



中国植物新品种保护进展及《种子法》修正案介绍

The Latest Development of PVP in Agriculture of China and the Seed Law Amendment

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目录 Contents

1.法律演进

2.组织机构

3.申请授权情况

4.《种子法》

修正案

5.权利的维护

6.下一步计划

1.Evolution of Legislation

2.Institution Structure

3.Statistics

4.The Seed Law Amendment

5.Law Enforcement

6.Future Plan



目录 Contents

1.法律演进

2.组织机构

3.申请授权情况

4.《种子法》

修正案

5.权利的维护

6.下一步计划

1.Evolution of Legislation

2.Institution Structure

3.Statistics

4.The Seed Law Amendment

5.Law Enforcement

6.Future Plan



1997年3月20日，中国颁布了首部《植物新品种保护条例》，标志着植物新品种保护制度在中国建立。

1999年4月23日，加入国际植物新品种保护公约，同日开始受理来自国内外的植物新品种保护申请，标志着植物新品种保护在中国正式实施。

The Regulations of the People's Republic of China on the Protection of New Varieties of Plants was promulgated on March 20, 1997, which established Chinese PVP system.

China became UPOV member on April 23, 1999 and at the same date, receiving PVP applications from domestic and overseas, marking the formal implementation of Chinese PVP system.



中国版本《植物新品种保护条例》
Chinese PVP Regulations was promulgated.

1997

中国建立DUS测试体系
Chinese DUS system was initiated to build.

1999

2000

《种子法》修正案于2021年12月24日公布，2022年3月1日起施行。

The Seed Law amendment was published on December 24, 2021 and entered into force on March 1, 2022.

2015

2021

future

中国加入UPOV并正式实施品种保护制度

China became UPOV member and PVP system was implemented formally.

植物新品种保护专章纳入《种子法》

PVP and DUS was included in the new Seed Law, which entered into force on the first day of 2016.

修订《植物新品种保护条例》

PVP Regulations are expected to be revised.



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4.《种子法》

修正案

5.权利的维护

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1.Evolution of Legislation

2.Institution Structure

3.Statistics

4.The Seed Law Amendment

5.Law Enforcement

6.Future Plan



农业农村部系统 MARA side

农业农村部

MARA

复审委员会
Re-examination
Committee

品种保护办公室
PVPO

农业农村部植物新品种测试中心
(科技发展中心)
DUS Headquarters
(DCST)

