

International Symposium on PVP

PVP国际研讨会

The EDV concept and introduction to cases
and practical experiences of EDV
实质性派生品种（EDV）的概念、指导和实践经验

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July 21, 2021

Geneva (via electronic means)



PREVIEW (预览)

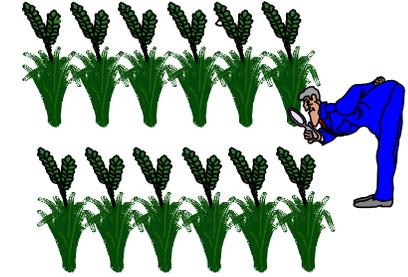
1. Varieties covered by the breeder's right
受育种者权利保护的品种
2. Essentially Derived Varieties (EDV)
实质性派生品种 (EDV)
 - a) Purpose and concept 目的和概念
 - b) Protection of EDVs EDVs的保护
 - c) Protection of Initial Variety (IV) 原始品种保护(IV)
 - d) UPOV guidance UPOV指导

VARIETIES COVERED (1991 Act)

涵盖的品种(1991年法案)

(ii) varieties which are **not clearly distinguishable** in accordance with Article 7 from the protected variety

按照第七条规定与受保护品种无法明显区分的品种



(iii) varieties whose production requires the **repeated use of the protected variety**

生产中需要重复使用受保护品种的品种

e.g. hybrids produced using a protected variety

例如，使用受保护品种生产的杂交种

(i) varieties which are **essentially derived** from the protected variety, **where the protected variety is not itself an essentially derived variety**

实质性派生于受保护品种，而受保护品种本身并不是实质性派生品种，的品种



Essentially Derived Varieties

实质性派生品种

PURPOSE (目的):

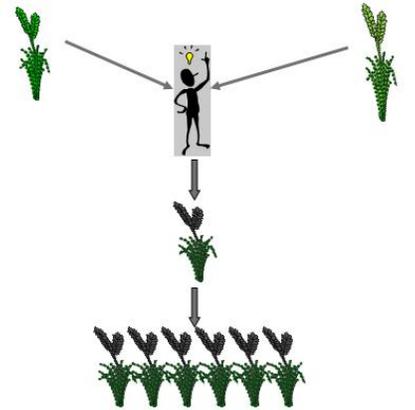
to ensure sustainable plant breeding development by:

确保植物育种的可持续发展:

