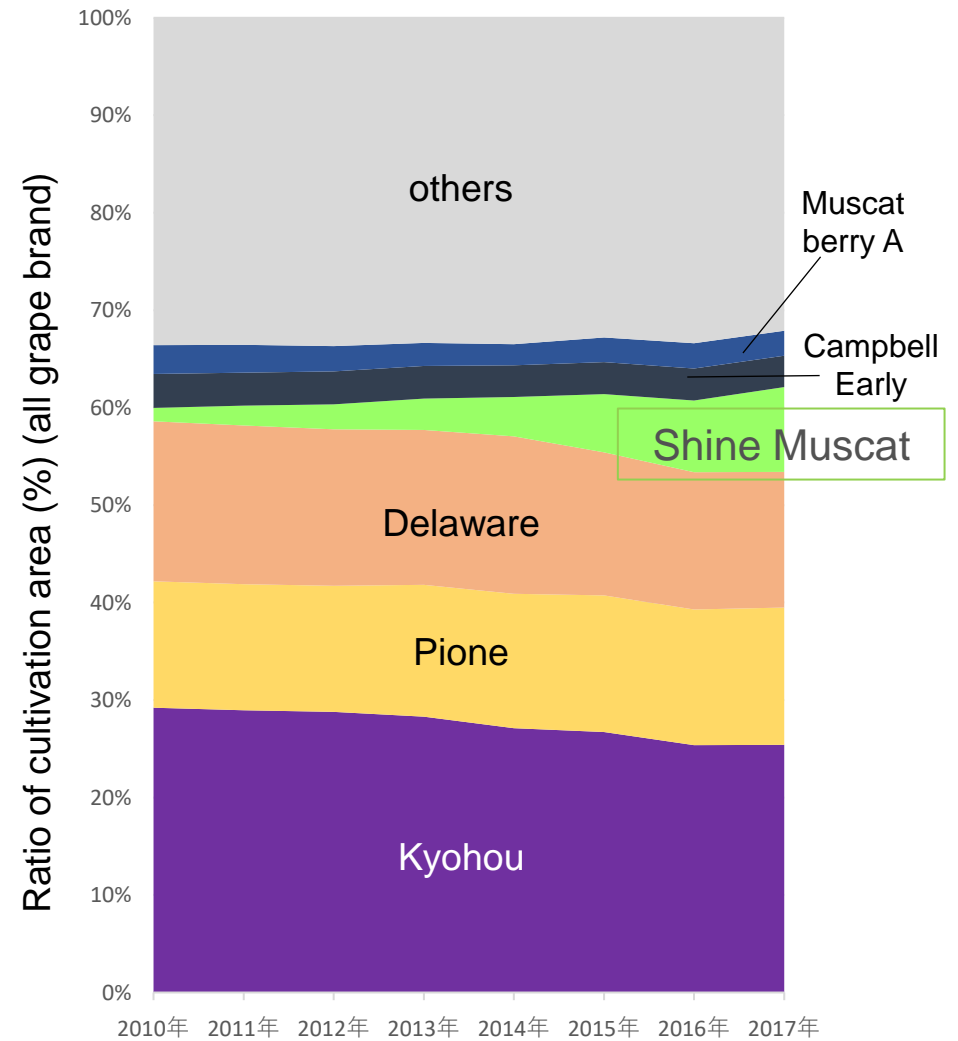


# Effect of the PVP (table grape variety “Shine Muscat”)

## Trend of table grape price

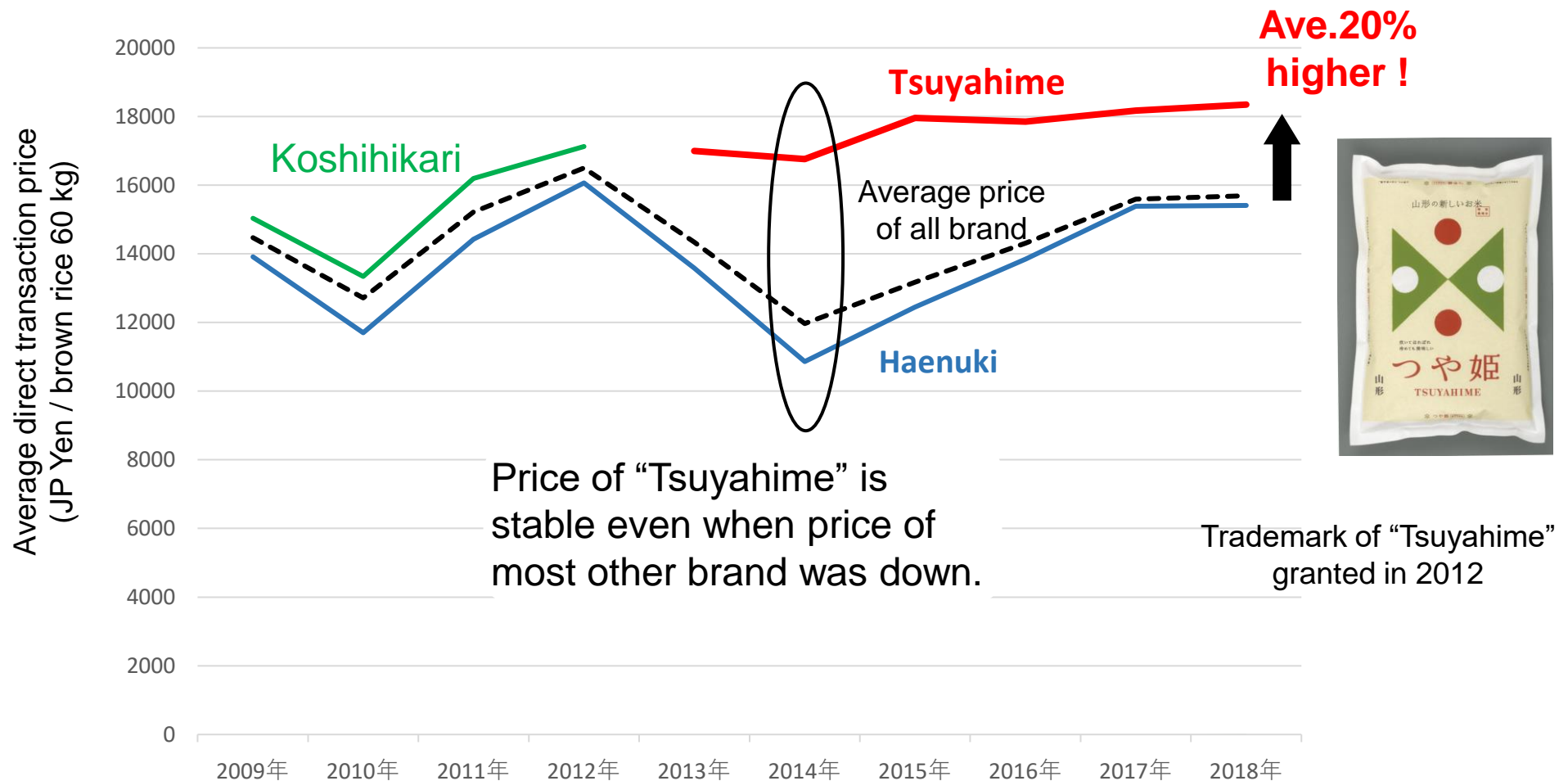


## Ratio of cultivation area (all grape varieties)



# Effect of the PVP (rice variety “Tsuyahime”)

Trend of price in Yamagata pref.