植物新品种保藏中心
Seed Storage Center

保护处
Division of
PVP
Examination

测试处
Division of
DUS
Test

27个测试分中心
6个测试站
27 DUS Test Branches
6 DUS Test Stations





**1个测试中心（北京
+徐州）**

+27个测试分中心

+6个测试站



**1 headquarter
+27sub-centers
+6stations**





目录 Contents

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3.申请授权情况

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修正案

5.权利的维护

6.下一步计划

1.Evolution of Legislation

2.Institution Structure

3.Statistics

4.The Seed Law Amendment

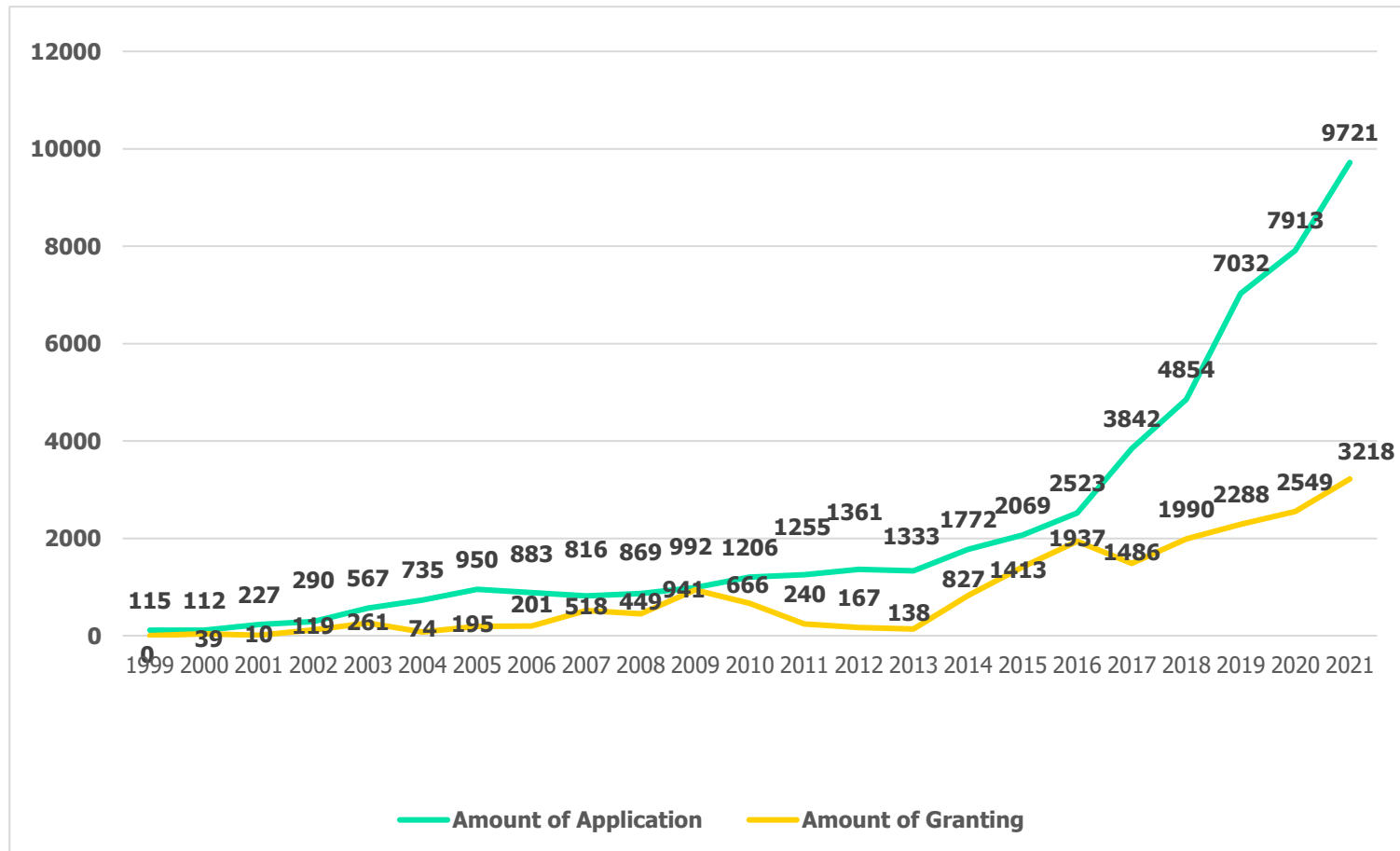
5.Law Enforcement

6.Future Plan



各年度农业品种权申请授权折线图

The statistics of annual applications and grants in MARA

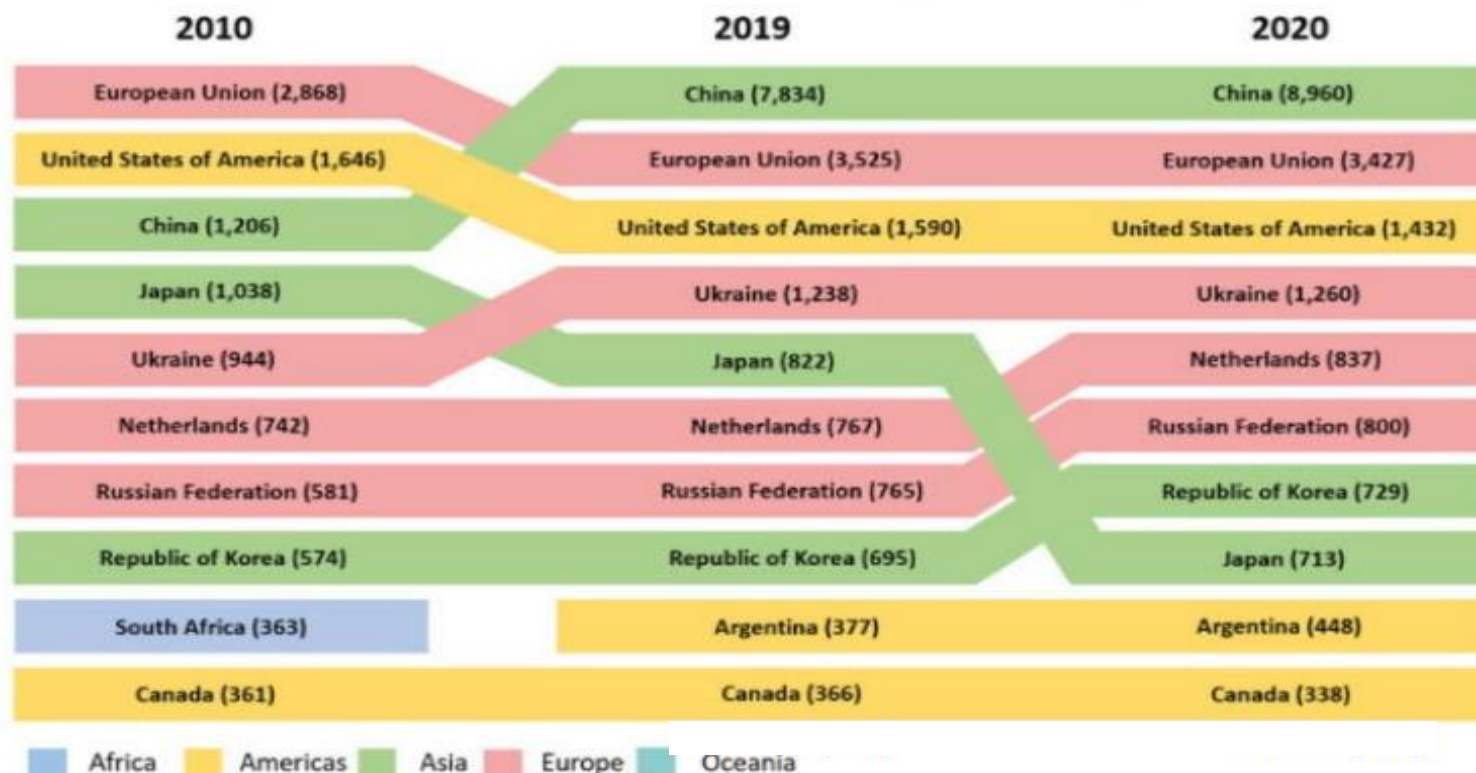


自2017年起，年度申请量连续4年位居世界首位，2020年授权量位居第二，仅次于欧盟植物新品种保护办公室。



Since 2017, the annual amount of PVP applications has been ranked the first of UPOV and the amount of granting of PBRs was the second in 2020.