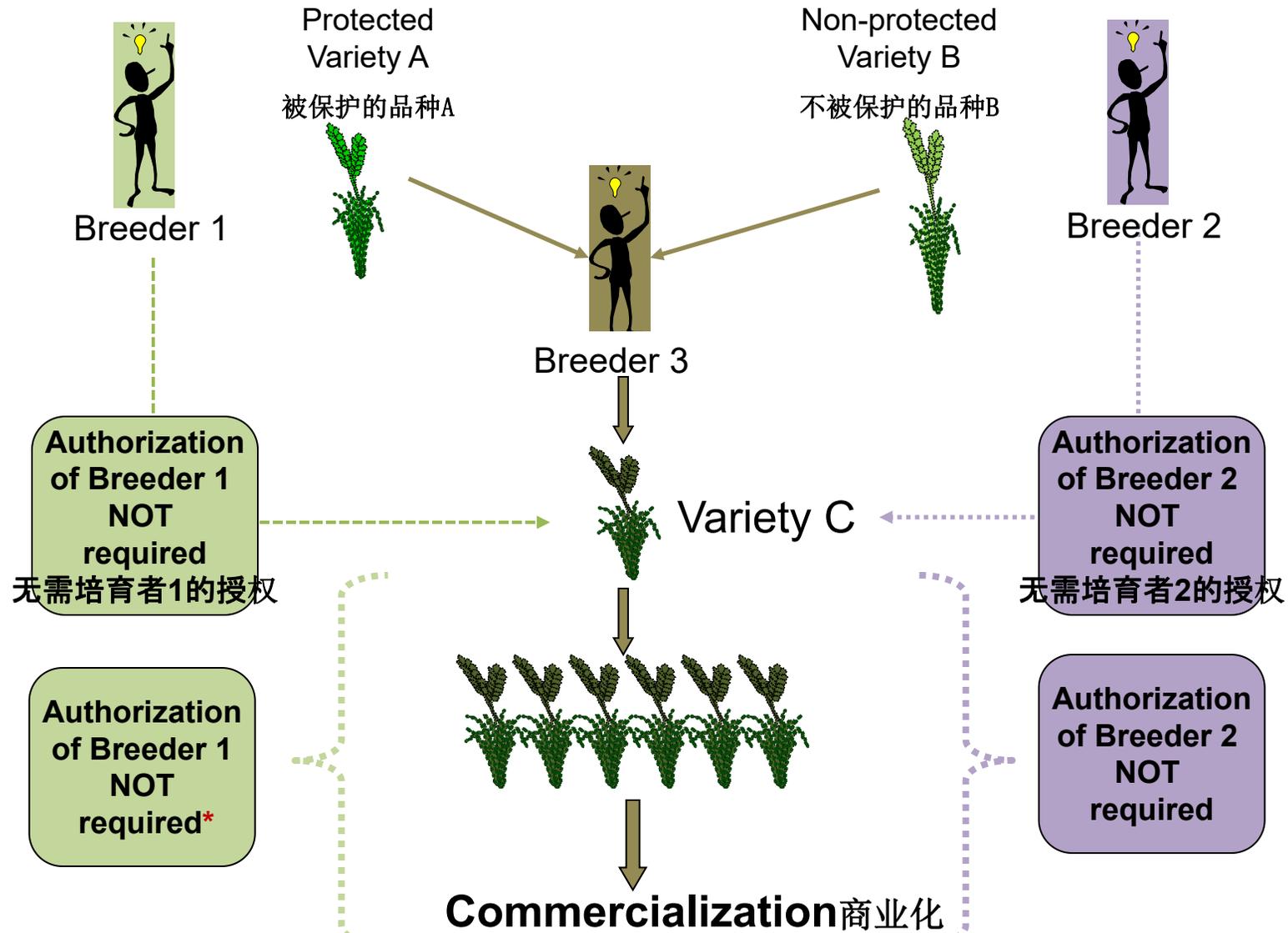
– providing effective protection for the breeder

And 为培育者提供有效的保护 和

– encouraging cooperation between breeders and developers of new technologies such as genetic modification 鼓励育种者和转基因等新技术的开发人员之间的合作



Breeder's exemption 培育者的豁免权



* Except for (除了):

- (i) varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety, 实质性派生于受保护品种, 而受保护品种本身并非实质性派生, 的品种。
- (ii) varieties which are not clearly distinguishable in accordance with Article 7 from the protected variety and 按照本规定与保护品种区分不清的品种
- (iii) varieties whose production requires the repeated use of the protected variety. 生产中需要重复使用受保护品种的品种。

Essentially Derived Varieties

实质性派生品种

Article 14 第14条

Scope of the Breeder's Right 育种者的权利范围

(5)[*Essentially derived and certain other varieties*] [实质派生和某些其他种类]

(a) [...]

(b) For the purposes of subparagraph (a)(i), a variety shall be deemed to be **essentially derived from another variety (“the initial variety”)** when

就(a)项第(i)项而言，在下列情况下，一种品种应被视为基本上源自另一种品种(“原始品种”)

(i) it is **predominantly derived from the initial variety**, or from a variety that is itself predominantly derived from the initial variety, **while retaining the expression of the essential characteristics** that result from the genotype or combination of genotypes of the initial variety, 它主要来自最初的品种，或来自本身主要来自原始品种的品种，同时保留原始品种的基因型或基因型组合所产生的基本特征的表达，

(ii) it is **clearly distinguishable** from the initial variety and 它与原始品种和有明显的区别

(iii) **except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics** that result from the genotype or combination of genotypes of the initial variety. 它除因派生行为而产生的差异外，在原始品种的基因型或基因型组合所产生的本质特征的表达上与原始品种一致

Essentially Derived Varieties

May be obtained for example by:

可以通过以下方法获得:

- **selection** of a natural or induced **mutant** 自然选择或诱导突变
- **selection** of a **somaclonal variant** 体细胞无性系变异体的选择
- **selection** of a **variant individual** from plants of the initial variety
从原始品种的植物中选择变异个体
- **back-crossing** 回交
- transformation by **genetic engineering** 基因工程转化

PREVIEW

1. Varieties covered by the breeder's right
2. **Essentially Derived Varieties (EDV)**
实质性派生品种 (EDV)
 - a) Purpose and concept
 - b) Protection of EDVs EDVs的保护**
 - c) Protection of Initial Variety (IV)
 - d) UPOV guidance

Essentially Derived Varieties

Can EDVs be protected in their own right?

