



CHINA

**PLANT VARIETY PROTECTION
AWARENESS RAISING SEMINAR**

增强植物品种保护意识

Enforcement of Plant Variety Protections

植物品种保护执法

Liam Gimon | AIB | 8 November 2021

Liam Gimon | AIB | 2021年11月8日

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1. a review of AIB AIB 简介
2. the vegetable seed issue 蔬菜种子问题
3. AIB infringement actions AIB的反侵权行动

- Europe/Italy 欧洲/意大利
- Asia – SIPI 亚洲 (SIPI)
- Turkey 土耳其
- Jordan 约旦
- Mexico 墨西哥



4. Discussion on IP infringements and fraud – what steps to take? 关于知识产权侵权与欺诈的讨论——采取什么措施？
5. AIB Turkey Core Group concept AIB土耳其核心团队概念
6. The path forward 前进之路
7. Any other business 其他业务
8. Closure 总结



WHAT IS AIB ? 什么是AIB?



- AIB = Anti-Infringement Bureau for Intellectual Property Rights on Plant Material
- AIB = 打击植物材料知识产权侵权局
- Non-profit association 非营利组织
- Established 1 April 2010 成立于2010年4月1日
- Membership is open to other integrated vegetable seed companies 面向其他综合蔬菜种业公司开放
会员资格



WHAT IS AIB's MAIN MISSION ? AIB的主要使命是什么？

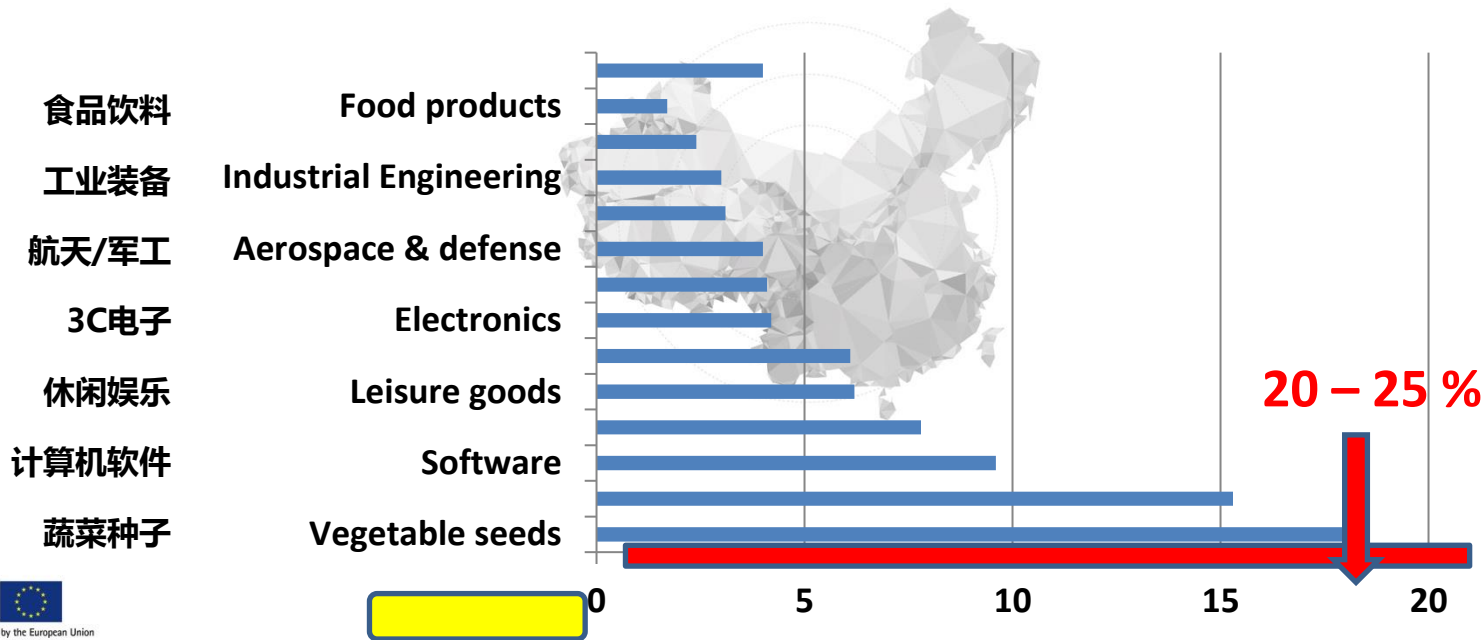


**ENSURE LEVEL PLAYING FIELD FOR ALL PLAYERS IN THE
VEGETABLE BUSINESS CHAIN**

为蔬菜产业链上的各方打造公平的赛道

R&D Intensity (R&D investments/Net Sales)

