

Illegal Seed Practices – A threat for the seed sector requiring effective protection and adequate enforcement

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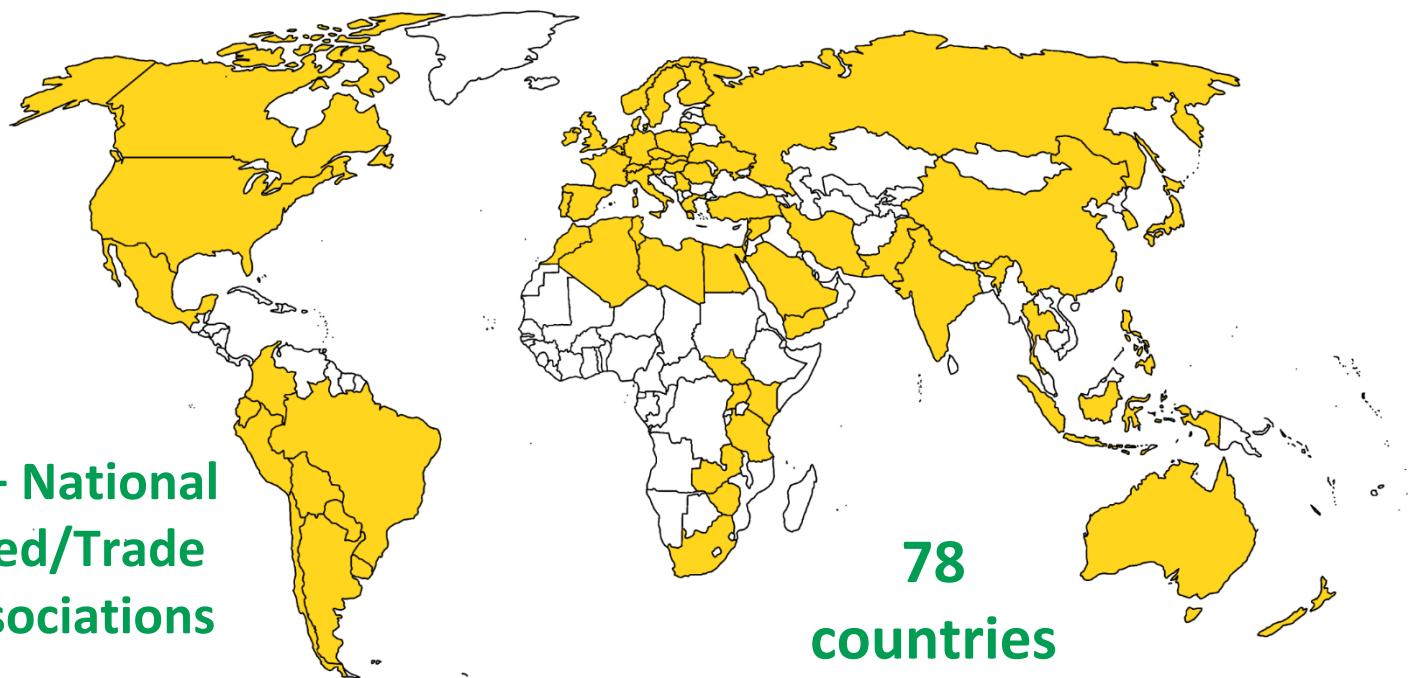
Kiev, 20 April, II International Forum on Combating Counterfeiting and Piracy

What is ISF?

- “Voice of the global seed industry”
- Non-governmental, non-profit making organization
- Recognizes its members’ contributions to food security and sustainable agriculture.

ISF in figures

7500+
companies



A threat for the Seed Industry - Illegal Seed Practices

- Occurrence of illegal practices during the reproduction and marketing of PVP or patented Seed (Hybrids and OP varieties): **Vegetables, Field Crops, Forage and Turf**
- Theft of parental lines: **Vegetables, Field Crops**
- Fraudulent labelling of varieties: **Vegetables, Field Crops, Forage and Turf**
- Misuse of variety denomination: **all Crops**
- Occurrence of illegal practices during the vegetative propagation of hybrids: **Vegetables, Ornamentals**
- Non- declaration / misuse of farm saved seed : **Field Crops, Forage and Turf**
- Abusing high quality of OECD/ National Seed Certification Schemes : **Forage and Turf**
- Misuse of Grain as Seed and using of discarded Seed: **Field Crops, Forage and Turf**
- Misuse of Trademarks

