

PBR/PVP in the Asia-Pacific Region: Current Status and Emerging Issues

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APSA (Asia & Pacific Seed Association)

- **Set up (1994) as a regional forum for seed policy issues**
 - Stimulate cooperation among public & private seed enterprises
 - Exchange information & experiences
 - Establish relationships with international organisations
- **419 member companies/organisations (Nov 2006)**
 - Membership dominated by private sector
 - 30 government agency members

APSA (Asia & Pacific Seed Association)

- **Asian Seed Congress**
 - Annual event
 - 700-1000 registrants
- **Importance of trading has increased**
 - Face-to-face contact in the Asian tradition
- **Technical sessions (2 days)**
- **Standing Committee, Special Interest Group meetings (2 days)**

APSA SC on Intellectual Property Rights

- **APSA-UPOV Workshops at Asian Seed 2005 & 2006**
 - One day pre-Congress
 - Detailed reports on PBR status from Asian countries
 - Guidance on special issues from UPOV
 - Funded by GNIS (France)

Regional membership of UPOV

| Country | UPOV Membership | UPOV Act |
|-------------|-----------------|----------|
| Australia | 1989 | 1991 |
| China | 1999 | 1978 |
| Japan | 1982 | 1991 |
| Korea | 2002 | 1991 |
| New Zealand | 1981 | 1978 |
| Singapore | 2004 | 1991 |
| Vietnam | 2006 | 1991 |

Progress in other Asia-Pacific countries

- Another 5 countries have national PBR laws drafted in consultation with UPOV, but not yet reviewed and accepted by UPOV model
 - Thailand (1999)
 - Indonesia (2000)
 - India (2001)
 - Philippines (2002)
 - Malaysia (2004)
- PBR laws in preparation (10 countries)
 - Bangladesh, Cambodia, Fiji, Laos, Mongolia, Myanmar, Nepal, Pakistan, Sri Lanka, Tonga

Farmers' Rights

- **Farmers' privilege (UPOV)**
 - Right to use farm-saved seed/propagating material subject to the national law
- **Convention on Biological Diversity (CBD)**
 - Conservation of biological diversity, sustained use of its elements and benefit sharing from their exploitation
- **International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)**
 - Conservation & sustainable use of PGRs for food and agriculture, and fair and equitable benefit sharing from use for sustainable agriculture and food security
- **Legislative confusion in some countries**

Plant Breeder's Rights Act 1994

17. Conditioning and use of farm saved seed does not infringe PBR

(1) If:

- (a) a person engaged in farming activities legitimately obtains propagating material of a plant variety covered by PBR either by purchase or by previous operation of this section, for use in such activities; and
- (b) the plant variety is not included within a taxon declared under subsection (2) to be a taxon to which this subsection does not apply; and
- (c) the person subsequently harvests further propagating material from plants grown from that first mentioned propagating material;

the PBR is not infringed by:

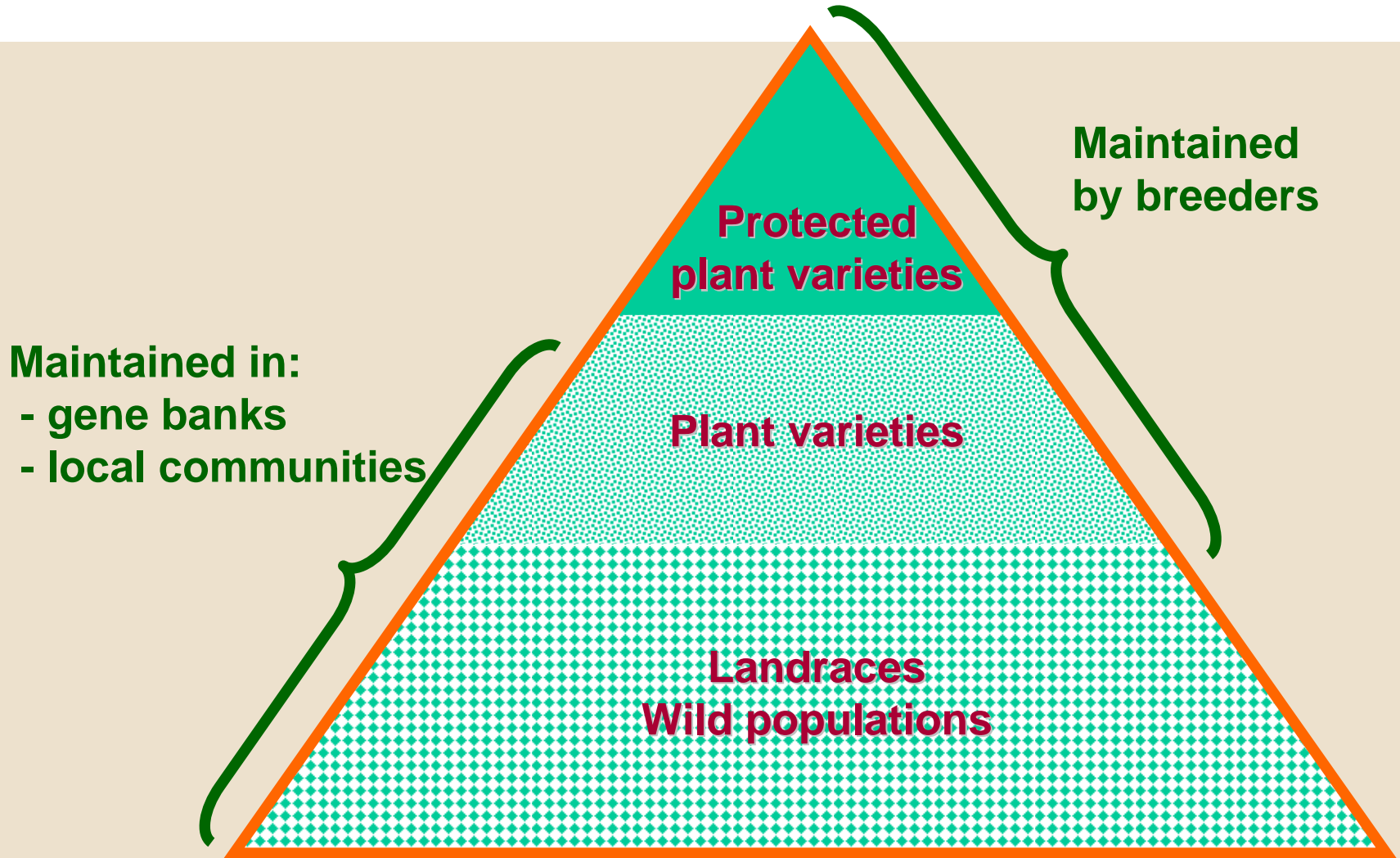
- (d) the conditioning of so much of that further propagating material as is required for the person's use for reproductive purposes; or
- (e) the reproduction of that further propagating material.