研发强度（研发投入/净销售额）



THE VEGETABLE SEEDS SECTOR IS ATTRACTIVE TO PIRATES

蔬菜种子行业易遭侵权



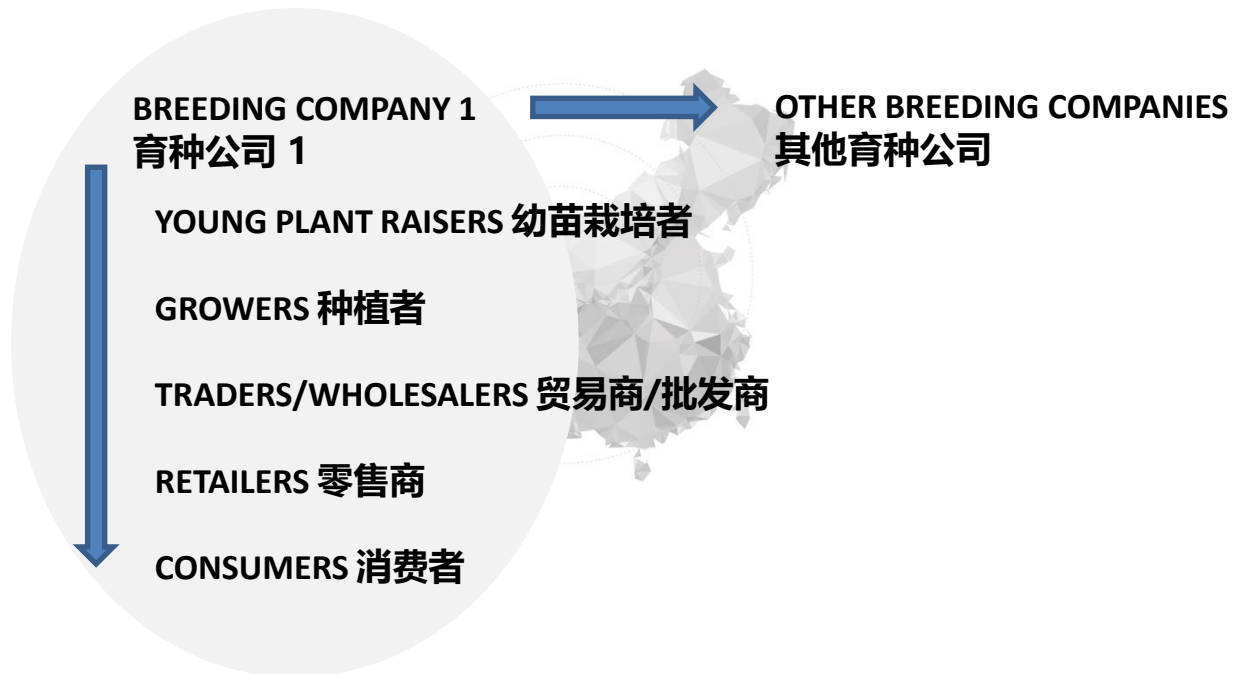
THE VEGETABLE SEED BUSINESS CHAIN 蔬菜种子产业链



- ☐ high gross margins 毛利率高
- ☐ Technology makes copying easier (and also the identification of varieties) 技术让复制（和品种鉴别）更为容易
- ☐ copying is cheap, requiring little capital investment 抄袭成本低，基本无需资金投入
- ☐ no distinction between legally and illegally produced harvested product 合法与非法生产的收获物无法分辨
- ☐ illegality does not bother consumer 使用非法获取的种子，不直接对消费者产生影响
- ☐ often no perceived health hazards (like pharma, pesticides or car parts) 健康危害不易察觉（类似药品、杀虫剂或汽车零部件）
- ☐ vegetable seeds are often small volume: easy to transport 蔬菜种子通常体积小：易于运输
- ☐ effective enforcement of IPR on genetics is full with hurdles 遗传学知识产权的有效执法障碍重重



