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GAIN Report

Global Agricultural Information Network

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Thai Plant Variety Protection Act Amendment Update

Report Categories:

SP2 - Prevent or Resolve Barriers to Trade that Hinder U.S. Food and Agricultural Exports
Planting Seeds

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Report Highlights:

The Thai Ministry of Agriculture and Cooperatives released a new draft amendment of the Thai Plant Variety Protection Act to reconcile the Thai Plant Variety Protection Act with international standards under the 1991 International Convention for the Protection of New Varieties of Plants (UPOV). The timeline for enacting this new draft amendment remains unknown.

Thai Plant Variety Protection Act Amendment Update

Thailand enacted the Plant Variety Protection Act (PVPA) in 1999 to meet its intellectual property rights commitments under the World Trade Organization (WTO). The PVPA was based on both (1) the 1991 International Convention for the Protection of New Varieties of Plants (UPOV) and (2) the Convention for Biological Diversity (CBD). Unfortunately, the merging of these two different conventions created ambiguities in PVPA. While Thailand became a member of the CBD in 2003, Thailand was unable to join UPOV as provisions of the PVPA were incongruent with the 1991 UPOV Convention.

One provision in particular that prevented Thailand from joining UPOV was a requirement that plant breeders share revenue with the state-run Plant Varieties Protection Fund. This provision has reportedly discouraged investment in new seeds in Thailand and hindered the development of Thailand as a seed hub, a strategic objective of the Thai government.

The new draft amendment seeks to address these issues by exempting new plant varieties which are not based on previous Thai plant varieties from the revenue sharing requirements. The new amendment also includes a provision covering essentially derived varieties which would expand plant breeders' intellectual property rights to include varieties created through minor or cosmetic changes. For these reasons, the new amendment is supported by the Thai Seed Trade Association (THASTA). Preliminary review of the draft amendment suggests that it will comply with the 1991 UPOV convention. The new draft amendment will be online for public comments (<http://info.doa.go.th/rubfung/pvp/>) from October 6 to November 20, 2017.

The Ministry of Agricultural and Cooperatives first attempted to amend the PVPA in 2010, but previous efforts have failed in part due to opposition of certain nonprofit organizations. These groups have asserted that the new draft PVPA amendment will hurt farmers and allow large multinational companies to monopolize the seed market in Thailand. As a result, it unclear when or if this new draft amendment will be enacted.

According to THASTA, the value of domestically produced seeds is approximately 9.3 billion baht (U.S. \$280 million), of which 53 percent is for the export market.

End of report.