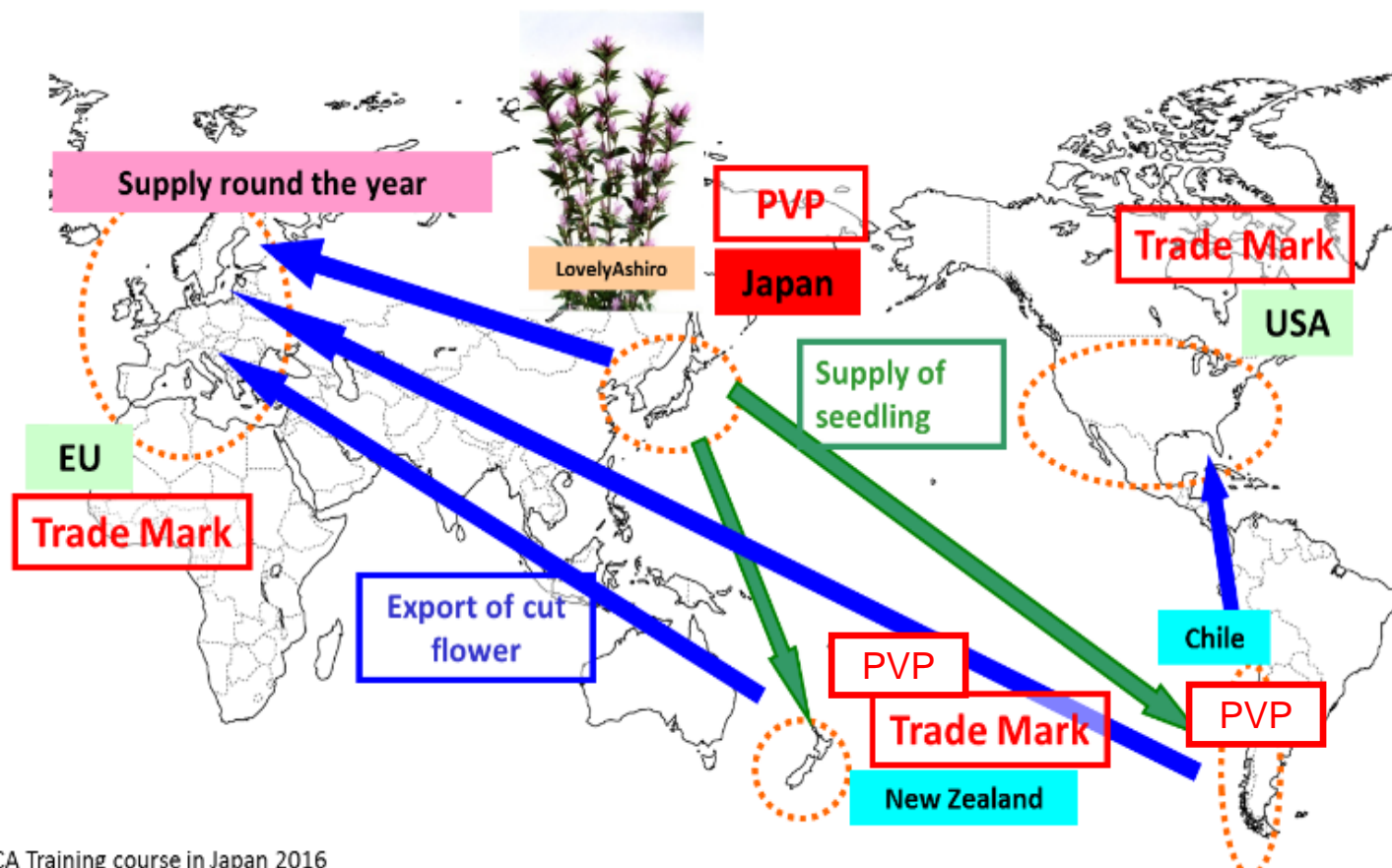




# Effect of the PVP (Promotion of variety in the International Market)

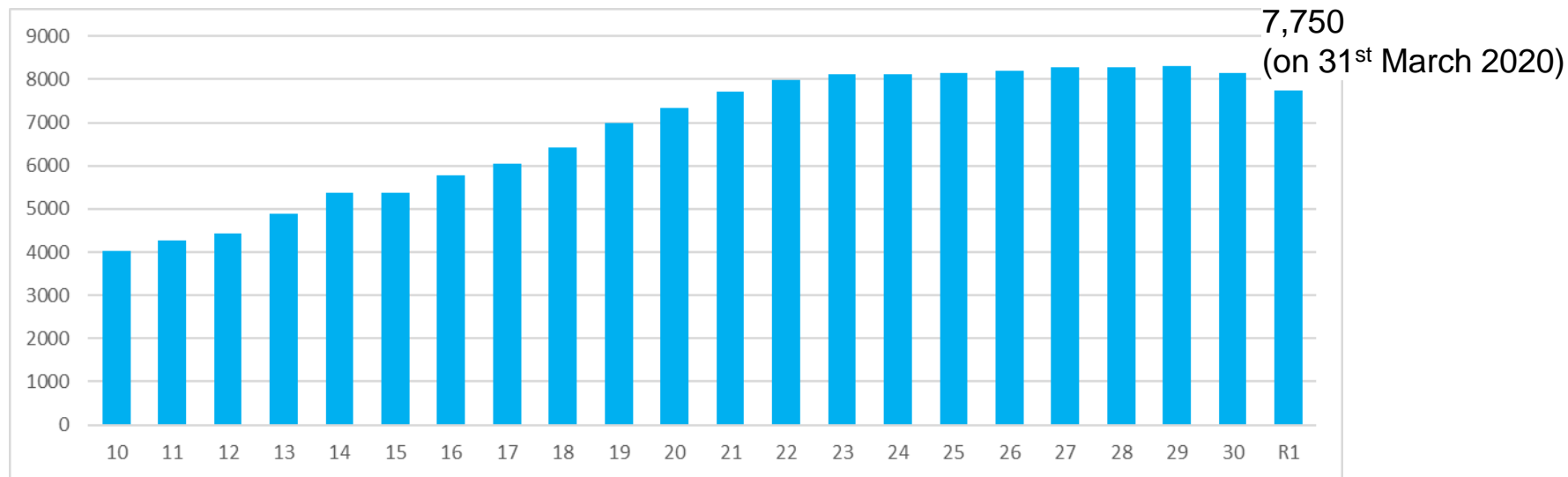
安代りんどう: ASHIRO RINDO (Gentian)

- “PBR and TM granted” are also granted in third countries
- Producers not only export their flowers but also supply seedlings