‘VERTICAL’ PVR ENFORCEMENT 植物品种权 “纵向” 执法



VERTICAL' PVR ENFORCEMENT Continued 植物品种权“纵向”执法（续）



- **‘HORIZONTAL’ ENFORCEMENT (LEGAL DISPUTES BETWEEN BREEDERS) OF BREEDERS RIGHTS, WHERE TIME AND EVIDENCE-GATHERING CONSTRAINTS ARE LESS CRITICAL, HAS PROVEN TO BE FEASIBLE AND EFFECTIVE ;**
- **在时间和取证方面限制不大的情况下，育种者权利的“横向”执法（育种者之间的法律争端）可行且有效。**
- **‘VERTICAL ENFORCEMENT’ OF PVR TO COMBAT PIRACY DOWNSTREAM IN THE VEGETABLE BUSINESS CHAIN PROVES TO BE MORE DIFFICULT AS IT REQUIRES A SUPPORTING LEGAL AND INSTITUTIONAL FRAMEWORK:**
- **因为需要支持性法律和制度框架，为打击蔬菜产业链下游侵权而进行植物品种权“纵向执法”难度更大：**
 - **evidence of infringement cannot be obtained by the right holder himself as inspections of the growers are difficult / impossible 权利人自身无法获得侵权证据，因为难以/无法对种植者进行检查**
 - **without active help from authorities, breeders’ enforcement efforts are unsuccessful 没有主管部门的积极协助，育种者无法实施有效执法**
 - **PBR enforcement is in some countries hindered by the lack of effective enforcement of the national seed marketing regulations. 在部分国家，种子销售监管执法不严，植物育种者维权困难。**
- **CONSEQUENTLY, SOME WELL ORGANISED PIRATES HAVE SUCCESSFULLY ESTABLISHED PROFITABLE BUSINESS MODELS.**
- **进而出现有组织不法侵权，形成暴利黑色产业。**



1. All varieties have to be registered as precondition for marketing of seed 所有品种都必须登记，这是种子销售的前提条件

All new varieties are technically examined. 所有新品种要通过技术测试。

To be listed in the National Catalogue of Varieties, varieties must meet standards on: 要列入国家品种目录中，品种必须满足下列标准：

- Distinctness 特异性
- Uniformity 一致性
- Stability 稳定性

All varieties which are admitted are published in an Official Journal. 所有登记品种均进行官方公告。

2. Most countries are not allowing Farm Saved Seeds of PVR varieties (farmers saving seed/plants for own use). 多数国家不允许PVR品种的农场留种 (农民保留/植株自用)

- UPOV Convention 1991 (the international Plant Variety Rights convention) 国际植物新品种保护公约 1991年文本
- Under UPOV 1991 根据国际植物新品种保护公约1991年文本：
 - No re-production of seed allowed 不得制种
 - No vegetative re-production allowed 不允许营养繁殖

PLANT VARIETY PROTECTION 植物品种保护



THE INSTRUMENTS TO PROTECT 保护手段

VARIETIES品种 - PLANT VARIETY RIGHTS (PVR) OR CALLED BREEDERS RIGHTS 植物品种权或育种者权利

TRADE NAME -

商业名称

TRADEMARK

商标

LOGO

- TRADEMARK

徽标

商标

PICTURE /

-

COPYRIGHT

BROCHURE /

著作权

WEBSITE

图片/手册/网站

INVENTIONS -

PATENT

(traits/breeding

专利

processes, etc)

发明 (性状/育种

过程等)



are often used for flowers 常用于花



WHAT ARE THE MAIN ISSUES IN THE VEGETABLE SECTOR* 蔬菜行业的主要问题是什么*?



1) VEGETATIVE REPRODUCTION OF GRAFTED PVR CROPS 嫁接PVR作物的营养繁殖

- **TOMATO, WATER MELON, MELON, EGGPLANT 番茄、西瓜、甜瓜、茄子**
- **SUBSTANTIAL VEGETATIVE PROPAGATION IN TOMATO IN MEDITERRANEAN BASIN (20 % IN SPAIN AND ITALY; IN CHERRY TOMATOES IN ITALIAN REGIONS UP TO 40%. 地中海盆地大量实施番茄营养繁殖 (西班牙和意大利占20%; 圣女果营养繁殖在意大利地区占比高达40%)**

2) REPRODUCTION OF SEEDS OF OPEN-POLLINATED PVR CROPS (LETTUCE, BEANS) 自然授粉PVR作物的制种 (生菜、菜豆)

- **PRODUCED OUTSIDE OF NATIONAL REGULATED SYSTEMS 生产游离于国家监管体系之外**
- **VARIETIES ARE OFTEN MIS-LABELLED (FRAUDE) 品种往往错误标记 (欺诈)**
- **PRODUCERS ARE OFTEN NOT CERTIFIED 生产者通常未经认证**
- **PRODUCTION OUTSIDE OF QUALITY CHECKS BY AUTHORITIES 生产未经主管部门的质量检查**
- **SIGNIFICANT ILLEGAL NETWORK 大型不法侵权网络**



ISSUES IN THE VEGETABLE SECTOR* ? (2) 蔬菜行业的问题*? (2)

3) F2 PRODUCTION OF PVR ONION HYBRIDS PVR洋葱杂交种的F2代生产

- EASTERN EUROPE, TURKEY, FORMER RUSSIAN STATES, SPAIN 东欧、土耳其、前苏联国家、西班牙
- physical detection is often very difficult (hardly any differentiation) 物理检测非常困难 (几无差别)