(2) The regulations may declare a particular taxon to be a taxon to which subsection (1) does not apply.

PBR Acts not yet compliant with UPOV

- **Thailand**
 - Plant Varieties Protection Act (1999)
- **Indonesia**
 - Plant Variety Protection Act (2000)
- **India**
 - Protection of Plant Varieties & Farmers' Rights Act (2001)
- **Malaysia**
 - Protection of New Plant Varieties Act (2004)
- **All mix PBR with recognition of community rights on landraces & local domestic plant varieties**

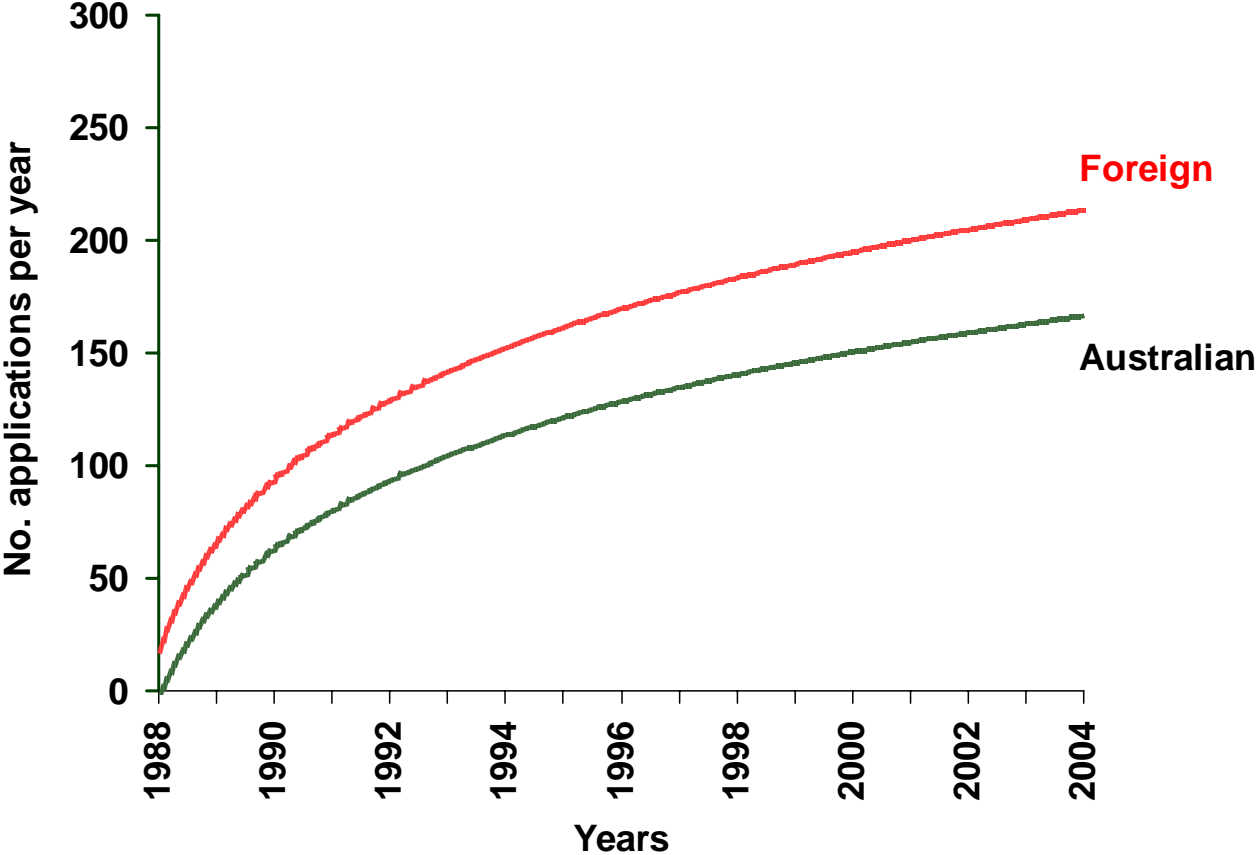
Plant genetic resources



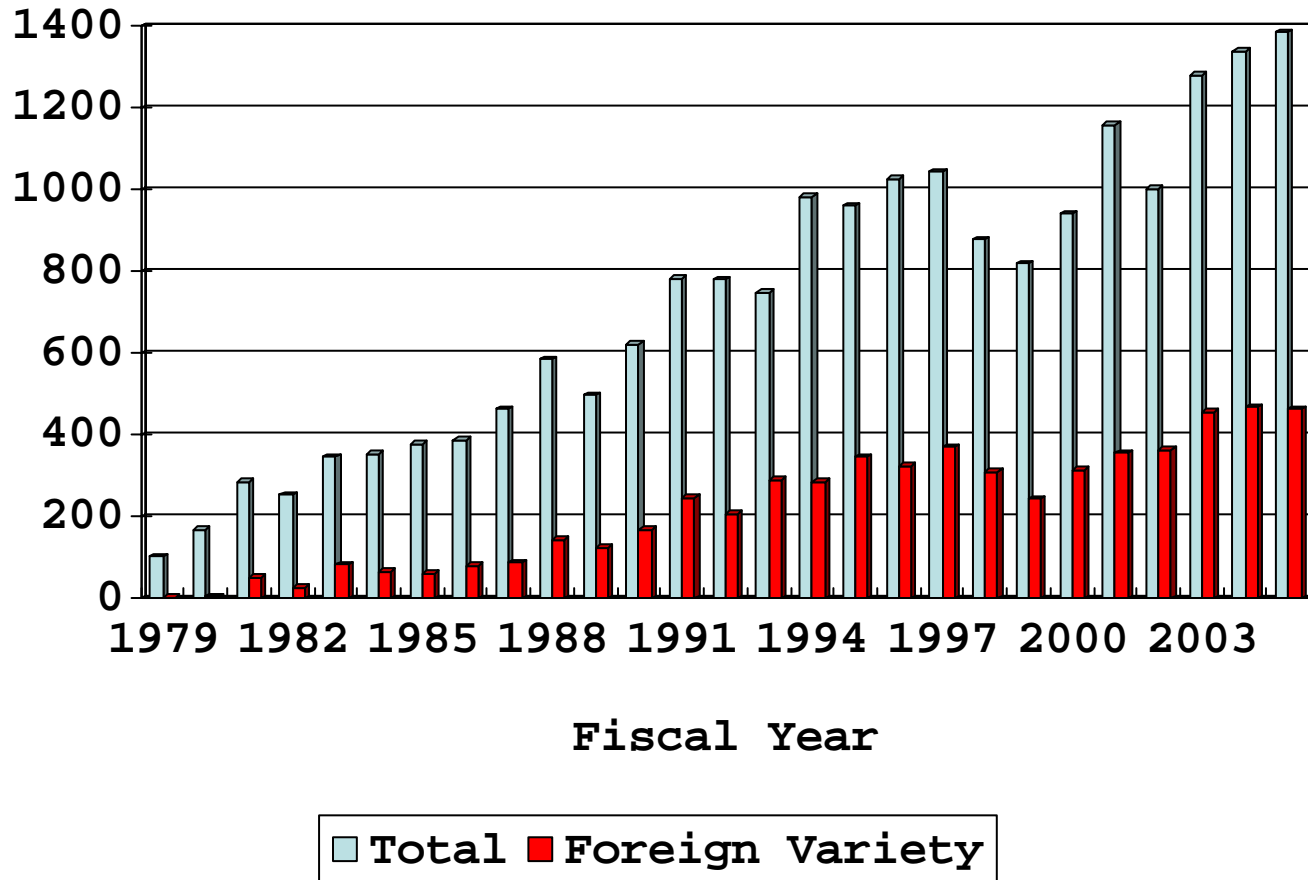
Factors encouraging introduction of PBR

- **Australia, Japan and New Zealand**
 - Pre-date TRIPs Convention
 - Encourage breeding by rewarding breeders
- **Other 15 other countries post-1994**
 - Responded primarily to TRIPs agreement
 - Must have *sui generis* PBR system in place

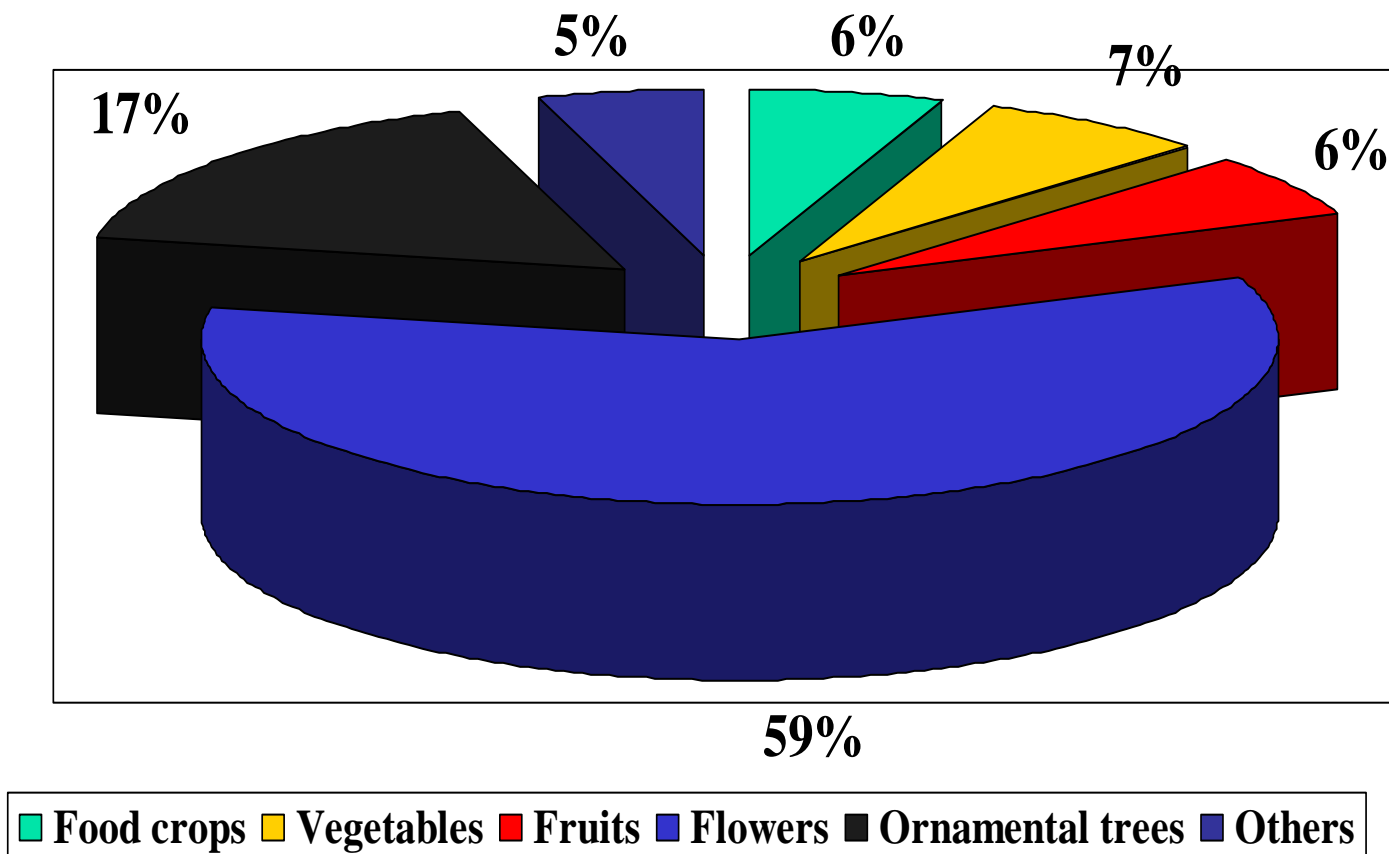
PBR applications in Australia (1988-2004)