to producers in Southern hemisphere by contract with royalty.
- ASHIRO gentian is now shipped to EU and USA all year

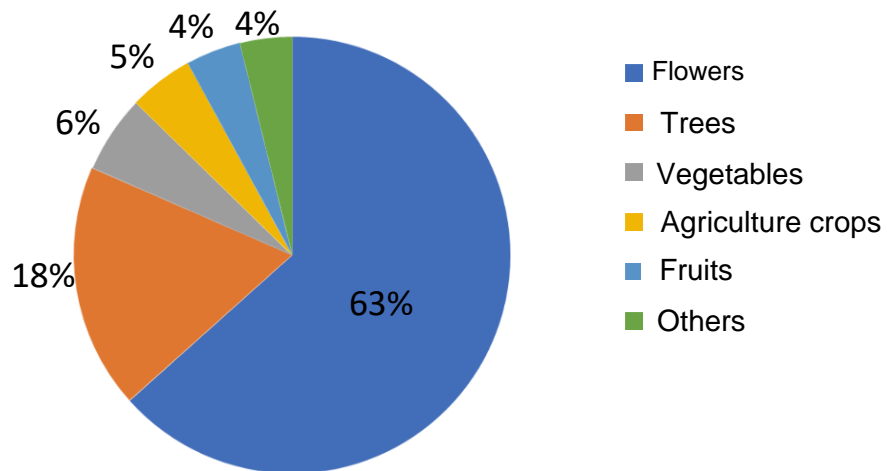


# Trend of PBR Titles in force (by crop type, right holder type)

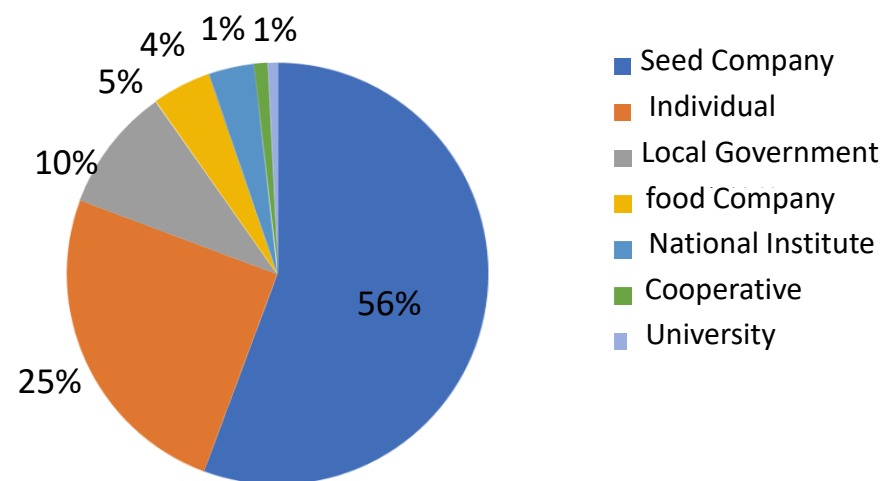
## Trend of PBR Titles in force (JP fiscal year)