4) THEFT OF PARENT LINES : UNAUTHORISED SALE OF F1 HYBRIDS 亲本系遭盗窃：未经授权销售F1代杂交种

- TOMATO, SQUASH, EGGPLANT, BRASSICA, ETC. 番茄、葫芦、茄子、芸苔等
- MANY COUNTRIES, SEVERAL CONTINENTS 许多国家，多个大洲
- CAUSE: THEFT / UNAUTHORISED USE OF PROPRIETARY PARENT LINES (IN LEGAL TERMS: TRADE SECRET THEFT) 原因：专有亲本系遭盗窃/未授权使用 (法律术语：盗用商业秘密)
- LEADING TO SUBSTANTIAL (FINANCIAL) IMPACT ON RIGHT HOLDER 对权利人造成重大 (经济) 影响
- MARKET DISRUPTION REPORTED IN SOME CASES 部分案件造成市场混乱

5) SALE OF COUNTERFEIT SEED PACKAGES (TRADE MARK INFRINGEMENT) 销售假冒种子包装 (商标侵权)

- EASTERN EUROPE, MIDDLE EAST, ASIA, AFRICA 东欧、中东、亚洲、非洲
- FOUND IN MANY CROPS 在许多作物中发现

* source: annual AIB infringement surveys 2010-19 资料来源：AIB 年度侵权调查 (2010-2019)

LINKED OFFENSES THAT CAN ALSO BE PURSUED 其他关联犯罪



THE ILLEGAL VEGETATIVE REPRODUCTION OF TOMATOES CAUSED A MASSIVE OUTBREAK OF PEPINO VIRUS IN SICILY (ITALY) 番茄的非法营养繁殖造成意大利西西里岛爆发大规模凤果花叶病毒

/.eu



2008年一季度

I quarter 2008



2008年二季度

2008年三

II quarter 2008



III quarter 2008



2009年一季度

I quarter 2009



2009年二季度

2009年三

II quarter 2009



III quarter 2009



2010年一季度

I quarter 2010



2010年二季度

2010年三

II quarter 2010



III quarter 2010



“骇人听闻”：警方侦破西西里农场剥削和虐待大案

'Terrible conditions': police uncover abuse and exploitation on farms in Sicily

Action follows Observer investigation into claims of forced labour and sexual exploitation among Romanian migrant women employed as agricultural workers

Trafficking and exploitation in focus is supported by

THE STEPS WE NORMALLY FOLLOW 我们通常遵循的步骤:**1. Intelligence reports on illegal reproduction received by AIB AIB收到有关非法繁殖的情报**

- Growers using a PVR variety are unknown to seed company 种植者擅自使用未经种业公司授权的PVR品种
- Persistent rumors in the market 市场持续出现传言
- Complaints from other growers on unfair competition 其他种植者提出不正当竞争投诉
- Observations from seed company sales representatives / technicians: “this grower uses our genetics, but we have not sold to him” 种业公司销售代表/技术人员的观察：“该种植者使用的是本公司遗传材料，但公司从未与其发生销售关系”

2. Verification of the intelligence by AIB AIB确认情报**3. If intelligence found credible, denouncement is made to authorities 情报确认后，向主管部门举报**

- Name of suspect 嫌疑人名称
- Address and GPS coordinates of greenhouse/plot 温室/地块的地址和GPS坐标
- Supporting evidence like pictures, labels, etc. 图片、标签等支持性证据

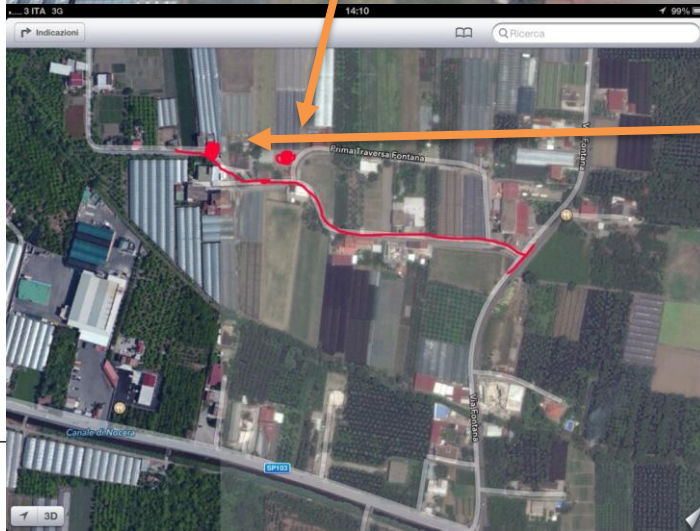
4. Authorities to inspect the growers /plant raisers 主管部门检查种植者/幼苗栽培者

Initial Contact 初步联系

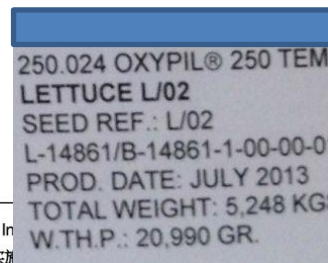


- After a member company is able to confirm that an infringement has taken place they will contact AIB 会员种业公司确认已发生侵权时，联系AIB
- The member companies should conduct a SNP test of the infringement for proof of the infringement – Usually with the assistance of AIB 会员单位应当对侵权开展SNP测试，获取侵权证据（通常在AIB的协助下进行）
- AIB will discuss options and steps for legal action AIB讨论法律行动的选项和步骤
- AIB will not take action until we get express approval from the member company 在获得种业公司的明确同意之前，AIB不会采取行动

THE MORE EVIDENCE WE OBTAIN THE BETTER ! 证据越充分越好!