EDV能否以其自身的权利得到保护

- same criteria for protection 保护标准相同

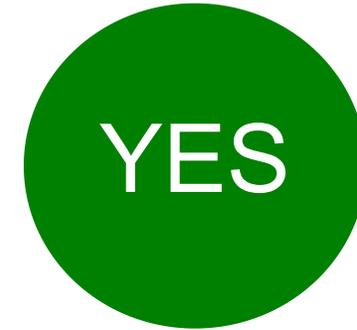
Can EDVs be commercially exploited?

EDV能否被商业化开发?

Requires the authorization of the PBR holder of the

INITIAL VARIETY and the PBR holder of the EDV

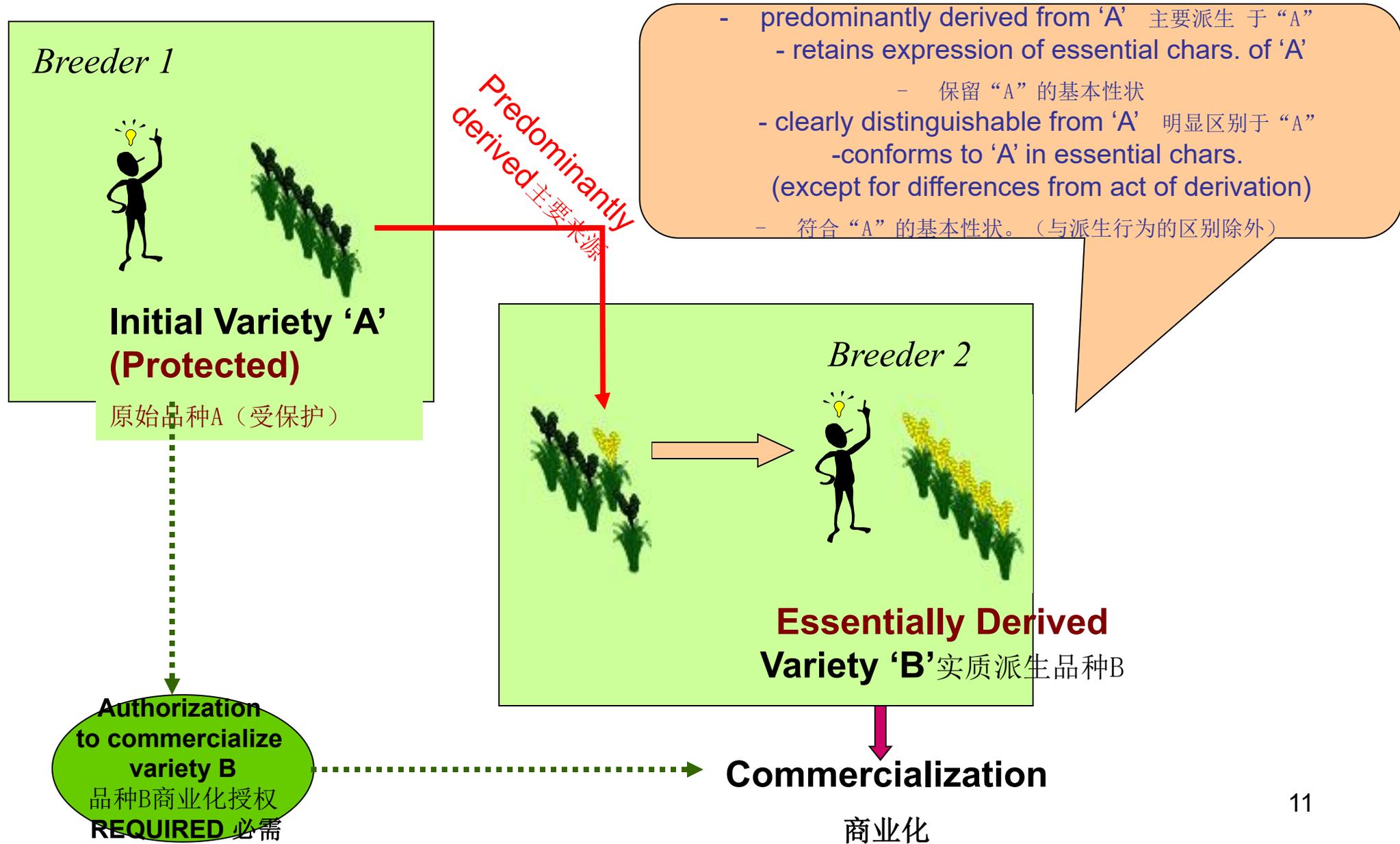
需要原始品种的PBR持有人和EDV的PBR持有人的授权



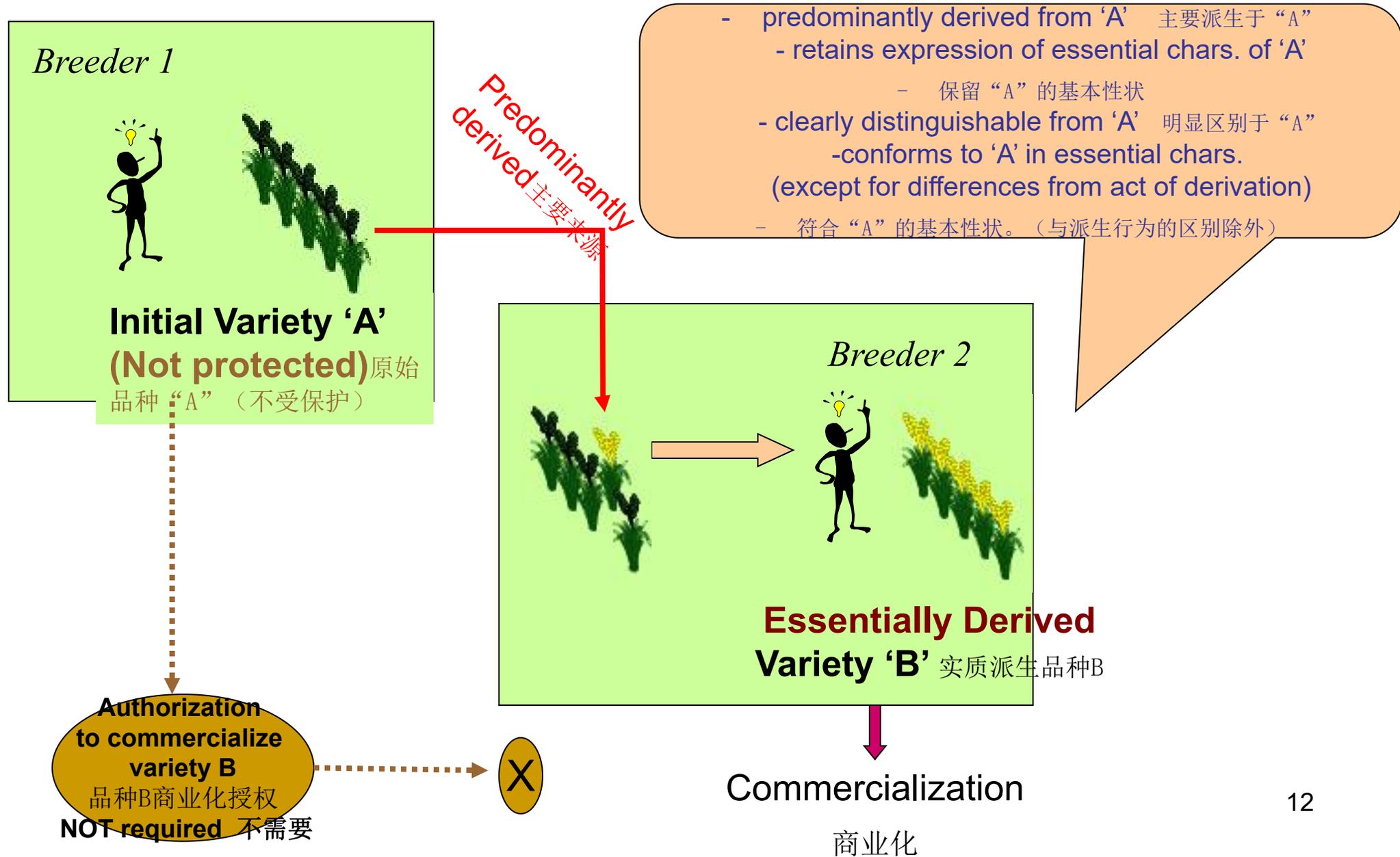
PREVIEW

1. Varieties covered by the breeder's right
2. **Essentially Derived Varieties (EDV)**
实质性派生品种 (EDV)
 - a) Purpose and concept
 - b) Protection of EDVs
 - c) **Protection of Initial Variety (IV) 原始品种保护(IV)**
 - d) UPOV guidance

Essentially Derived Varieties



Essentially Derived Varieties



Scope of the Breeder's Right (1991 Act)

育种者权利范围(1991年法案)

Article 14 第14条

Scope of the Breeder's Right 育种者权利范围

(5)[*Essentially derived and certain other varieties*] [实质派生和某些其他种类]

(a) **The provisions of paragraphs (1) to (4)*** shall also apply in relation to
第(1)至(4)*款的规定也应适用于

(i) varieties which are essentially derived from the protected variety,

where the protected variety is not itself an essentially derived variety,

本质来源于受保护品种的品种，而受保护品种本身并不是本质来源于受保护品种的品种，

Article 14*