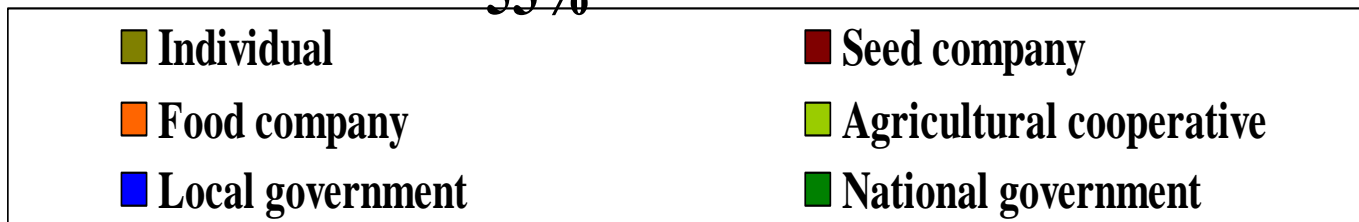
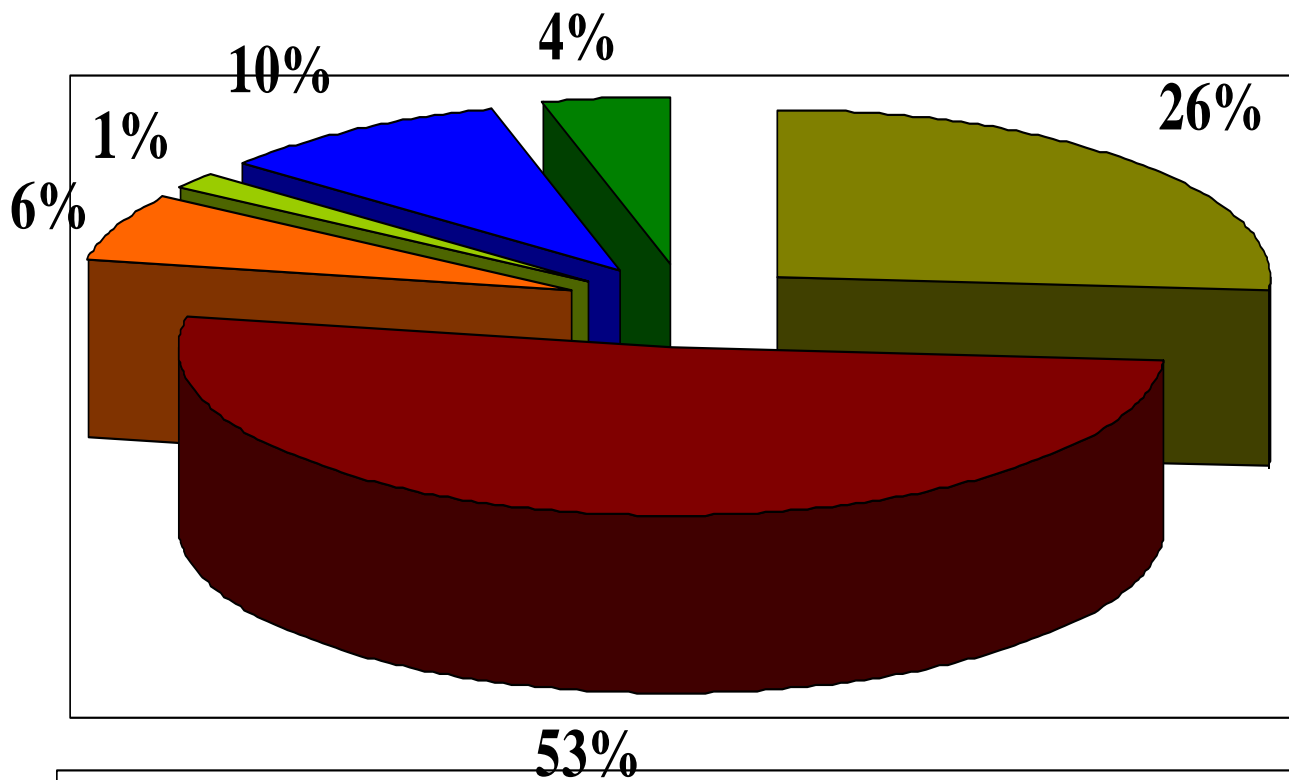
Growth in PBR Applications in Japan (1979-2005)



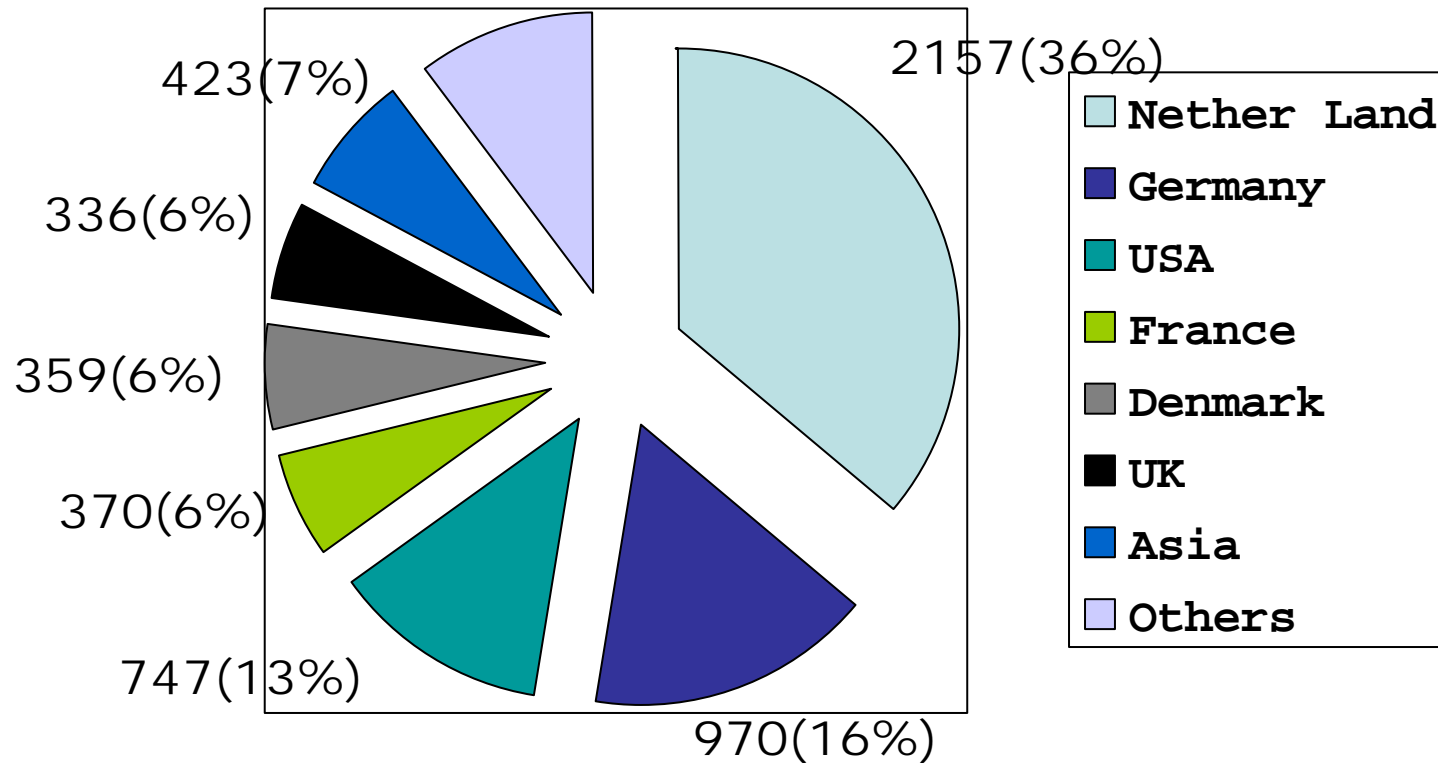
Japanese PBR registrations by crop types (1979-2005)