COD	DESCRIZIONE	FOR	COST	N.R.	QUANTITÀ	PREZZO UNITARIO	IVA	Importo
IKAISEF	P.POMODORO CREATIVO INN KAISER LYCOPERSICON LYCOPERSICUM Lotti: E11268; P.linn.: 101048685; Partita: 1502407685/2014;	84	30	NR	2520.00	0,83000	5,00	1.987,02
IINNKAIS	P.POMODORO SV1201 TO INN KAISER LYCOPERSICON LYCOPERSICUM Lotti: 0141268328; P.linn.: 101048685; Partita: 1120808/2014; P.linn.: 1502407685/2014;	84	10	NR	840.00	0,83000	5,00	692,34
NTOPGL	P.POMODORO CREATIVO INN TOR GUN LYCOPERSICON LYCOPERSICUM Lotti: E11268; P.linn.: 101048685; Partita: 1502407685/2014; P.linn.: 11002207A55/2014;	84	60	NR	5040.00	0,83000		4.183,20



Finding the best venue 寻找最佳的审理机构



- The AIB will review the case and the information **AIB审阅案件和相关信息**
- A discussion between the team members will determine the next steps and which venue should be contacted and where **团队成员讨论确定下一步计划，确定审理机构以及地点**
- The AIB team will determine the best group to contact and the best location; this determination might take time **AIB团队确定在下一步取得联络的最佳机构和地点（可能需要一定时间）**
- Once an agency has been chosen AIB will initiate contact between the member company and the chosen agency **一旦选定审理机构，ABI会启动会员企业和所选机构之间的联络**

Court Actions 法庭行动



- Part of the Investigation includes court actions by the AIB legal team 调查工作可能包含AIB法律团队进行的法庭行动
- The AIB legal team will review the case and will work with the member company and the Italian authorities AIB法律团队审阅案件，与会员单位和意大利主管部门协作
- The AIB legal team will be the point of contact between the courts and AIB/Member company AIB法律团队成为法庭和AIB/会员单位之间的联络点