## Percentage of protected varieties (by crop type)

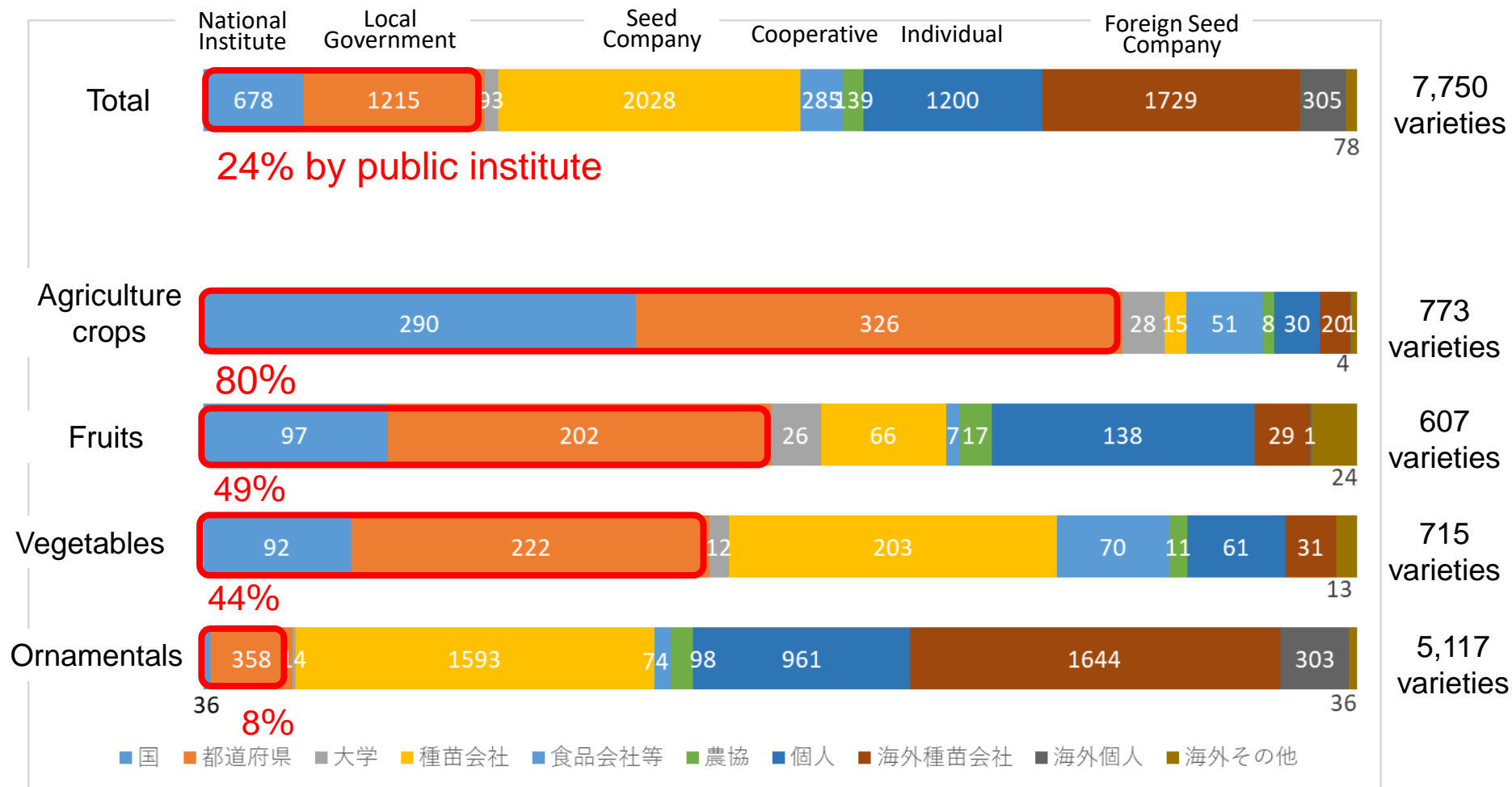


## Percentage of protected varieties (by right holder type)

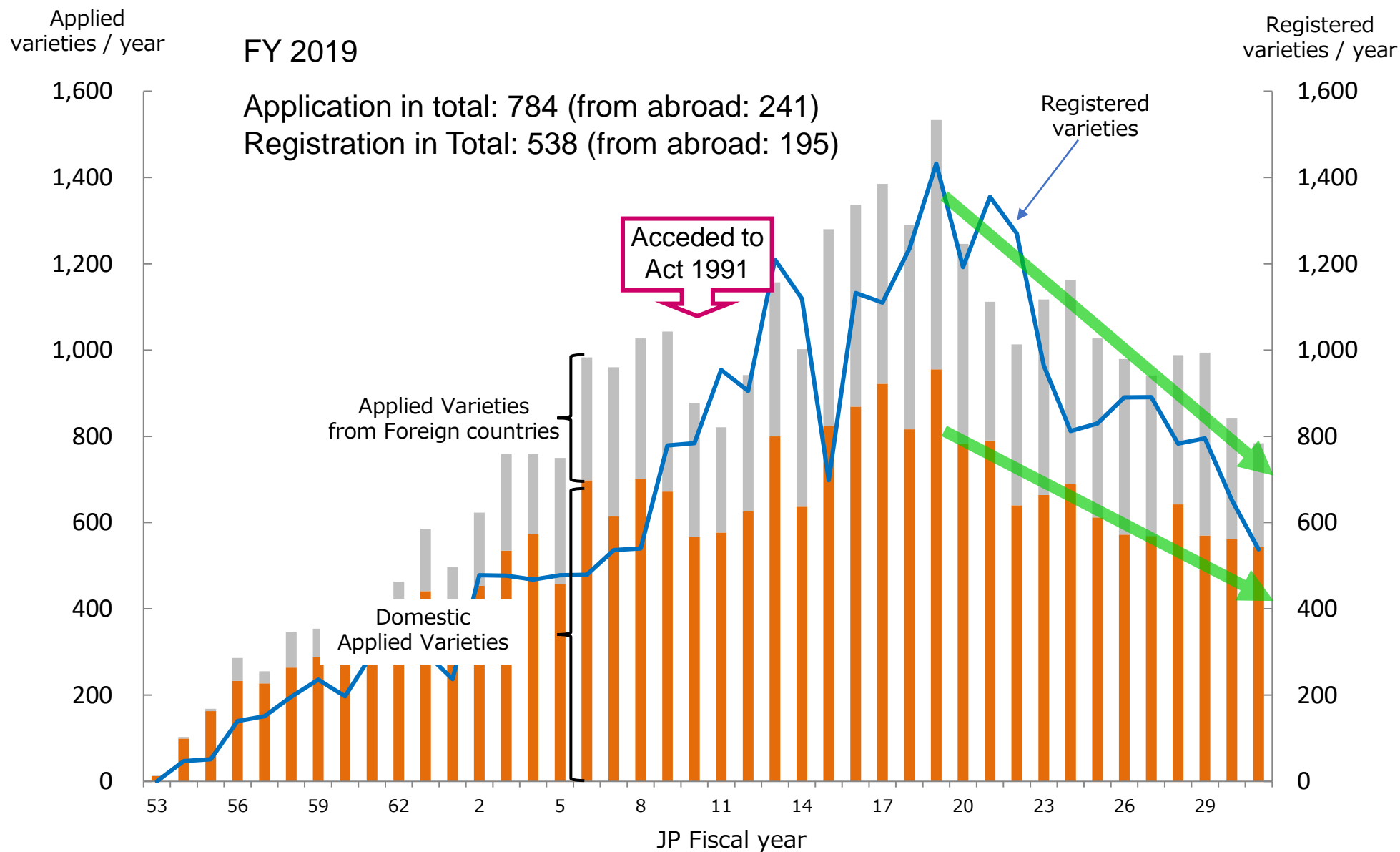


# Trend of PBR Titles in force (by crop type, right holder type)

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

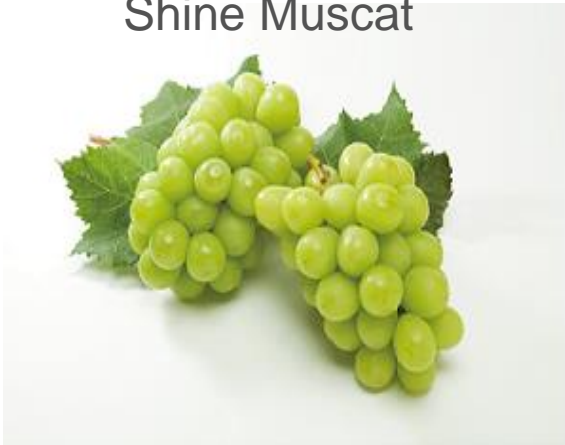


## Trend of annual PBR Application and Grant



# Case Unintended outflow of plant varieties developed in Japan

Shine Muscat



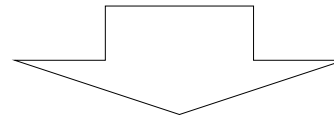
