

14/12/2022



SEED POLICY LAB 2

EU Law of the Seed

Fulya BATUR

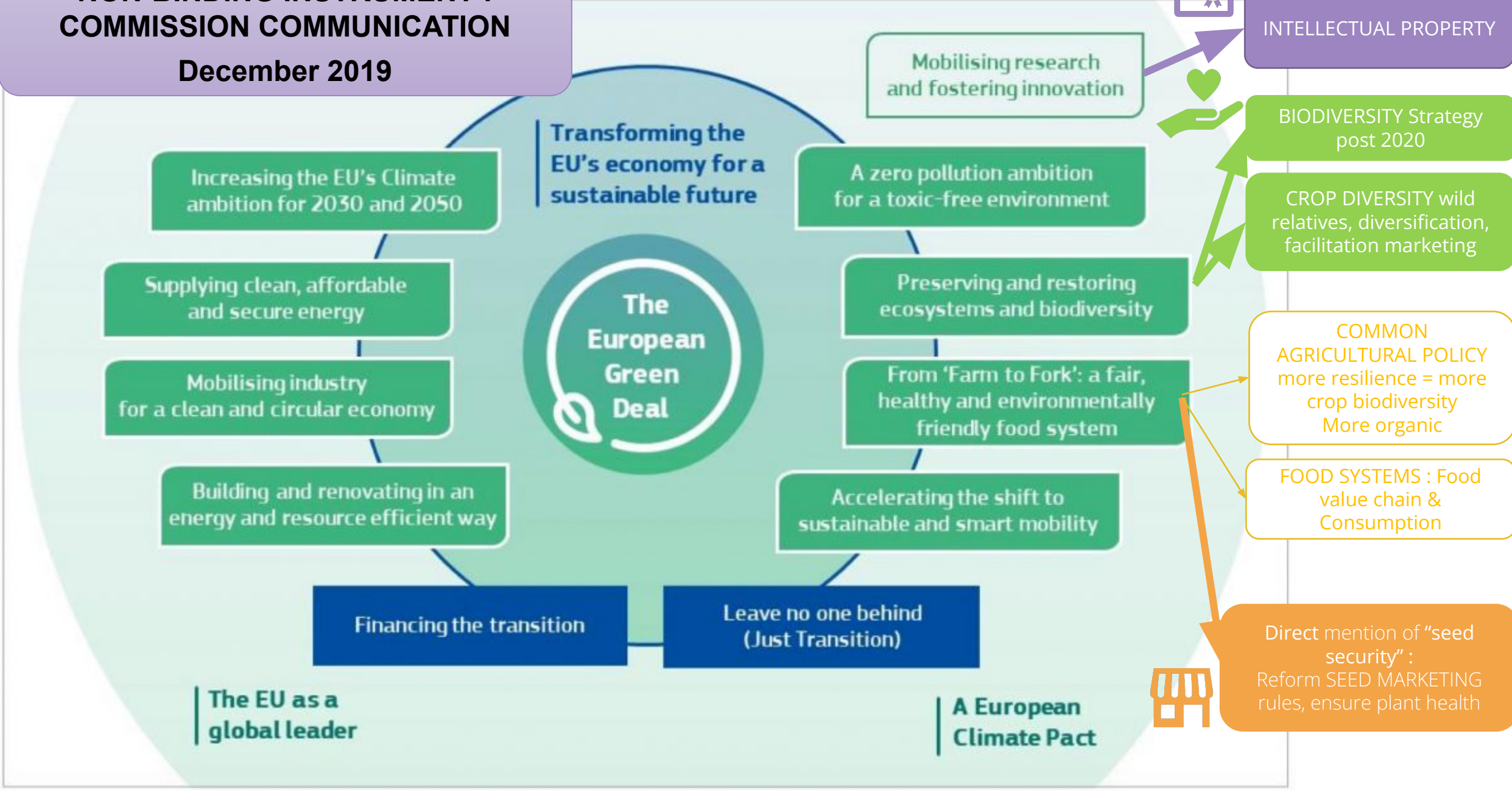


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Co-funded by the
Erasmus+ Programme
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**NON-BINDING INSTRUMENT :
COMMISSION COMMUNICATION
December 2019**