Top 10: UPOV members by number of plant variety protection applications received

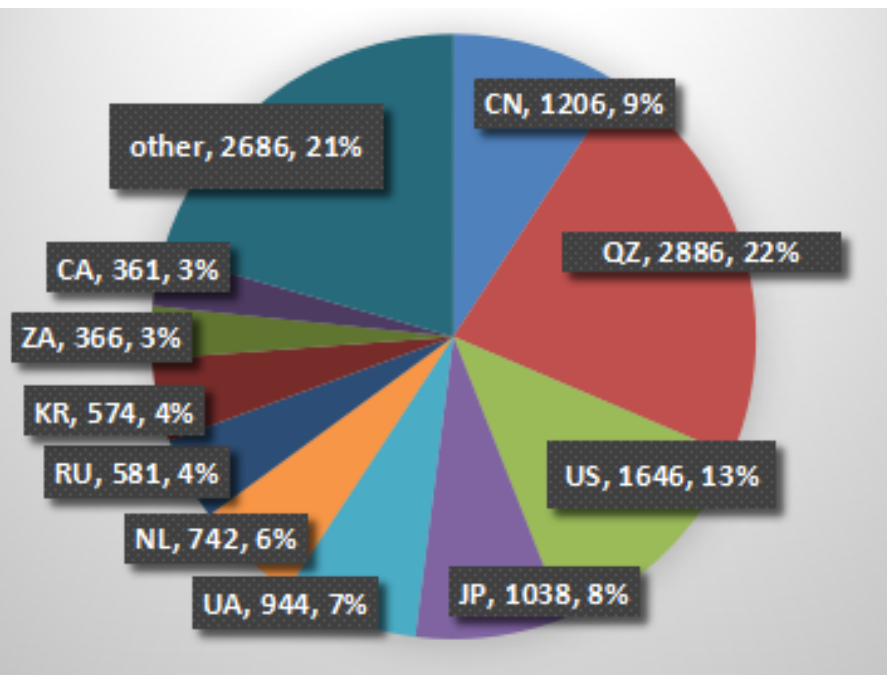




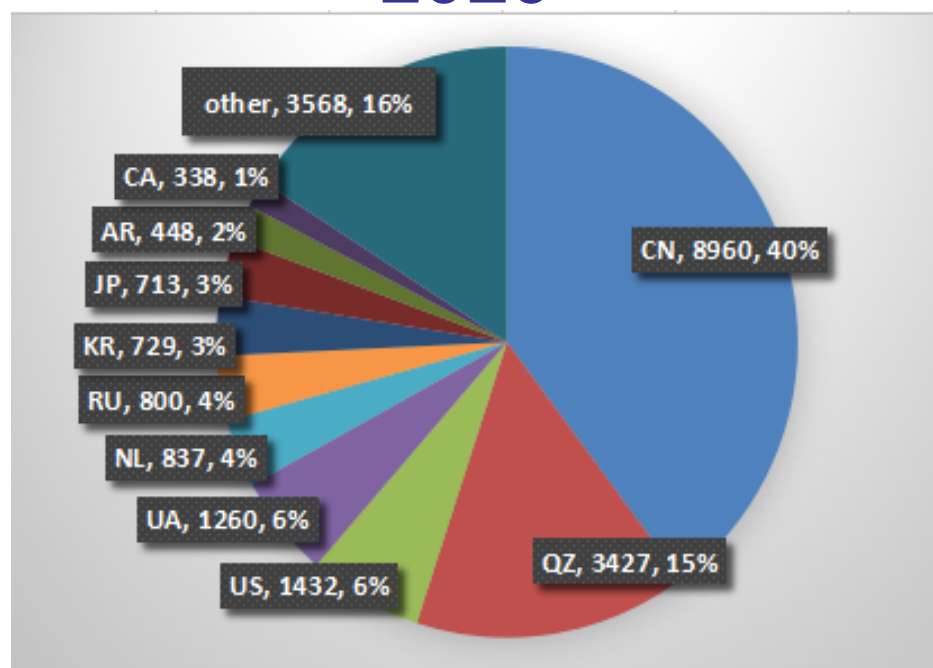
2010年、2020年全球品种权申请对比图

Annual applications statistics