Press release 新闻稿



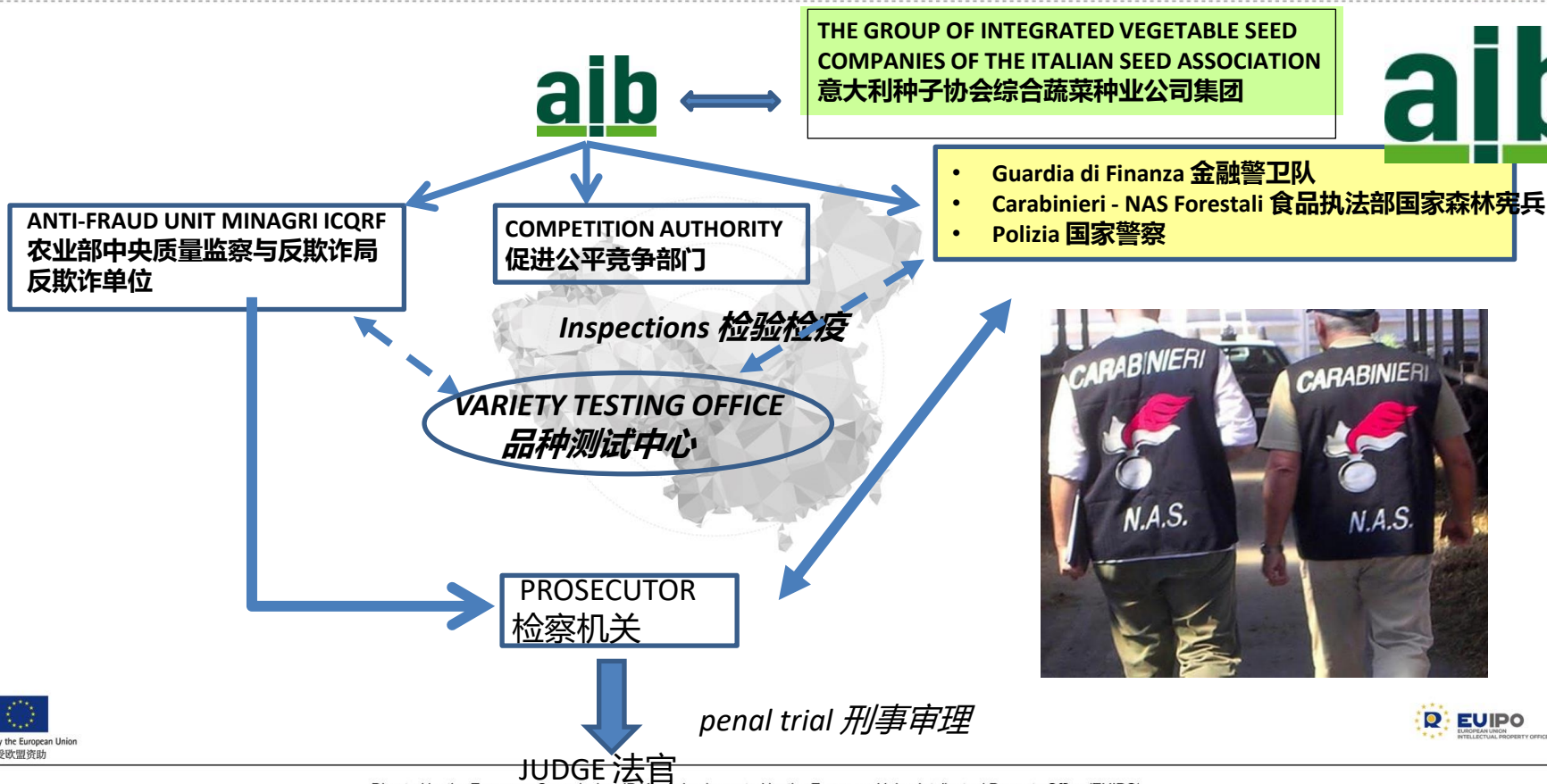
- AIB and the member company will work together to develop a press release **AIB和会员单位共同撰写新闻稿**
- This press release will be decided upon and ready to go prior to the ruling of the court **法院判决之前，定稿并做好发布准备**
- The press release will be issued to AIB friendly members of the press immediately after the ruling is announced. **判决宣布之后，向对AIB态度友好的媒体分发新闻稿**



AIB FOLLOWS A MULTI-POLICE APPROACH IN ITALY AIB在意大利遵循多警种模式

THE GROUP OF INTEGRATED VEGETABLE SEED COMPANIES OF THE ITALIAN SEED ASSOCIATION
意大利种子协会综合蔬菜种业公司集团

aib



Review of AIB Activities – Italy AIB意大利活动汇总



- **AIB Italy Response Team AIB意大利应对团队**
 - **AIB streamlined complaint process AIB简化投诉流程**
 - **Fast response team to respond to intelligence from AIB members 快速应对团队针对AIB会员提供的情报迅速采取行动**
- **Post Market Survey 上市后调查**
 - **Undercover purchases of seeds in open market by AIB operatives AIB密探在公开市场购买种子**
 - **Purchased seeds sent to lab for comparison against SNP library 将所购种子送至实验室与SNP数据库比对**
- **Tip line information leads to investigation by Italian authorities 举报相关线索，意大利主管部门介入调查**
 - **Infringement information forwarded to the Public Prosecutor 侵权信息转交给公诉机关**
- **Joint operation between AIB and Spanish fruit companies in Italy AIB和意大利境内的西班牙种业公司联合行动**
 - **AIB met with representatives from Annove and Geslive to coordinator efforts between the two industries. AIB与Annove、Geslive代表会面，探讨协调工作**

Vision and Goal of the Response Team 应对团队的愿景和目标



The AIB Response Team – Italy will allow AIB to develop intelligence and leads into active infringers. The information gathered will allow AIB to better respond to incidents of infringement and initiate legal actions and/or denouncements.

AIB应对团队——意大利将允许AIB开发针对活跃侵权人的情报和线索。借助收集的信息，更好地对侵权事件作出响应，启动法律行动和/或公开谴责。

This group will also act as a contact point and clearinghouse for all Italian actions, trainings, and the collection of intelligence.