Scope of the Breeder's Right

(1)[*Acts in respect of the propagating material*] [关于繁殖材料的行为]

(2)[*Acts in respect of the harvested material*] [关于收获材料的行为]

(3)[*Acts in respect of certain products*] [针对某些产品的行为]

(4)[*Possible additional acts*] [可能的额外行为]

Essentially Derived Varieties

Initial Variety 'A'
(PROTECTED)
bred and protected by *Breeder 1*
由育种者1培育和保护的原始品种“A” (受保护)

Essentially Derived Variety 'B'
bred and **protected** by *Breeder 2*
实质派生品种“B”由育种者2培育和保护的

- predominantly derived from 'A' 主要来源于“A”
- retains expression of essential characteristics of 'A' 保留了“A”基本特征的表达
- clearly distinguishable from 'A' 与“A”明确区分
- conforms to 'A' in essential characteristics (except for differences from act of derivation) 在基本特征上符合“A” (与衍生品种的差异除外)

Commercialization 商业化:
authorization of
Breeders 1 and 2 required
需要1号和2号育种者的授权

Essentially Derived Variety 'C'
bred and **protected** by *Breeder 3*
实质派生品种 'C' 由育种者3培育和保护的

- predominantly derived from 'A' or 'B' 主要来源于“A”或“B”
- retains expression of essential characteristics of 'A' 保留了“A”基本特征的表达
- clearly distinguishable from 'A' 与“A”明确区分
- conforms to 'A' in essential characteristics (except for differences from act of derivation) 在基本特征上符合“A” (与衍生产品的差异除外)