in 2010 VS. in 2020

2010



2020

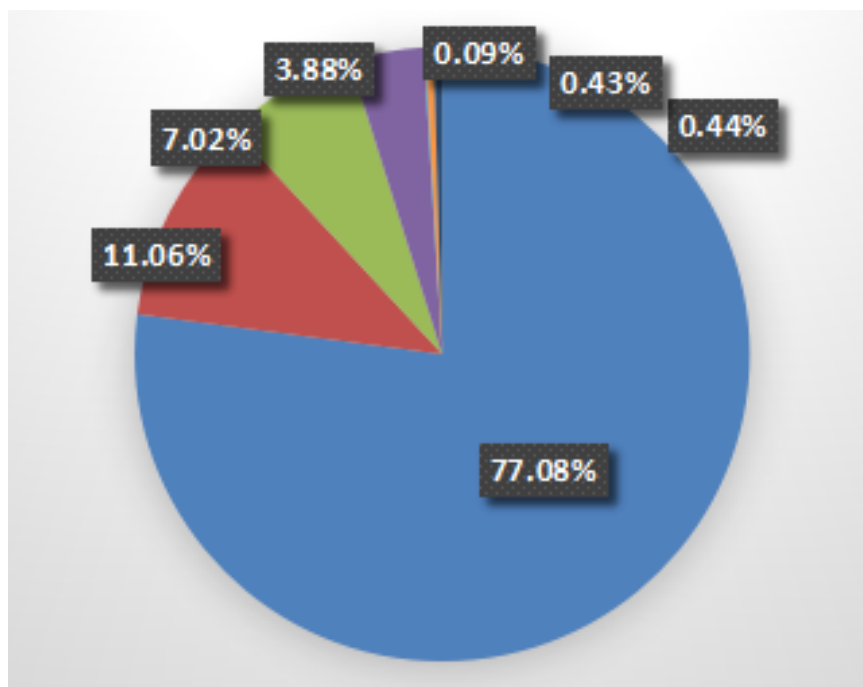




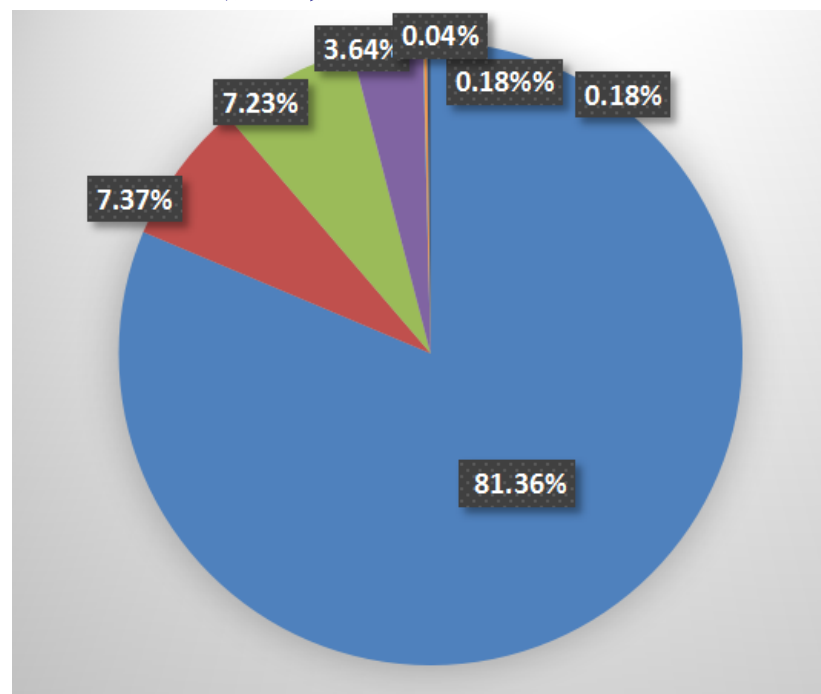
中国农业植物新品种保护申请授权各种类分布图

The Statistics of PVP applications and grants by crops in the Office of MARA, China (1999-2021)