Japanese PBR registrations by breeders (1979-2005)



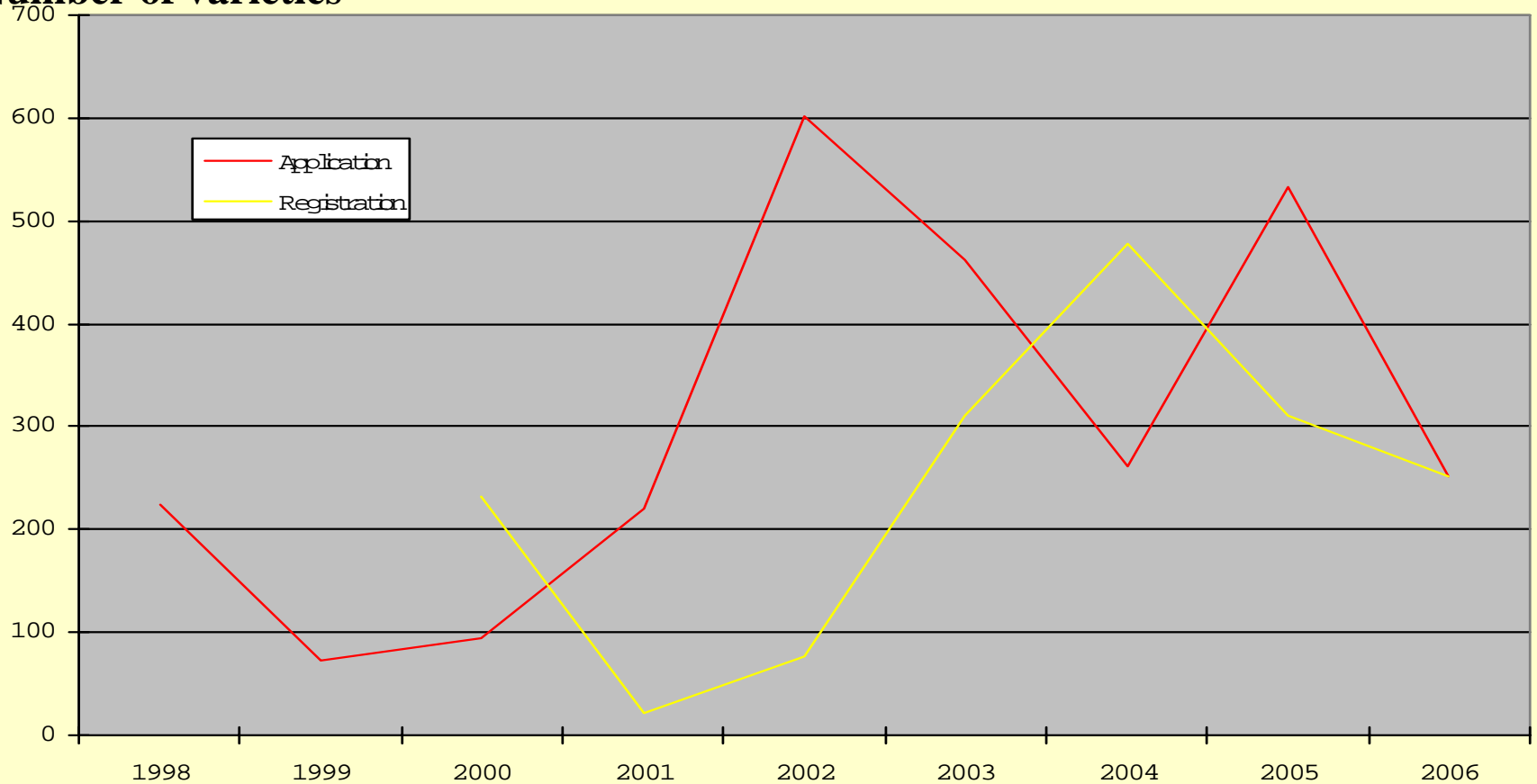
Japanese PBR applications from foreign countries (1979-2005)



Number of varieties – PBR applications vs. registrations (Korea)

(As at end of September 2006)