Offenders: Competitors/ Farmers/ Plant-raisers/ Organized crime

Multiple impacts

- Livelihood of farmers and rural economies put at risk.
- Country's agricultural productivity endangered.
- The sale of illegal seeds can have a widespread negative impact on farmers' livelihoods, food security, and the environment.
- Illegal seeds present a substantial risk for farm harvests as they likely contain impurities and fail to perform as advertised or promised. Poor harvests and crop quality can severely impact farmer income, local markets, and food security.
- By containing noxious impurities, illegal seeds often cause harm or damage to the environment or food supply.
- Illegal Seed distributors provide no essential stewardship information, leaving farmers without guidance on responsible and proper use of a product.

Why are Illegal Seed Practices existing

- Cultural and social factors (traditional practices, etc.)
- Lack of awareness or appreciation to plant breeders work and rights.
- Recession, low income for farmers
- Relatively easy to organize
- Perceived low risk: not in the main focus of law enforcement
- Misunderstood as no harm to human health when in fact, there might be
- Relatively small economic loss to government compared to losses on tax revenue in other areas
- Political misunderstandings of the real underlying issues e.g. thought of as “poor farmers vs big multinationals” when in fact it is about crooks versus society.
- High profit

Regulatory Offences

- Seed market strongly regulated in many countries (certification scheme)
- Illegal Seed Practices imply regulatory offences against seed production and market regulations.
- Nevertheless...
 - Capacity of administrative proceedings in some countries (i.e., right holder not acknowledged as party in the proceedings – no intervention)
 - Lack of commitment by competent authorities in the prosecution of counterfeited seeds and plants
 - No dissuasive fines (to deterring further infringements – TRIP'S):
Example: € 600 on average in Spain!!

Enforcement main obstacles

- Legislative shortcomings
- Ignorance of applicable regulations and technical aspects (production and multiplication of plant material, variety identification, etc.) by authorities (Courts, prosecutors, police, etc.)
- Collecting evidence
- Variety identification (phenotype vs genotype): questions about acceptance of molecular marker data by some despite huge body of published data and precedents in legal cases.
- Misuse of “Farmer’s privilege”: Farm Saved Seed

Goals of Plant Breeders

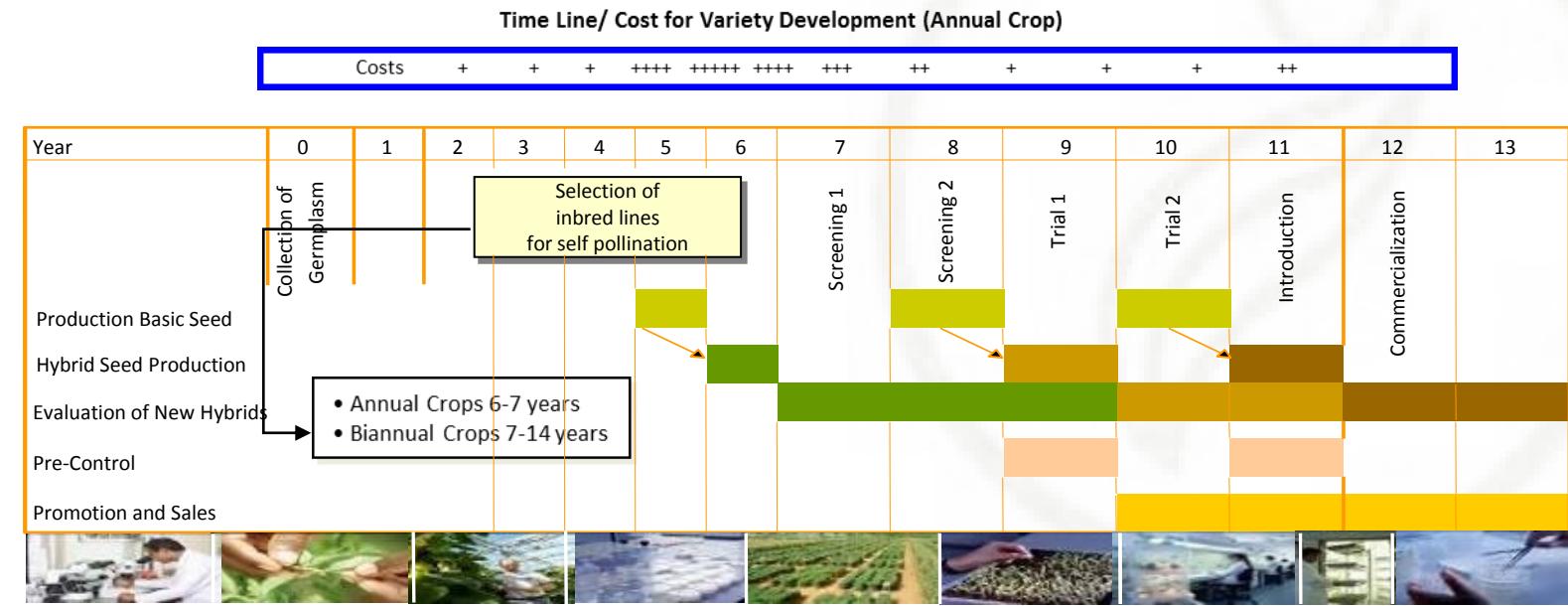
- Plant breeders have always strived to:
 - create new variations of plant characteristics
 - provide solutions for disease and pest resistance
 - increase tolerance to environmental stress
 - achieve higher yields
 - meet consumer expectations.
- The tremendous progress in agricultural productivity in various parts of the world is largely based on improved varieties.