## 【Japan】

- 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, PBRs were not valid on export once protected seed/seedlings are transferred by breeders or with their consents.



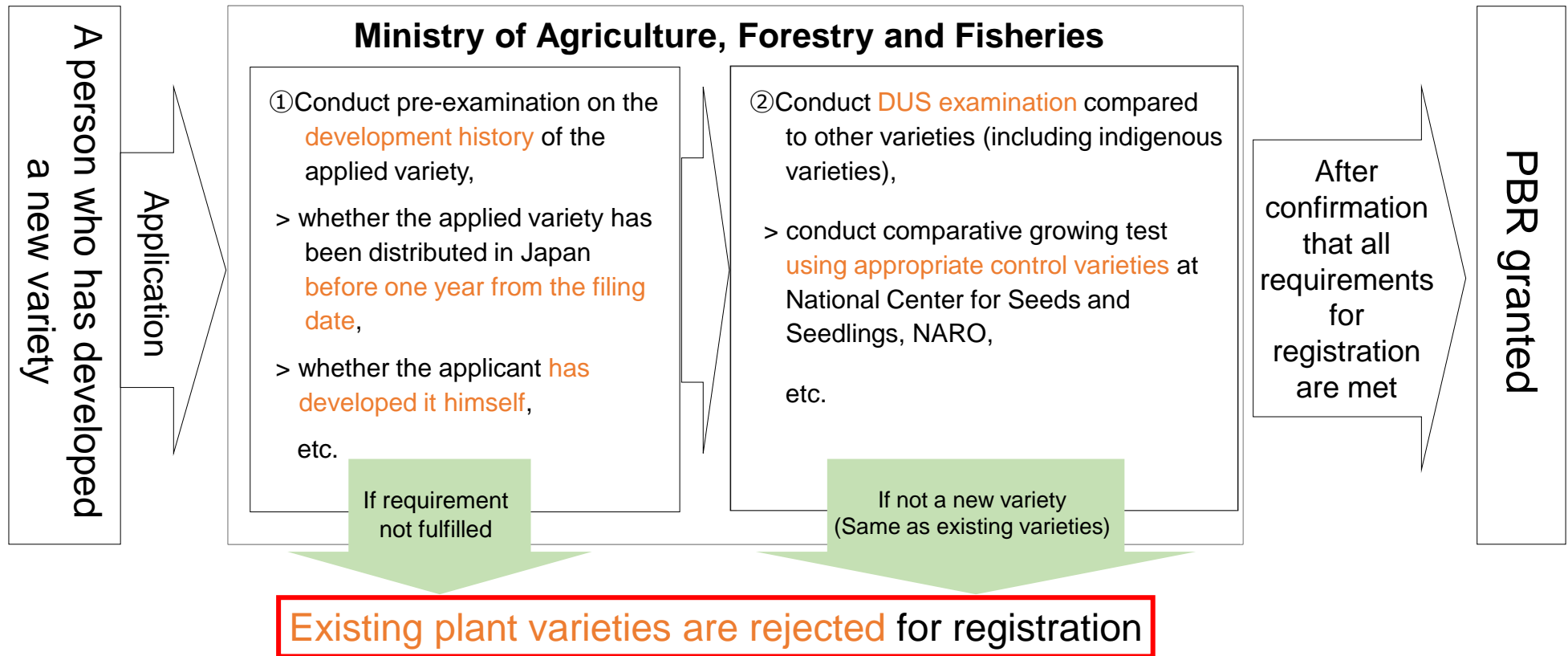
Consequently,,,

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,

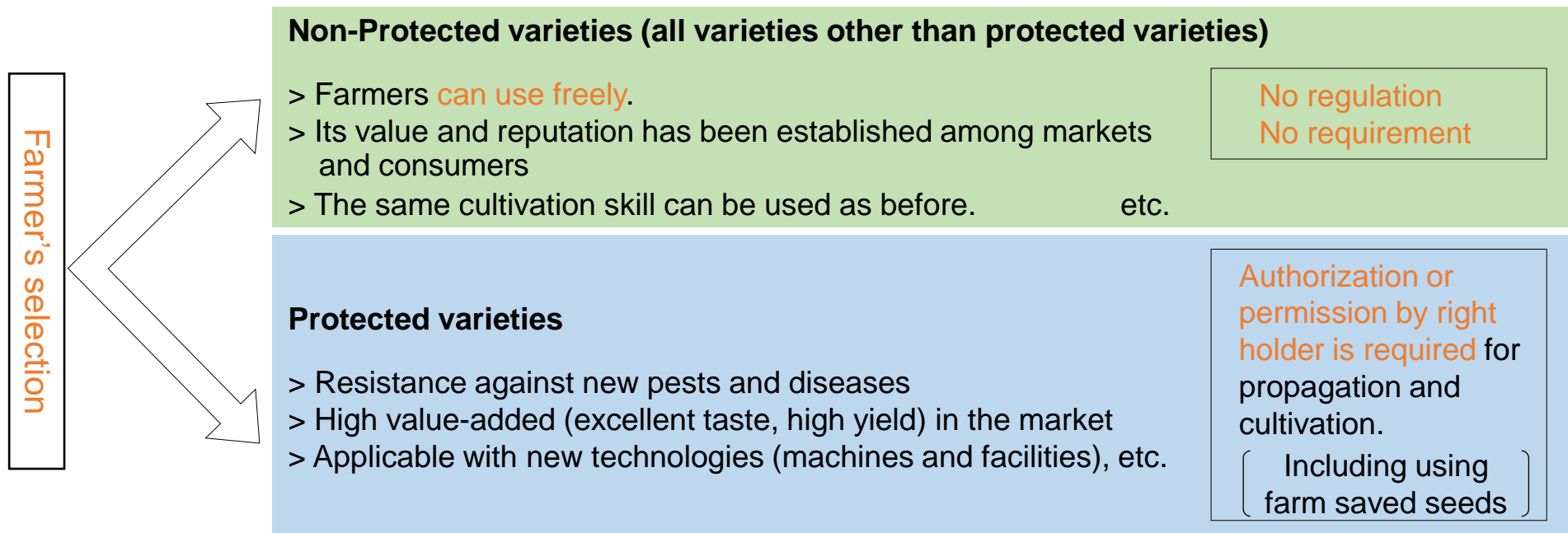
- In case it is found that an existing variety (including indigenous varieties) is registered by mistake,  
⇒ Cancellation of registration
- In case it is found that the information on the application for the registered variety is false, such as, declaring false development history on purpose.  
⇒ Criminal 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