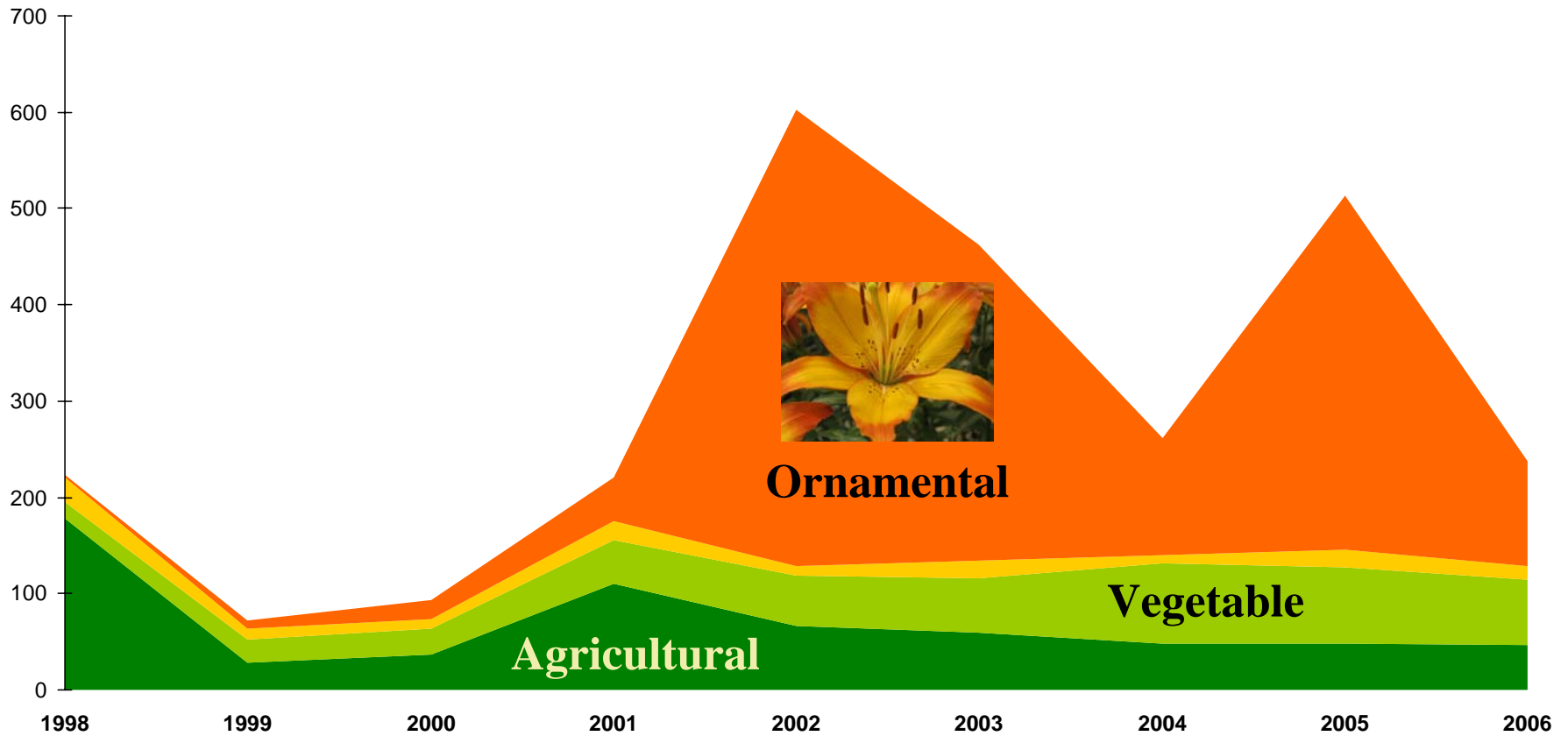
Number of varieties



Year

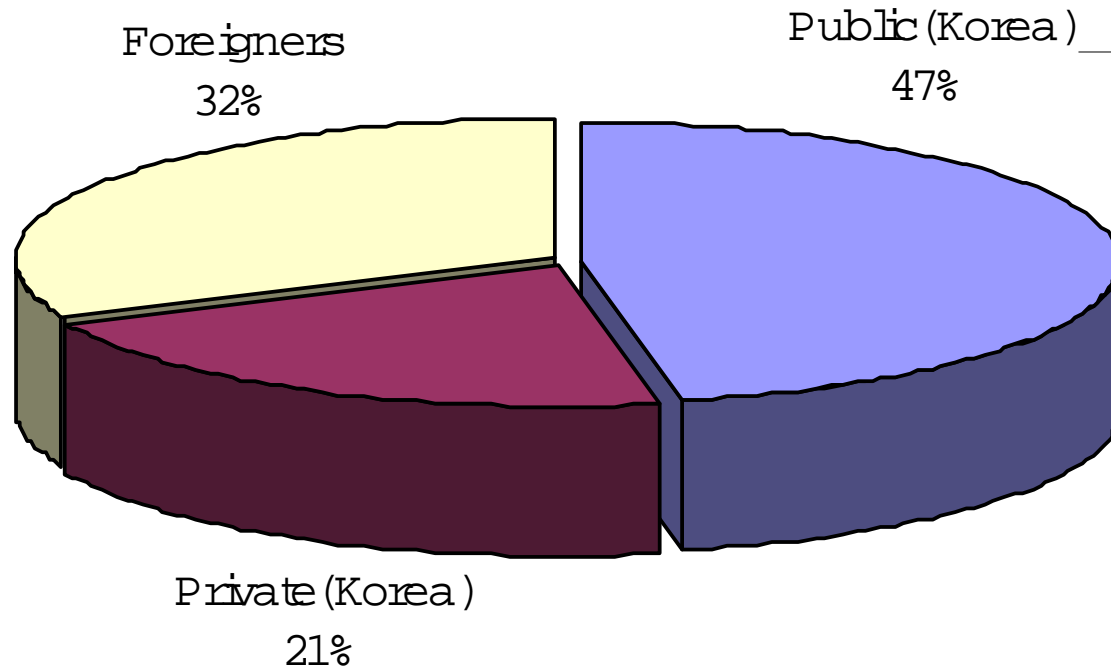
Number of applications for PBR by crop type (Korea)

(As at end of September 2006)



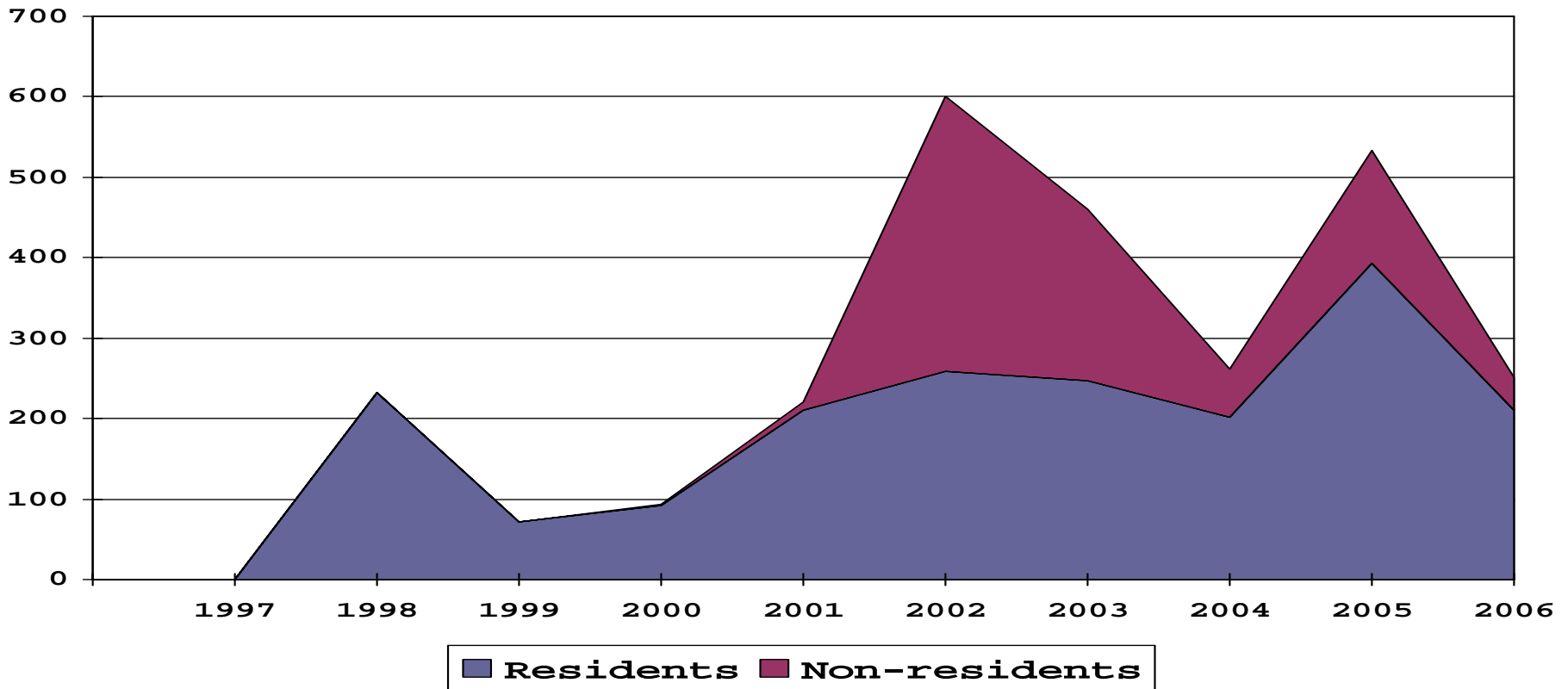
Total number of applications for PBR by applicants (Korea)