Commercialization 商业化:
authorization of
Breeders 1 and 3 required
(authorization of
Breeder 2 not required)
需要1号和3号育种者的授权 (不需要2号育种者的授权)

Essentially Derived Varieties

Initial Variety 'A'
(NOT PROTECTED)
bred and protected by *Breeder 1*
由育种者1培育和保护的原始品种“A”（不受保护）

Essentially Derived Variety 'B'
bred and **protected** by *Breeder 2*
实质派生品种“B”由育种家2培育和保护的

- predominantly derived from 'A' 主要来源于“A”
- retains expression of essential characteristics of 'A' 保留了“A”基本特征的表达
- clearly distinguishable from 'A' 与“A”明确区分
- conforms to 'A' in essential characteristics (except for differences from act of derivation) 在基本特征上符合“A”（与衍生品种的差异除外）

Commercialization (商业化):
authorization of
Breeder 2 required
(authorization of
Breeder 1 not required)
需要育种者2的授权(不需要育种者1的授权)

Essentially Derived Variety 'C'
bred and **protected** by *Breeder 3*
实质派生品种‘C’由育种者3培育和保护的

- predominantly derived from 'A' or 'B' 主要来源于“A”或“B”
- retains expression of essential characteristics of 'A' 保留了“A”基本特征的表达
- clearly distinguishable from 'A' 与“A”明确区分
- conforms to 'A' in essential characteristics (except for differences from act of derivation) 在基本特征上符合“A”（与衍生产品的差异除外）