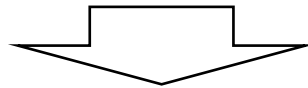


	Rice	Mandarin Oranges	Apple	Grape	Potato	Vegetable
Percentage of protected varieties	17%	3%	5%	13%	10%	9%

米：「令和元年度産水稻うるち米の品種別作付動向について」（米穀安定供給確保支援機構）における作付面積の割合より農林水産省作成  
 みかん、りんご、ぶどう：2017年産特産果樹生産動態等調査（農林水産省）における作付面積より作成  
 ばれいしょ：2017年産ばれいしょの品種別、都道府県別作付面積（農林水産省）より作成  
 野菜：野菜品種名鑑2019（日本種苗協会）に掲載されている品種数より農林水産省作成

# Challenges of Japan

- **Lack of awareness** around importance of PVP system
- **Unintended outflow** of Japan's excellent varieties to overseas
  - Undermine competitiveness
  - Lose potential foreign markets
- **Stagnation in number of application** for PBR in Japan
  - may result in reduce innovation of Japanese agriculture new breeding technology
- To promote and enhance **competitiveness of breeding on both public and private sector**
  - to develop new plant varieties for needs of farmers and consumers, etc.
- To enlarge **UPOV system**, and to develop, implement and maintain **cooperation system** of application and examination procedure in east Asia (**e-PVP Asia**)
- To Harmonize with **UPOV PRISMA**



**Japan's PVP and Seed Act was amended in December 2020**

- with a view to providing PBR holders with legal measures to exercise their right effectively



### 3. The main points of Amendment of the Plant Variety Protection and Seed Act

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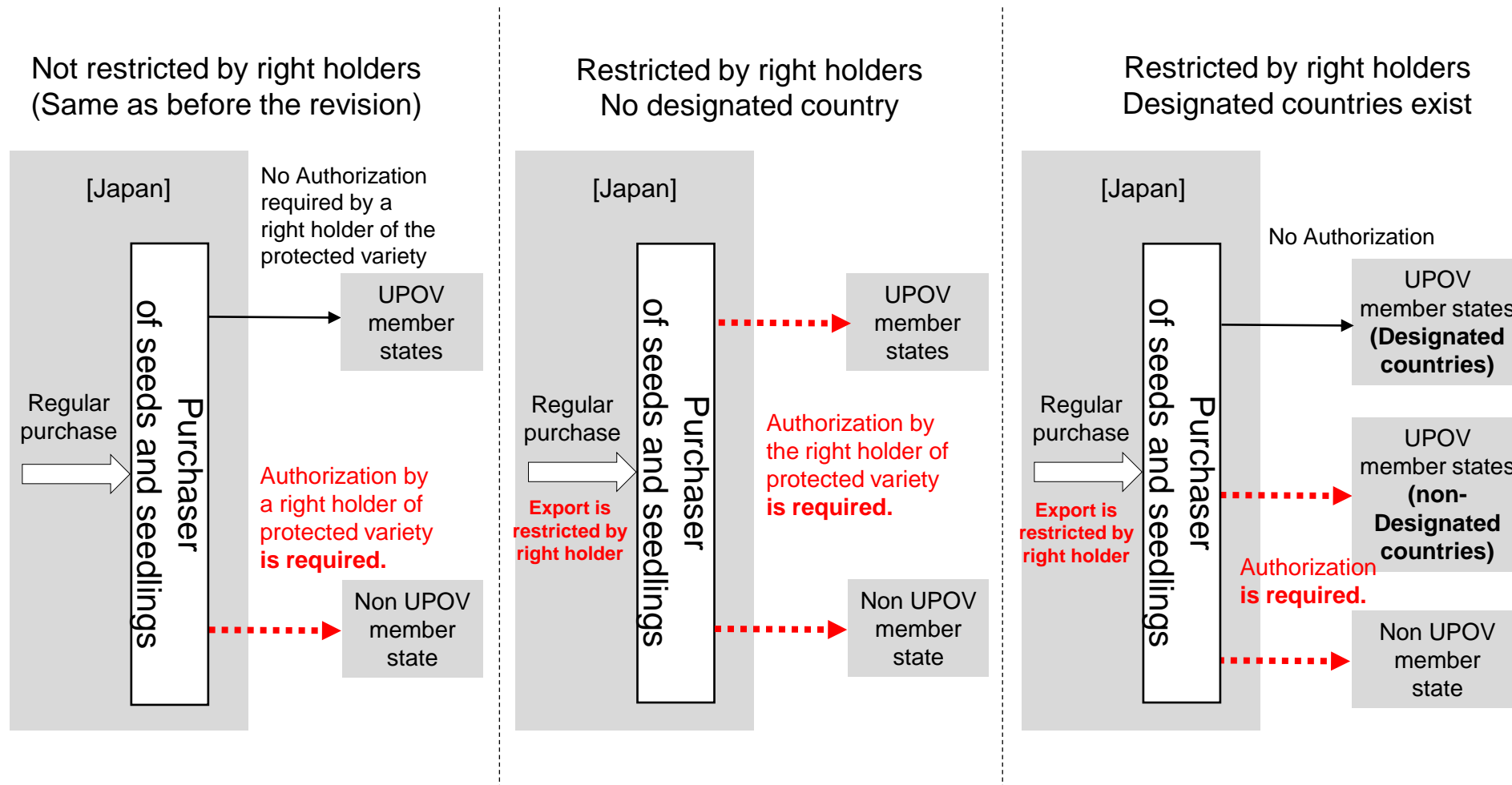
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# Overall points of the amended Plant Variety Protection and Seed Act