(As at end of September 2006)



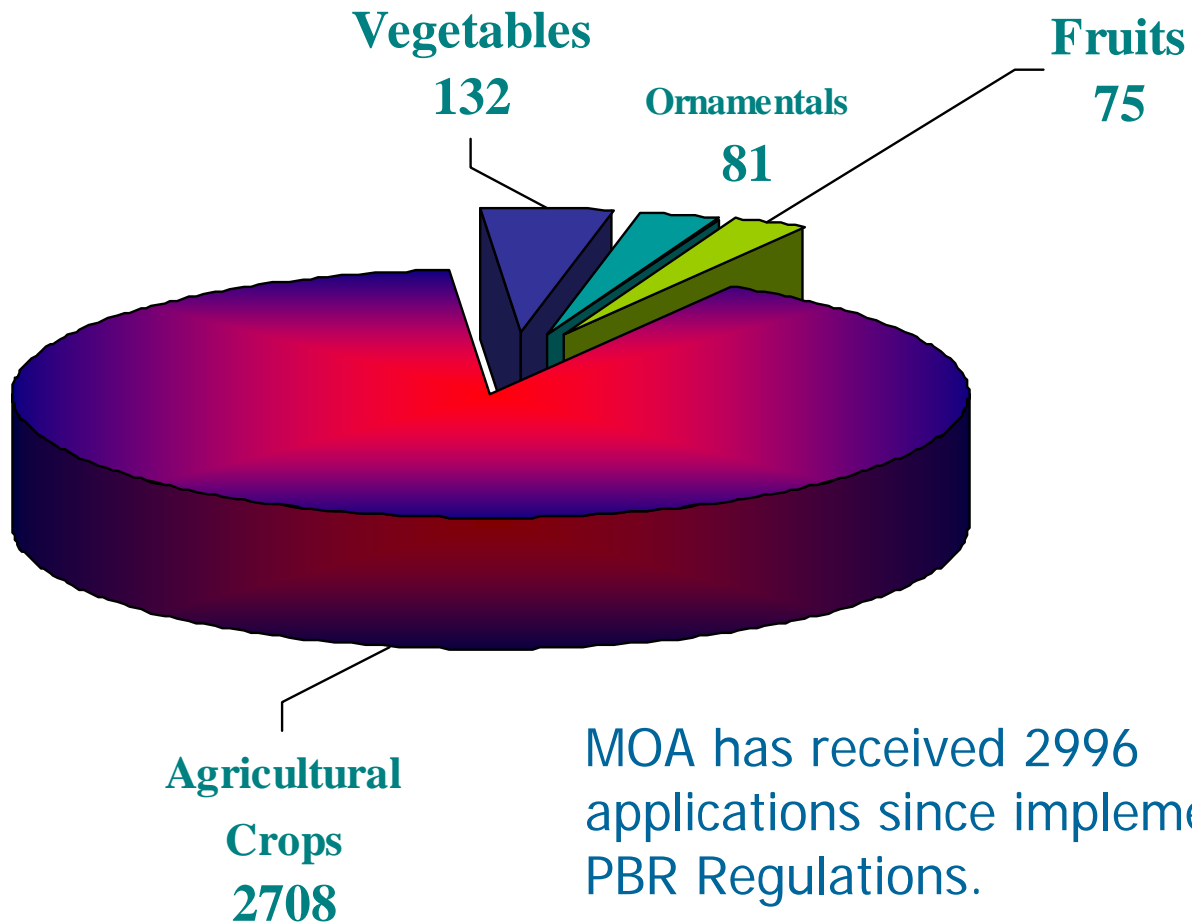
Number of applications for PBR by applicants from 1997-2006 (Korea)

(As at end of September 2006)



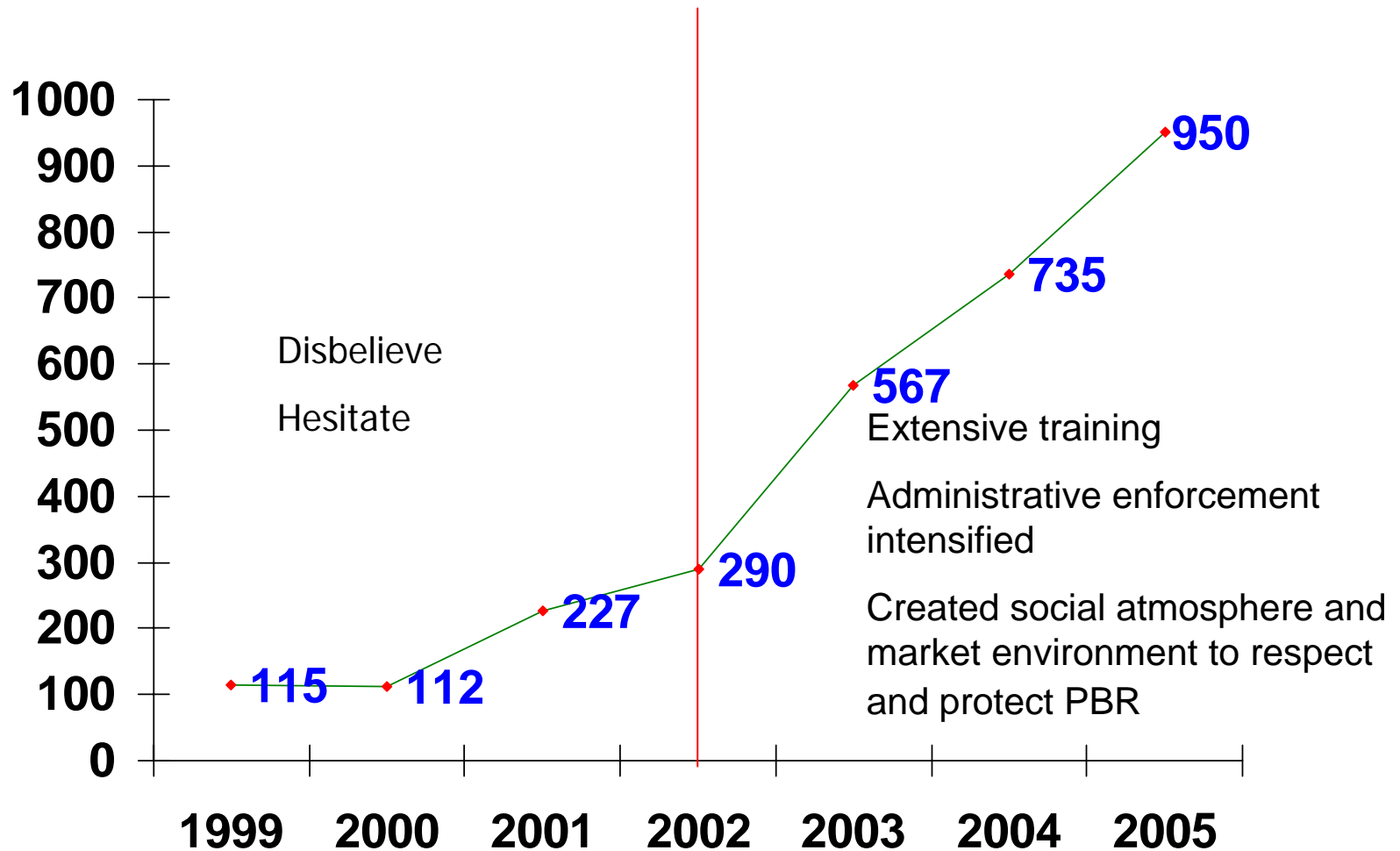
Applications for PBR by Crop (China)