申请 Applications



授权 Grants



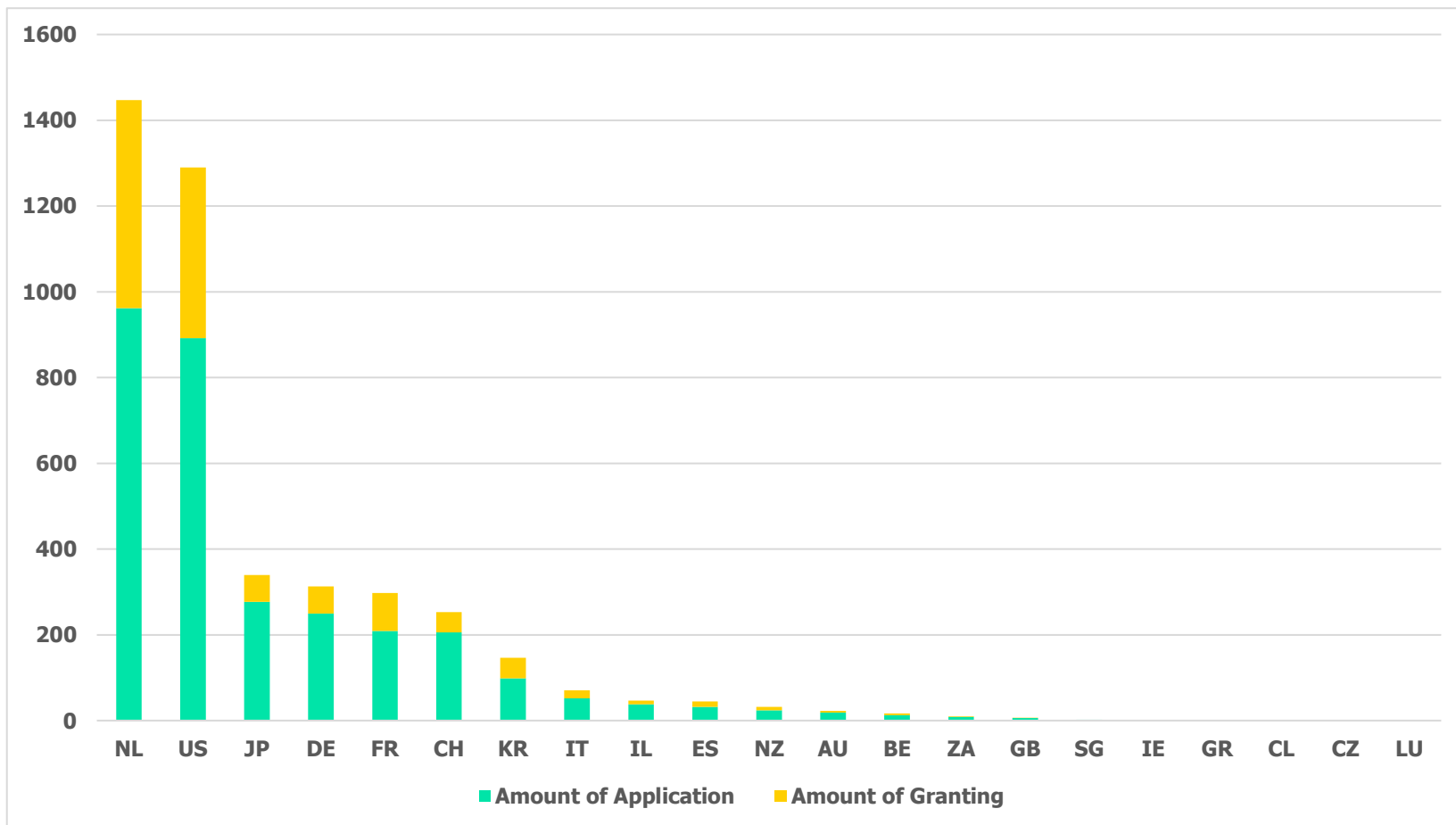
■ 大田作物 ■ 蔬菜 ■ 观赏植物 ■ 果树 ■ 牧草 ■ 药用植物 ■ 菌类

■ Agricultural Crops ■ Vegetables ■ Ornamental Plants ■ Fruits ■ Grass ■ Medicinal Plants ■ Fungus



来自国外的农业品种权申请授权情况

The statistics of applications and grants of MARA from overseas



21个国家

from 21 foreign countries



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修正案

5.权利的维护

6.下一步计划

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2.Institution Structure

3.Statistics

4.The Seed Law Amendment

5.Law Enforcement

6.Future Plan



2021年12月24日，公布中华人民共和国主席令（第一〇五号）：《全国人民代表大会常务委员会关于修改〈中华人民共和国种子法〉的决定》，自2022年3月1日起施行。

The Seed Law amendment was published on December 24, 2021 and entered into force on March 1, 2022.