1. Designation of export destination country by right holders  
[Effective]
2. Designation of domestic cultivation areas by right holder  
[Effective]
3. Any acts in respect of the propagating material of protected varieties shall require the authorization of right holders (except with “Compulsory exceptions”)  
[Effective April 1, 2022.]
4. Mandatory labeling as a registered variety  
[Effective]
5. Setting of examination fees,  
Reduction of application and registration fees  
[Effective April 1, 2022.]

6. Measures to facilitate the utilization of breeder's right  
(counter measure against infringement)  
[Effective April 1, 2022.]
  - (1) Use of the characteristics table
  - (2) Introduction of a correction system
  - (3) Establishment of a judgment system
7. Review of employee's breeding regulations  
[Effective]
8. Mandatory appointment of an agent in Japan  
(in case of application from foreign countries)  
[Effective]
9. Clarification of labeling at the time of sale of designated seeds and seedlings  
[Effective]
10. Other major revisions

# Designation of export destination country by right holders



- When dealers transfer seeds / seedlings of registered varieties, **all protected varieties should be accompanied with labeling** on each package;
  - 1) The fact that the seed has been registered as a protected variety, and
  - 2) That there are **restrictions by right holders on bringing overseas**.

# Mandatory labeling as a protected variety

- When dealers transfer seeds / seedlings of protected varieties, **all protected varieties should be accompanied with labeling** on each package;
  - 1) The fact that the seed has been registered as a protected variety, and
  - 2) That there are **restrictions by right holders on bringing overseas**.

## ○Mandatory labeling that the variety is protected by PVP Act

> One of the following.

① The words “**protected variety**”, or, ② the words “**variety registration**” and “**number of registration**”

③ PVP Marks;



> The name of the protected variety should be written when transferring

## ○Mandatory labeling that the variety is protected to be exported / could be cultivated in a designated area

## ○Measures of labeling

- In the case of **transfer** or **display**, the labeling must be **directly accompanied with each bag, can**, etc. of the seed. (collective indication is not allowed.)
- In the case of **advertisements**, display on the advertisement itself (catalog, internet posting, etc.)

## [Examples of labeling]

Varietal Name: Noulin Yellow  
This variety is a protected variety.  
Prohibited to be taken out of Japan, cultivation allowed only in Tokyo (see public notice (Ministry of Agriculture, Forestry and Fisheries website))

Varietal Name: Noulin Yellow  
Prohibited to carry out overseas  
(with public notice by the Minister of Agriculture, Forestry and Fisheries)



# Any acts in respect of the propagating material of protected varieties shall require the authorization of right holders (except with “Compulsory exceptions”)

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- Authorization by right holders is required for the propagation of protected varieties by farmers.

In the case where seeds/seedlings are purchased annually, or where license fee for repeatable propagation is included in the initial seed cost, there will be no change under the amended Act.

- Because farmers can acknowledge the conditions on use of varieties correctively in the contract, etc., more appropriate management of varieties are expected.
- It is also possible for an organization, cooperative etc. to collectively receive exclusive / non-exclusive license from right holders for the propagation by individual farmers.
- If right holder clearly indicates that his protected variety is not required licensing procedures for propagation, farmers may reproduce propagating material as before without any new procedures.

As a method of clearly indication that licensing procedures are not required, the followings might be considered; labeling on seeds/seedlings at the time of transfer, explanation in catalogs or public notice issued by right holder, notice on the website administrated by right holder, etc.

# Setting of Examination fees

## Reduction of Application and Registration fees

- For applied varieties on or after April 1, 2022,
  - > Applicants need to pay examination fee as an equivalent to **the actual cost for growing trial or on-site inspection**.

[Draft of Examination fee]

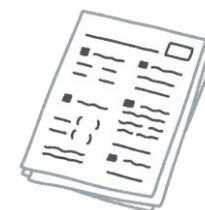
the actual cost based on the past examination results was estimated about **93,000 yen per time (year)**.

If applicants request additional examination for characteristics (those that require special investigation or testing for pest resistance, etc.), **additional cost should be paid**.



- > On the other hand, **the application fee** and **registration fee** is lowered to reduce the total cost of maintaining the registration for a long period.  
(details will be stipulated in the Ministerial Order)

		Current level	Under the amended Act
Application Fee		47,200 yen	<b>14,000 yen</b>
Annual Registration Fee	1-3 years	6,000 yen	<b>4,500 yen</b> (Under consideration)
	4-6 years	9,000 yen	
	7-9 years	18,000 yen	
	After 10 years	36,000 yen	<b>30,000 yen</b>