INTELLECTUAL PROPERTY

BIODIVERSITY Strategy post 2020

CROP DIVERSITY wild relatives, diversification, facilitation marketing

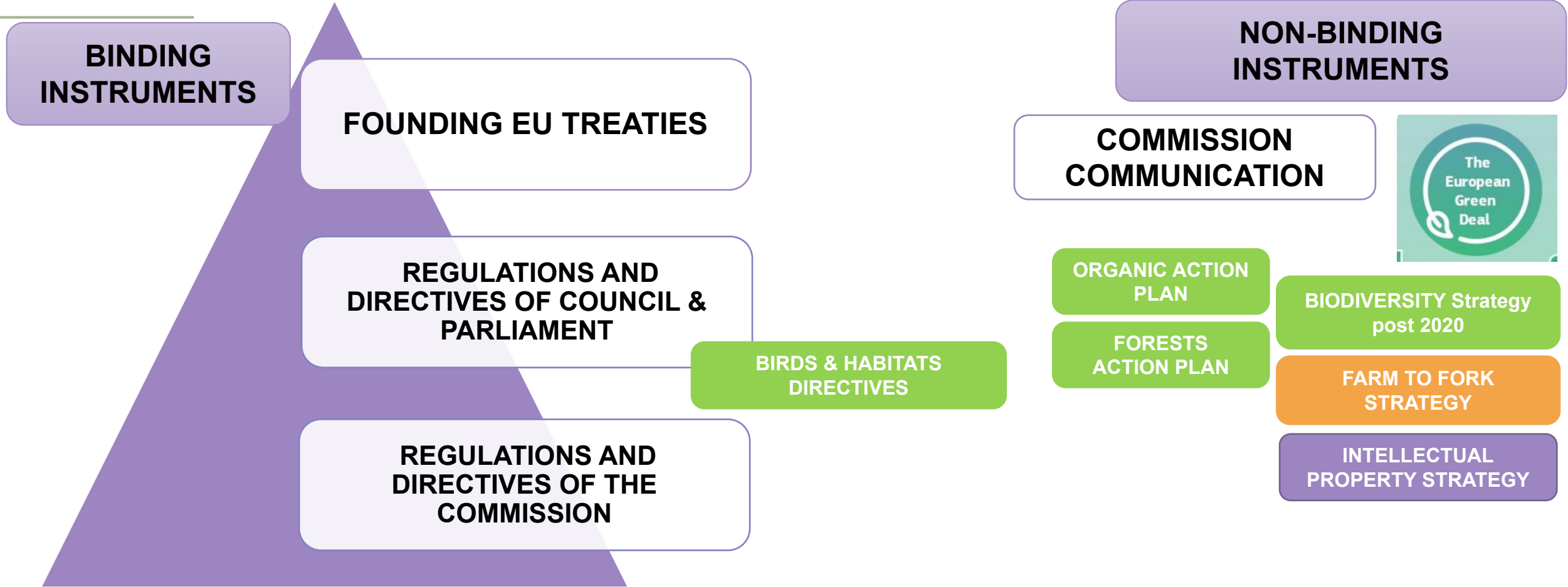
COMMON AGRICULTURAL POLICY more resilience = more crop biodiversity More organic

FOOD SYSTEMS : Food value chain & Consumption

Direct mention of "seed security" : Reform SEED MARKETING rules, ensure plant health