To December 31, 2005

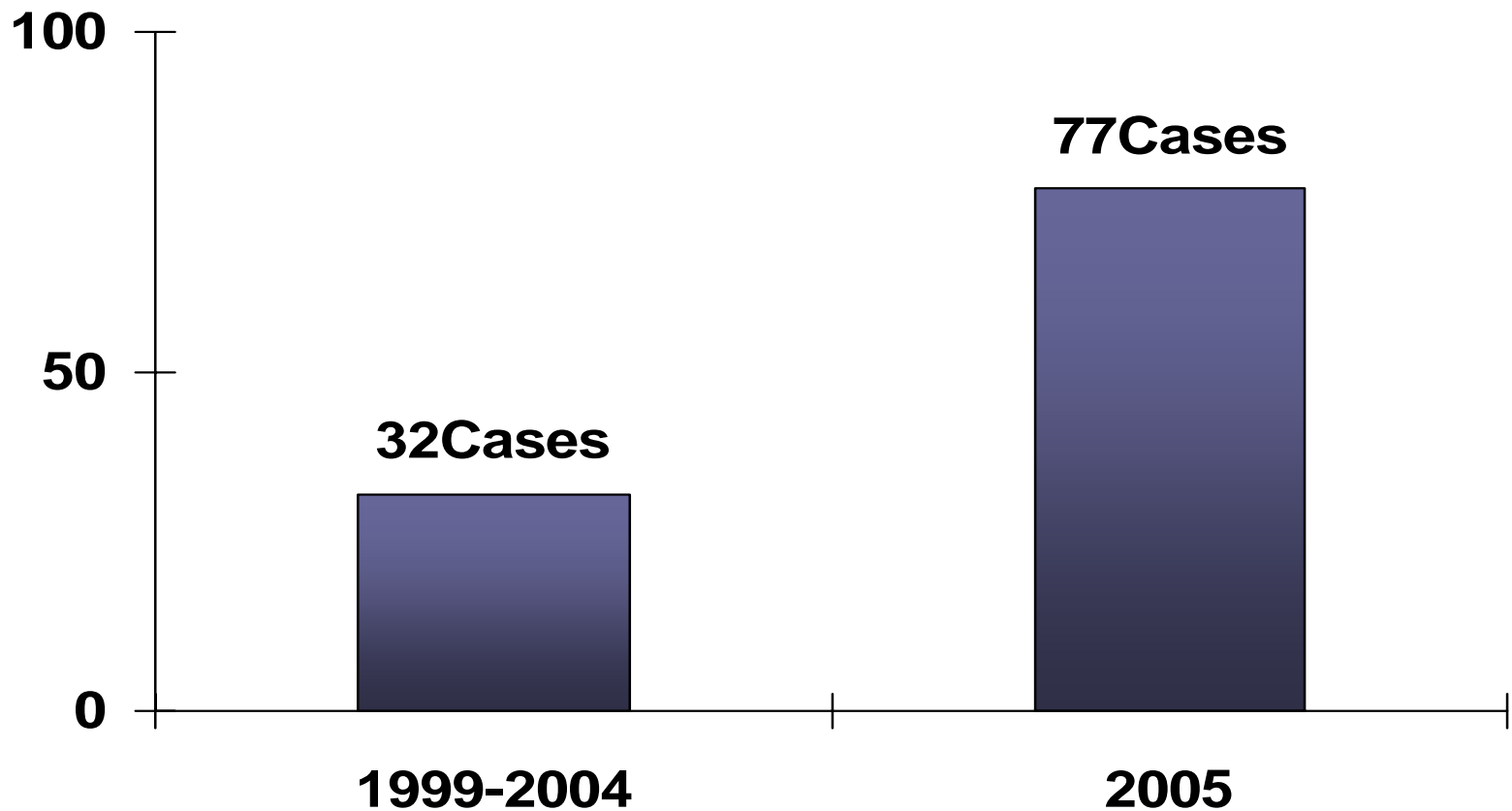


MOA has received 2996 applications since implementing the PBR Regulations.

Annual numbers of PBR applications (China)



Number of foreign applications for PBR (China)



2.4 times increase over the total applications of the past 5 years

Other issues

- **Implementation of PBR legislation**
 - Setting up PBR Office
 - Devising administrative procedures
 - Conducting/assessing DUS trials
- **Sharing DUS data (regional cooperation)**
 - Different countries specialise in different crops
 - Use of overseas data
- **Enforcement (private right)**
 - Procedures currently under review in Australia

A helping hand for new players

- **Australian PBR Office**
 - Experienced in technical aspects of PBR
 - Efficient procedures in place
- **Australian aid programs**
 - Assistance currently from USA, Japan and France
- **APSA (Asian Seed Congress)**
 - Strong focus on IPR
 - Participate in regional policy forum discussions