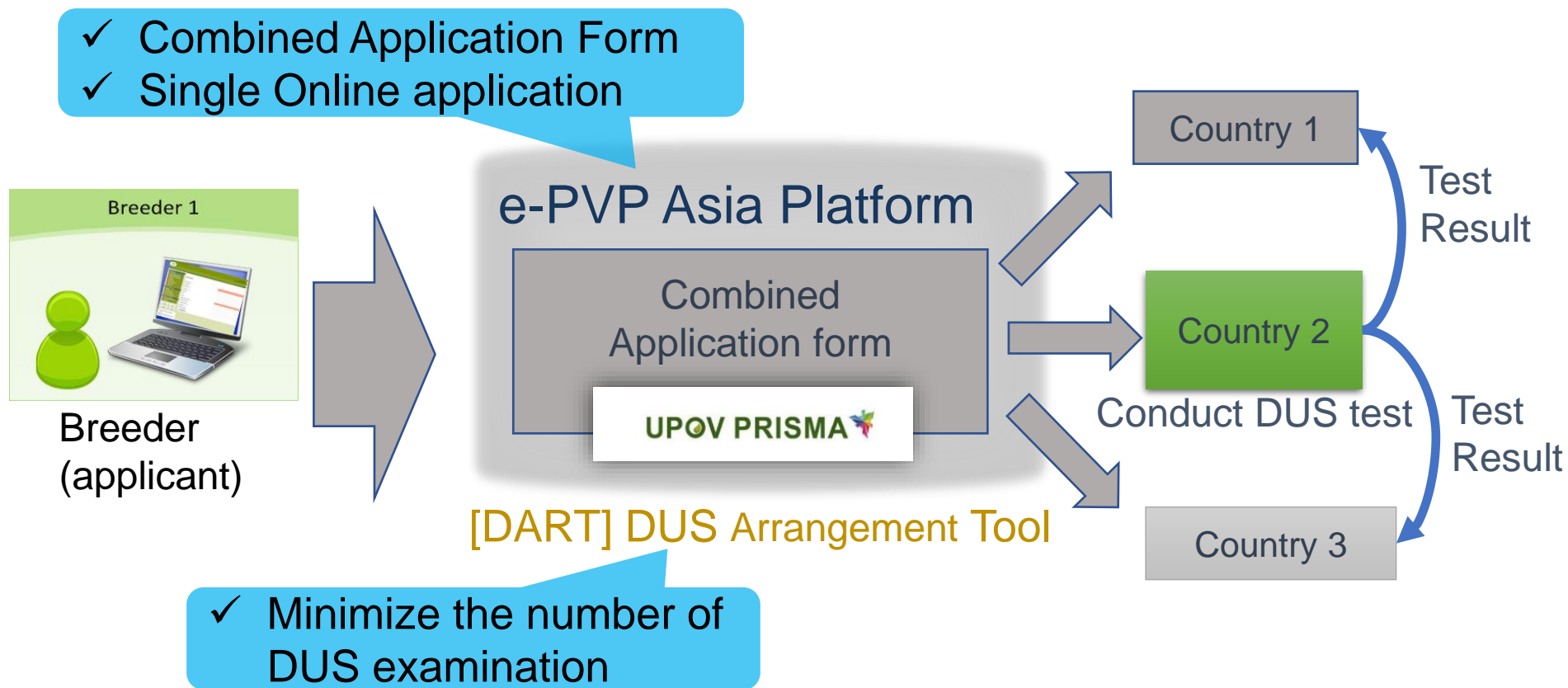


## 4. Japan's International PVP Cooperation

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# What is “e-PVP Asia”



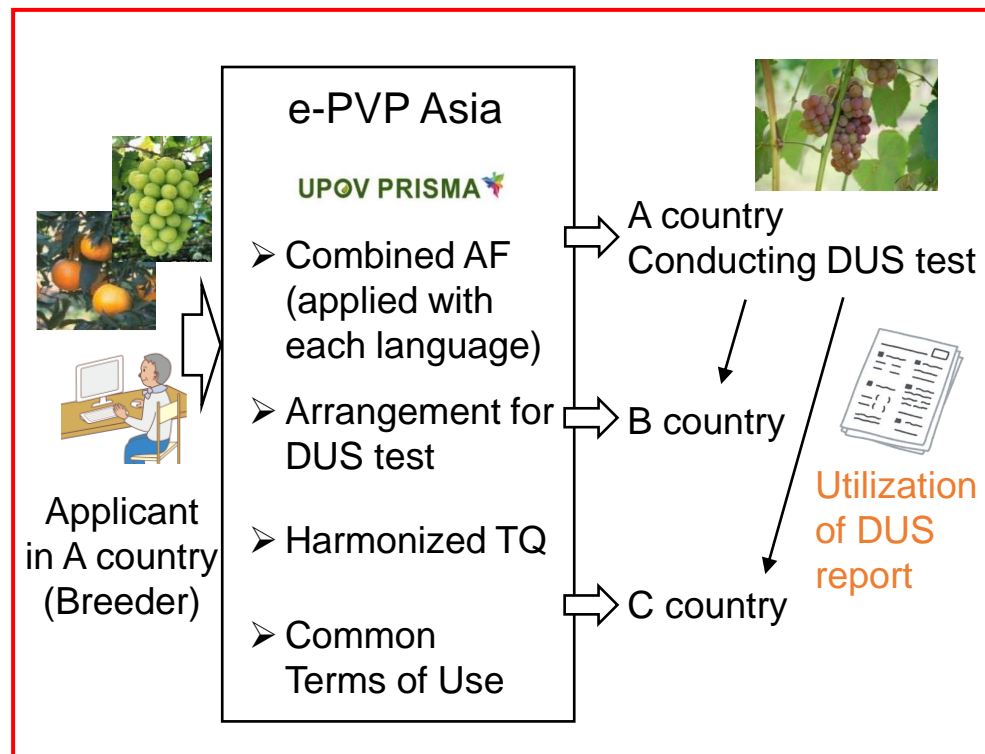
- Current participating countries: JP, VN, BN, MM, MY  
Observers: other EAPVP Forum members
- Resource partner: UPOV Office

1<sup>st</sup> meeting: in Hanoi, Viet Nam on 11 October 2018  
2<sup>nd</sup> meeting: in Vung Tau, Viet Nam on 26-27 February 2019  
3<sup>rd</sup> meeting: in Hanoi, Viet Nam on 3-4 September 2019  
4<sup>th</sup> meeting: by corresponding, on 13-15 May 2020  
5<sup>th</sup> meeting: by corresponding, on 23-24 November 2020  
6<sup>th</sup> meeting: by corresponding, on 8-10 March 2021  
7<sup>th</sup> meeting: by corresponding, on 8-9 July 2021



# Implementing Project for “e-PVP Asia”

## ➤ Implementing Project for “e-PVP Asia” in Japan’s subsidiary program



- Support for ASEAN countries where intend to implement e-PVP Asia  
(Consultation for implementation of e-PVP Asia, IT Support, Translation into each country’s language, etc.)

Current participating countries and provisional participating countries;  
Viet Num, Brunei, Myanmar, Malaysia, and Japan

- Administration of e-PVP Asia System
- Further extension of participating countries
- Harmonization of TQ of further crop types

## ➤ Japan Fund in Trust 2022 for UPOV Activities

“the Establishment and extension of plant variety protection system for countries in the Asian region“

→ Support for establishment of PVP Act in line with UPOV 91,  
enlightenment of UPOV System,

etc.

Thank you very much for your attention !!

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