Commercialization (商业化):
authorization of
Breeder 3 required
(authorization of
Breeders 1 and 2 not required)
需要育种者3的授权(不需要育种者1和2的授权)

PREVIEW 概览

Varieties covered by the breeder's right

育种权涵盖的品种

Essentially Derived Varieties (EDV) 实质派生品种 (EDV)

- a) Purpose and concept 目的和概念
- b) Protection of EDVs EDV保护
- c) Protection of Initial Variety (IV) 原始品种保护 (IV)
- d) **UPOV guidance** UPOV指导

UPOV/EXN/EDV/2

Original: English

Date: April 6, 2017

**EXPLANATORY NOTES ON ESSENTIALLY DERIVED VARIETIES
UNDER THE 1991 ACT OF THE UPOV CONVENTION**

《1991年upov公约法》下实质派生品种的解释性说明

Document adopted by the Council
at its thirty-fourth extraordinary session
on April 6, 2017

Seminar on the Impact of Policy on Essentially Derived Varieties (EDVs) on Breeding Strategy

实质派生品种政策对育种策略的影响研讨会



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Seminar on the Impact of Policy on Essentially Derived Varieties (EDVs) on Breeding Strategy (UPOV/SEM/GE/19)

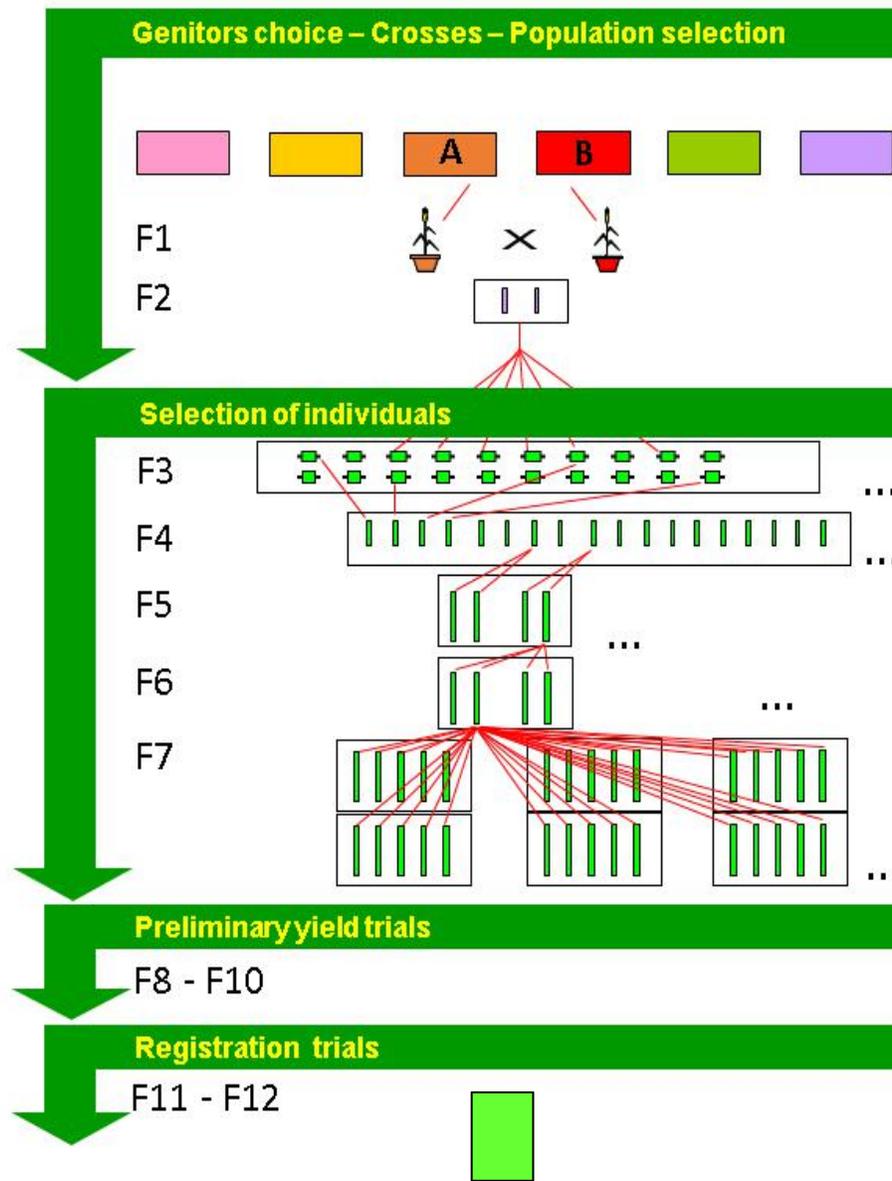
October 30, 2019 (Geneva, Switzerland)