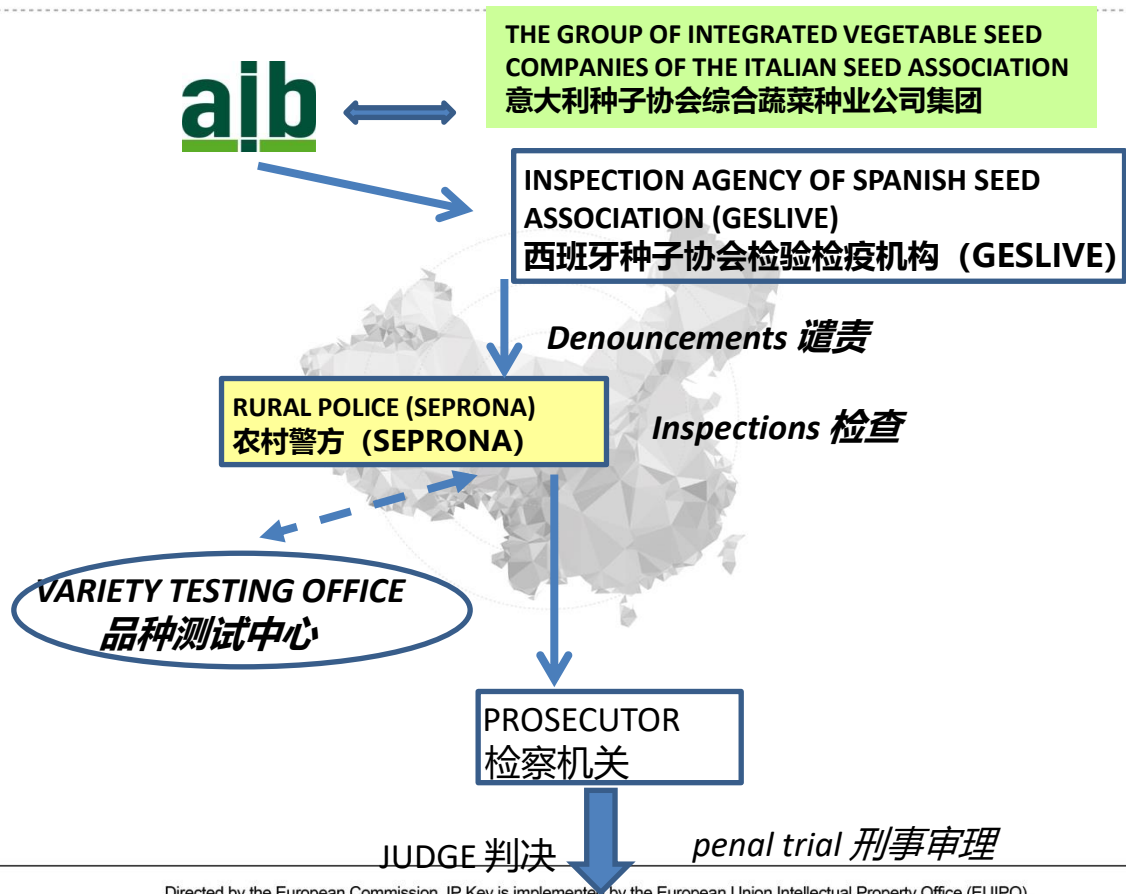
团队还针对所有意大利行动、培训和情报收集工作发挥联络点和清算所的作用。

Objectives of Response Team 应对团队的具体目标



- Development of an intelligence and information gathering system
发展情报和信息收集系统
- Development of a contact tracking system that will link and trace all actions and responses under one unified document
发展联络追踪系统，在统一文件下联系并追踪所有行动和相应
- Investigation 调查
- Engagement 执行
- Awareness, Publicity 培训和宣传





Update on AIB Activities – Asia AIB亚洲活动最新情况



- **APSA – creation of Working Group Integrated Vegetable Seed Companies**
- **APSA——创建综合蔬菜种业公司工作组**
 - **First meeting in April 2018 2018年4月召开首次会议**
 - **Proposal to create AIB Asia (SIPI) major agenda item 提出将创建AIB亚洲 (SIPI) 作为主要议题**
 - **SIPI based on the AIB Constitution SIPI的运行基于AIB章程**
- **AIB worked with like minded organizations to develop an AIB Asia – SIPI AIB与志同道合的其他机构携手建立AIB亚洲 (SIPI)**
 - **SEED INNOVATION & PROTECTION INITIATIVE, ASIA PACIFIC LTD 种子创新与保护行动亚太有限公司**
 - **Asia and Pacific Seed Association (APSA) 亚太种子协会 (APSA)**
- **14 Founding members from several Asian countries 来自7个亚洲国家, 14个创始成员**
 - **1st official meeting in late October/early November 首次正式会议于十月末/十一月初召开**





- AIB established a presence in Turkey several years ago AIB数年前即在土耳其开展业务
 - AIB Turkey - Made up primarily of AIB member companies AIB土耳其主要由AIB会员单位组成
 - Three Turkish seed companies have recently joined 近期有三家土耳其种业公司加入
- Development of AIB Turkey Core Group 发展AIB土耳其核心团队
 - 5 or 6 AIB seed company employees who live and work in Turkey. 五到六名在土耳其生活并居住的AIB种业员工
 - Use this group to help direct anti-infringement actions in Turkey 该团队参与协助当地反侵权活动
 - Work with this group to develop relationships with pertinent government officials 与相关政府领导建立关系
- AIB has developed relationships with the various Turkish agencies AIB已与多家土耳其机构建立关系
 - Variety Registration Center 品种登记中心
 - Head of Seed Department 种子部主管
 - Tsuab 土耳其种子产业和生产商协会
 - Turkted
- Future actions and direction of group 集团的未来行动和方向
 - Possible incorporation of AIB Turkey 可能成立AIB土耳其公司





