

OD5. Extension of Protection to Hybrid of Varieties Through Protection of Parent Lines

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Objectives

This review was conducted to find out effective way to protect F1 hybrid varieties through Plant Variety Protection(hereinafter as PVP) for parents lines based on the discussion by International Union for the Protection of New Varieties Plants(UPOV).

Results and Discussion

According to 1991 Act of the UPOV Convention, breeders of varieties who develop improved forms of their protected varieties would have protection for these improved varieties, if these were considered to be essentially derived varieties. The protection of selected parent lines, used in different hybrid varieties, might be the most cost-effective method of achieving protection for a series of hybrid varieties.

Article 14(5)(a)(iii) of the UPOV 1991 Act and Article 57(3)(iii) of Seed Industry Law of Korea states that the provisions for protected varieties extend to varieties (i.e. hybrid varieties in this case) "whose production requires the repeated use of the protected variety" - the protected variety being the parent line. However, it should be noted that, for example, the use of parent lines might not be required if a hybrid variety can be produced by vegetative propagation or apomixis.

However, in this case the protection of a parent line in country A might not provide effective protection of the hybrid in country A if the seed of the hybrid is produced in country B, where country B does not apply the UPOV Convention. This is because, in country B, there is no restriction on the use of the parent lines and it might be considered that there is no repeated use of the parent line in country A.

This system might be induced and produced umbrella variety which is very similar variety because one parent line used to many hybrid varieties.

In conclusion, it allows a breeder and not just breeders of ornamental plants, to extend protection to their hybrid varieties by protection of one or more of the parent lines, if there is repeated use of such parent lines for the production of the hybrid varieties. It will be for each breeder to decide whether this is the most appropriate route to protection according to their particular circumstances.

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