● **加强知识产权保护的需要**
The need of strengthen IPRs

● **现代种业发展的需要**
The need of development modern seed industry

● **构建国际国内双循环新发展格局的需要**
The need of the new development paradigm featuring dual circulation, in which domestic and overseas markets reinforce each other, with the domestic market as the mainstay



重大修改 Key changes

建立实质性派生品种制度

Establishing Essential Derived Variety system



重大修改 Key changes

扩大新品种权的保护环节 Expanded PVP scope

	2015年种子法 Seed Law (2015)	2021年种子法 Seed Law amendment (2021)
保护环节 PVP scope	生产、繁殖、 销售 Produce, propagate and sale	生产、繁殖和为繁殖而进行处理、许诺销售、 销售、进口、出口、以及为实施上述行为储存 该授权品种的繁殖材料 produce, propagate and process for propagation, promise to market, market, import, export and store the breeding materials of the said variety for the purpose of carrying out the above acts, or reuse the breeding materials of the said variety to produce breeding materials of another variety for commercial purpose



重大修改 Key changes

扩大新品种权的保护范围 Expanded PVP scope

	2015年种子法 Seed Law (2015)	2021年种子法 Seed Law amendment (2021)
保护范围 Proctive Scope	繁殖材料 propogated materials	繁殖材料+收获材料 propogated materials+harvest materials



重大修改 Key changes

完善侵权赔偿制度 Increased the penalty for infringement

为提高对侵害植物新品种权行为的威慑力，新修改的种子法**加大了惩罚性赔偿数额**。对权利人的损失或侵权人获得的利益或品种权许可使用费可以确定数额的，将赔偿数额的上限由**三倍提高到五倍**；难以确定数额的，将赔偿限额由**三百万元提高到五百万元**。

Aiming to strengthen the protection of PBRs, the Seed Law amendment increased the amount of penalty and compensation for infringement.

Where the loss of the right holder, the benefits obtained by the infringer and the royalty of the right to new varieties of plants **can be determined**, the upper limit of the amount of compensation is increased from **three times** to **five times**.

Where the loss of the right holder, the benefits obtained by the infringer and the royalty of the right to new varieties of plants **cannot be determined**, the people's court may decide on the amount of compensation of not more than from **three to five million RMB yuan** based on factors such as the type of the right to new varieties of plants, the nature and circumstances of the infringement, etc.



目录 Contents

1.法律演进

2.组织机构

3.申请授权情况

4.《种子法》

修正案

5.权利的维护

6.下一步计划

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2.Institution Structure

3.Statistics

4.The Seed Law Amendment

5.Law Enforcement

6.Future Plan



行政执法 Administrative enforcement

农业体系
Agriculture system

部MOA

省Province

地District

县County

联合执法
Joint enforcement

公安
Public
Security
System

农业
Agriculture
System

工商
Industry
& Commerce
System

司法执法 Judicial enforcement

最高人民法院
The Supreme People's Court

指定的
中级人民法院
Designated
intermediate
people's courts

IP法院
IP courts

维权途径：协商、仲裁、行政、司法。

Channels of safeguard PVP rights : negotiation, arbitration, administrative and judicial channel



法律：最高人民法院
司法解释修订

Legislation :
Revised Judicial
Interpretation
by the Supreme
People's Court

机制：农业农村部与最高
人民法院签署《种业知识
产权保护合作备忘录》

Mechanism: Signed “MOC
on IPRs of Seed
Industry” by MARA and
SPC



宣传：发布《十大典型案例》

Propaganda: Published “Ten Typical Cases of PBRs”



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2.组织机构

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4.《种子法》

修正案

5.权利的维护

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2.Institution Structure

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4.The Seed Law Amendment

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6.Future Plan



推动《植物新品种保护条例》修订

To push forward with PVP Regulations revision

推进《种子法》修正案

To work on the implementation of Seed Law amendment

加强国际合作与交流

To strengthen international cooperation and exchange



谢谢！

Thank you for your attention!