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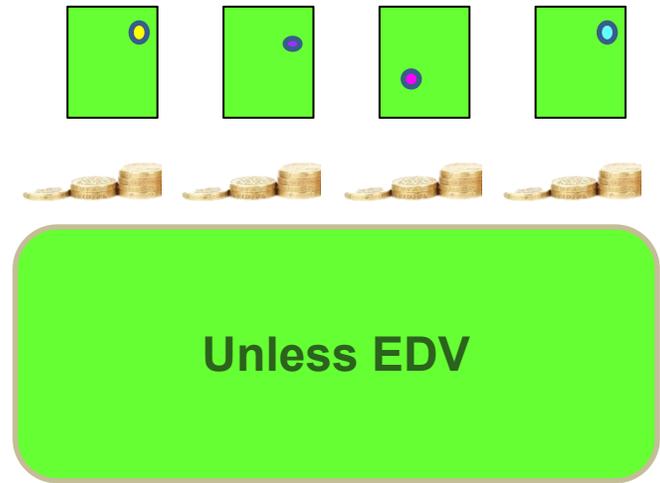
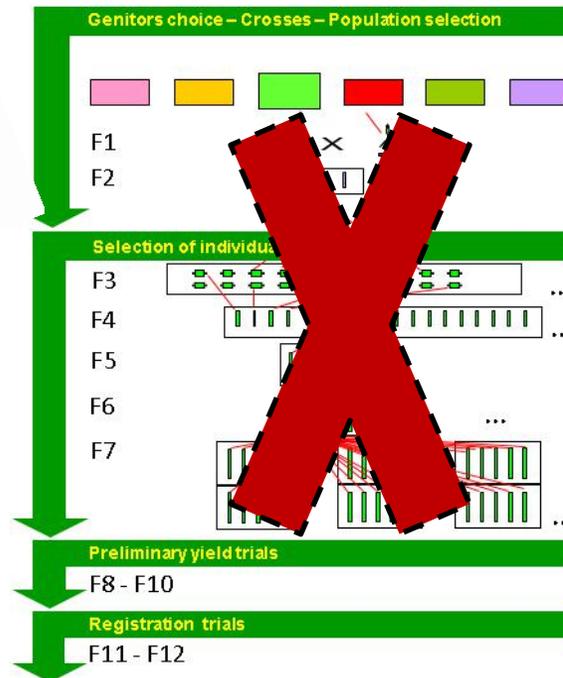
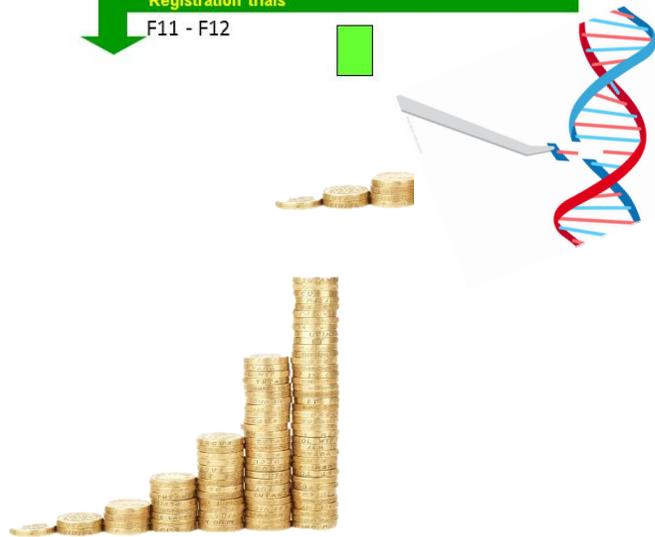
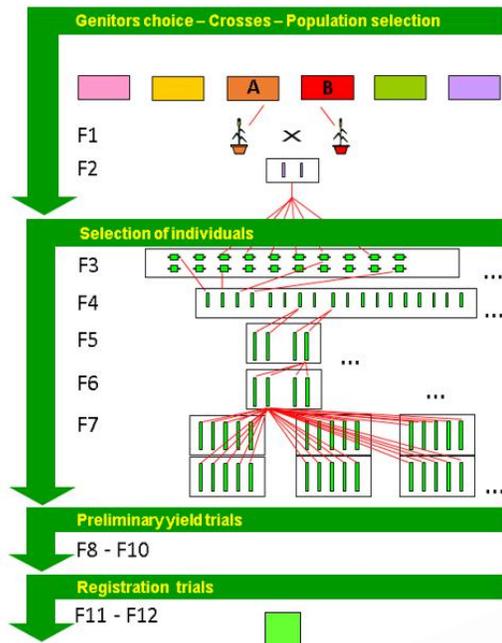