Breeding is long and expensive

Accumulated R&D costs for a variety to market range 1.5 – 2.5 M€ in US/ Europe,

A global portfolio average of accumulated R&D costs per variety currently is in the range of 1 M€

Average time to market of 12 year



Effective protection for Innovation

Innovation: research which requires more technologies and more expense; developing and using the toolbox



More investments



Creation of new improved varieties, to fit increasing diversity of needs from farmers, consumers, and society



Sale of varieties generating investment return via Value Proposition to the customer (farmer) and protection of Intellectual Property

Breeders need to be able to exercise their rights at least once

Why is protection of development and innovation critical?

- Help ensure return on investments
- Encourage innovation, risk taking
 - Critically relevant to the private commercial sector
 - Also used by the public sector (national and international)
- Facilitate widespread use of innovation
 - Spread during life of IP
 - Spread post IP Expiration
- Help prevent illegal seed practices
 - Misrepresents product quality to the farmer
 - Misappropriation reduces genetic diversity
- Help promote more effective use of more genetic diversity

What kind of Protection?

- IP rights are indispensable to protect and sustain breeder's efforts and investments.
- UPOV constitutes the international standard system for sui generis PVR.
- Effectiveness of PVR greatly depends on national laws, supportive regulatory framework and enforcement.
- Breeders have to make use of every form of legal protection and other existing tools to protect their varieties and seeds.
 - Use of trademark and logo, copyrights
 - Licence contracts
 - Bag tags
 - Contractual terms and sales conditions
 - Educating staff members
 - Etc...

What does the seed industry, agriculture, and society need?

- Predictable business environment with strong legal protections to serve as a stimulus for developing a vibrant local seed industry.
- Support for innovation in crop breeding, by adopting a PVP legislation according to UPOV91. This will in long term improve the agriculture output.
- Functional system for complaints about low seed quality, wrong product placement, and IP infringement.
- Effective laws and successful track record of enforcing those laws will serve as deterrent to counterfeiters.
- Enforcement of existing laws which is vital to avoid infringements.
- Commitment from competent authorities in the prosecution of counterfeited seeds and plants with dissuasive fines

Stakeholders to improve Enforcement

- Government ministries, agencies and institutions
 - Central / national / federal
- Judicial system
- Plant Breeders Rights holder
- Seed Industry Organizations
- Ultimately consumers i.e. all of society are stakeholders in a more productive, nutritious, and environmentally responsible agriculture!

And for the future...

Working toward a more effective environment for the conduct of plant breeding and an improved and assured supply of high quality supply seeds to farmers



Seed is Life



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