



## Importance of Plant Variety Protection and UPOV'91 in the EU

Seminar on Feasibility of China's

accession to UPOV'91

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# What is the European Union?

The European Union



Member States of the European Union (2014)  
 Candidate countries and potential candidates



## What is the European Union?

- since 25 March 1957: 60-year anniversary of the Treaty of Rome
- unique, voluntary, economic and political union between 28 European countries
- from the European economic community (EEC) in 1957 to the EU in 1993
  - dynamic evolution: several new policy areas added over the years: climate, environment and health, external relations and security, justice and migration
- rule of law: everything it does is founded on treaties, voluntarily and democratically agreed by its member countries
- representative democracy: citizens directly represented at Union level in the European Parliament and Member States represented in the European Council and the Council of the EU
- Europe (the continent) vs the European Union



## How the EU functions : main institutions after Lisbon Treaty (2009)

- the **European Parliament**, which represents the EU's citizens and is directly elected by them
- the **European Council**, which consists of the Heads of State or Government of the EU Member States
- the **Council**, which represents the governments of the EU Member States
- the **European Commission**, which represents the interests of the EU as a whole
- the **European Court of Justice (ECJ)**



## How the EU functions: policy areas and types of legislation

- **Competencies**

**Exclusive:** trade policy, customs Union, competition, monetary, common agriculture and fisheries policies,

**Shared:** Internal Market, agriculture and fisheries, climate, environment, health, consumer protection, transport, external relations and security, justice and migration...

Support Actions: industry, human health, education, sport...

- **Types of legislation and Harmonisation vs Unification**

**Regulation** is a law that is applicable and binding in all Member States directly.

**Directive** is a law that binds the Member States, or a group of Member States, to achieve a particular objective.

Significantly, a directive specifies the result to be achieved: it is up to the Member States individually to decide how this is done.

**Decision** can be addressed to Member States, groups of people, or even individuals. It is binding in its entirety.

Decisions are used, for example, to rule on proposed mergers between companies.

**Recommendations** and **opinions** have no binding force



## Intellectual Property rights protection in Europe: Unified and/or harmonised

- Trademarks
- Designs
- Patents
- Copyright
- Trade secrets
- Geographical indications
- Plant Variety Rights



## European Union legislation on Plant Variety Rights

- **Basic Regulation: Council Regulation (EC) N° 2100/94 on Community Plant Variety Rights**
  - **Applicable throughout the EU territory:** uniform protection (*single market*) for new plant varieties coexisting with 24 national systems (choice of the applicant)
  - **Duration of protection 25 years for plant varieties - 30 years for vine, potato and tree species**
  - **In line with UPOV 1991 Act**
- **The system is run by the Community Plant variety office (CPVO), an EU agency:** one application, one procedure, on examination, one decision



## **Intellectual Property rights: Economic Performance in the EU** ***2016 EUIPO/EPO Report on IPR intensive industries in 2011-2013***

- **42.3% total EU GDP, € 5.7 trillion [42.1% in the 2013 study]**
- **85.5% of imports / 93.2% of exports [88.3% imports/90.4% exports in 2013]**
- **EU Trade balance: +96 billion v. overall deficit of -42 billion [-126 billion in 2013]**
- **38.1% of all jobs over a total of 216 million jobs**
  - **60 million direct employment: 27.8% of all jobs [27.6% in 2013]**
  - **22 million additional indirect jobs**
- **46% higher salary and better value added per worker [41% in 2013]**





## Economic impacts of PVR in the EU

- **Since 1995: + 57 000 applications examined and + 42 000 rights granted**
- **Since 2002: more CPVR applications than national rights application** (national applications less than 40% of EU applications)
- **Main users: 79% EU MS / 21% non EU MS**
- From EU: NL (+18 000); DE and FR (+7 000), DK (+2 400), IT (+1 400); BE and ES (+1 000)
- Outside EU: USA (+5 500); SW (+2 700); JP (+800) and AUS (+600)
- **8 of the top 10 EU MS in field crop seed trade are amongst the top 10 of CPVR holders for agricultural crops**



## Intellectual Property rights: Economic Performance in the EU

### *2016 EUIPO/EPO Report on IPR intensive industries in 2011-2013*

- 42.3% total EU GDP, € 5.7 trillion / **PVR intensive: 0.4% / 52 million**
- 85.5% of imports / 93.2% of exports / **PVR intensive: 0.35% imports / 0.31% exports**
- EU Trade balance: + 96 billion / **PVR intensive: -304 million**
- 38.1% of all jobs over 216 million jobs / **PVR intensive: 0.6% / Horticulture (637 188)**
  - 60 million direct employment: 27,8% of all jobs / **PVR intensive :0,5% / 1.1 million jobs**
  - 22 million additional indirect jobs / **PVR intensive: 1.2 million indirect jobs**
- 46% higher salary and better value added per worker **PVR intensive: N/A**



## **Evaluation of the Community Plant Variety Right Acquis: *2011 Report***

- **Effective coexistence between EU and national protections**
- **CPVR system is an incentive for breeders to invest in research and develop in new plant varieties**
- **Balance between breeders', growers' and consumers' interest (exemptions) although concerns about enforcement**
- **Market development was encouraged**
- **Adequate biodiversity protection**
- **Interaction with national and international law, policy and instruments**
- **The system provides a useful template for China to consider**



**Thank you very much for your  
attention!**

**谢谢大家!**