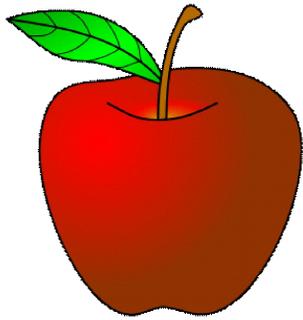
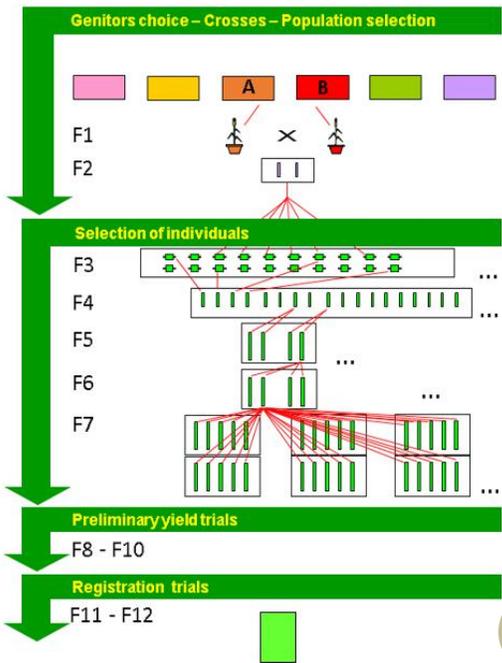
亲本选择-交叉-种群选择

个体选择

初步的田野实验

登记实验





Mutation
突变



UPOV EDV Seminar - Summary

UPOV EDV研讨会-总结



- Evidence that the current UPOV guidance does not reflect the practice amongst breeders in the understanding of essentially derived varieties (EDV).
- 有证据表明，现行的UPOV指南并未反映出育种者在理解实质派生品种（EDV）方面的做法。

- ***Evolution of breeding techniques has created new opportunities/incentives for predominately deriving varieties from initial varieties, more rapidly and at a lower cost.***

育种技术的发展创造了新的机会/激励因素，以更快、更低的成本从原始品种中获得主要的品种。

- Clear indication from presentations and discussions that the understanding and implementation of the EDV concept influences breeding strategy – therefore, it is ***important that UPOV guidance is tuned to maximize benefits to society in terms of maximizing progress in breeding.*** 对EDV概念的理解和实施会影响育种策略 – 因此，调整UPOV指南以最大限度地提高育种进展方面的社会效益是非常重要的。

Essentially Derived Varieties

•Seminar on the
Impact of Policy on Essentially Derived Varieties (EDVs)
on Breeding Strategy

•实质派生品种政策对育种策略影响研讨会



October 2019

UPOV

**Working Group on Essentially
Derived Varieties (WG-EDV)**

to draft a **revision** of the

Explanatory Notes on

Essentially Derived Varieties

for consideration by the

Administrative and Legal Committee (CAJ)

https://www.upov.int/meetings/en/topic.jsp?group_id=343

实质派生品种（WG-EDV）工作组拟修订《实质性派生品种解释性说明》供委员会审议
行政和法律委员会（CAJ）

...plus EDV information session...加上EDV信息会议