- AIB established a Middle East Steering Committee **AIB成立了中东指委会**
 - Made up of individuals of five (5) member companies **由来自5家会员单位的5位代表构成**
 - Trying to develop a plan of action for the Middle East **试图为中东制定行动计划**
- The Middle East Steering Committee decided to focus on Jordan **中东指委会决定关注约旦**
 - Jordan is a clearing house for seeds in Mid East **约旦是中东种业清算所**
 - The government is open to western governments **约旦政府向西方政府持开放态度**
 - English is spoken by most officials **多数官员讲英语**
- Development of AIB Jordan Core Group **发展AIB约旦核心团队**
 - 5 or 6 AIB seed company employees who live and work in Jordan or the Middle East **五到六名在约旦或中东生活、工作的AIB种业公司员工**
 - Use this group to help direct anti-infringement actions in Jordan **该团队参与协助当地反侵权活动**
 - Work with this group to develop relationships with pertinent government officials **与相关政府领导建立关系**



- **AIB official visit to Mexico AIB领导访问墨西哥**
 - **Met with AMSAC 与墨西哥种子贸易协会领导会面**
 - **Meetings with AIB member companies 与AIB会员单位开会**
 - **Travel to Mexico City and Culiacan, Sinaloa 考察墨西哥城、库利亚坎**
- **The overall feeling from these discussions is that there is not a great threat of infringement in Mexico at this time for AIB companies and their crops 整体结论：在墨西哥，AIB公司及其作物目前未受到较大侵权威胁**
 - **The majority of vegetable seed sales are to large growers or large distributors. These large organizations don't mess with their sales and actions 绝大部分蔬菜种子向大型种植商或大型分销商销售。大型机构在销售和经营过程中较为规范**
 - **The majority of crops grown in Mexico for AIB companies are for exportation. The exporters have high standards for their products 绝大部分在墨西哥种植的AIB作物用于出口。出口商对其产品要求较高**
 - **There are infringements and possibly \$30 million of loss in the vegetable seed sector but there are issues with enforcing or acting on these infringements 蔬菜种子行业或存在侵权，可能造成了3000万美元的损失，但是侵权执法较为困难**

**AIB will continue to monitor the situation and will remain in contact with the Agricultural community in Mexico
AIB会继续监测情况，与墨西哥的农业各方保持联络**



- **LOBBYING 疏通政府关系**
 - **ESA 欧盟种子协会**
 - **European Union Intellectual Property Office (EUIPO) 欧盟知识产权局**
 - **Workshop Public Prosecutors 公诉机关工作组**
 - **Asian & Pacific Seed Association (APSA) 亚太种子协会**
 - **Working Group Integrated Veg. Seed Companies (WIC) – in place 综合蔬菜种业公司工作组（已成立）**
 - **Creation of AIB Asia 创建AIB亚洲**
 - **Governments & UPOV – to push for PVP enforcement (legal) structure 各地政府、UPOV——推动植物品种权执法架构**
 - **Interpol and Europol : make them aware of our issues 国际刑警组织、欧洲刑警组织：提高对AIB相关问题的意识**
- **LEGAL CASES ON BEHALF OF INDUSTRY 代表行业推动司法案件**
 - **Studies by Universities Wageningen/Bologna/Madrid for view on stubs (is it propagation yes/no?), as preparation for legal case 瓦格宁根/博洛尼亚/马德里大学研究残端能否繁殖，为司法诉讼做好准备**
 - **Protocol to determine if plant originates from vegetative re-production for courts to be used in legal cases (besides serving as manual for enforcement agents) 制定规程，确定法院是否可以（在执法人员手册之外）将营养繁殖的植株用于司法案件**





EDUCATION 教育

- In-company presentations and workshops for AIB members 面向AIB会员组织内部讲座和讨论会
- E- learning module with Interpol 与国际刑警组织共同建设线上学习模块



AIB AND INTERPOL THE E-LEARNING MODULE “IPR IN THE VEGETABLE SEED SECTOR MADE TO MOBILISE FIELD STAFF* - >1000 LEARNERS SO FAR!

www.ipkey.eu

AIB和国际刑警组织为培训一线人员开发的线上学习模块“蔬菜种子行业的知识产权保护”*->迄今已有1000余名学员



aib

- In English / French / Italian / Spanish / Turkish language versions
- 有英语/法语/意大利语/西班牙语/土耳其语版本

Thank you 谢谢



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