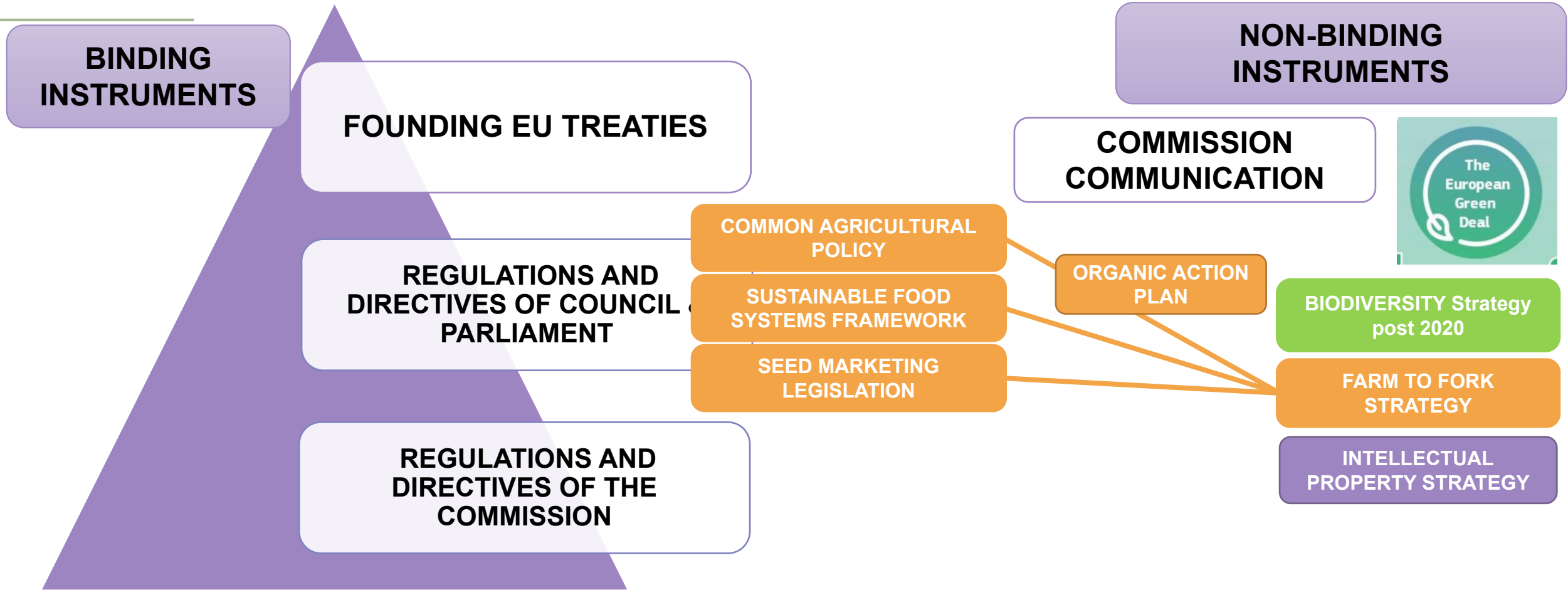


EU COMPETENCE IN SEEDS & THE EUROPEAN GREEN DEAL



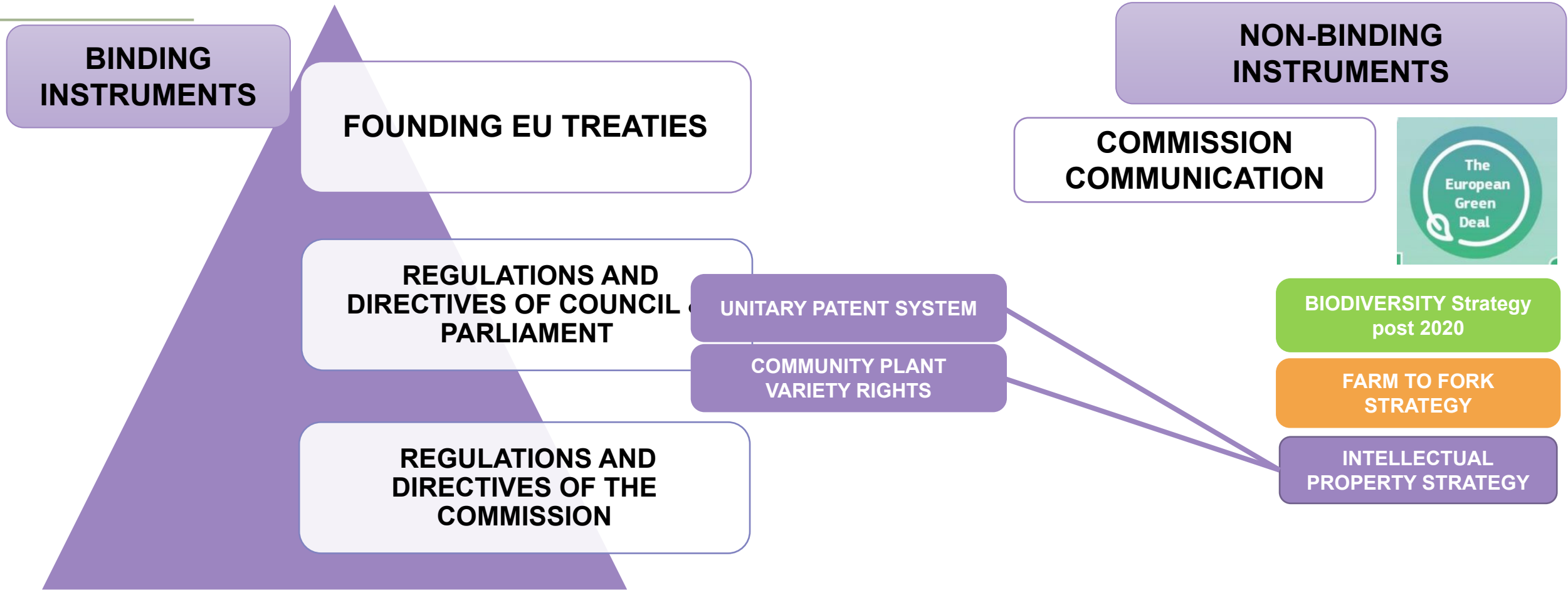


EU COMPETENCE IN SEEDS & THE EUROPEAN GREEN DEAL



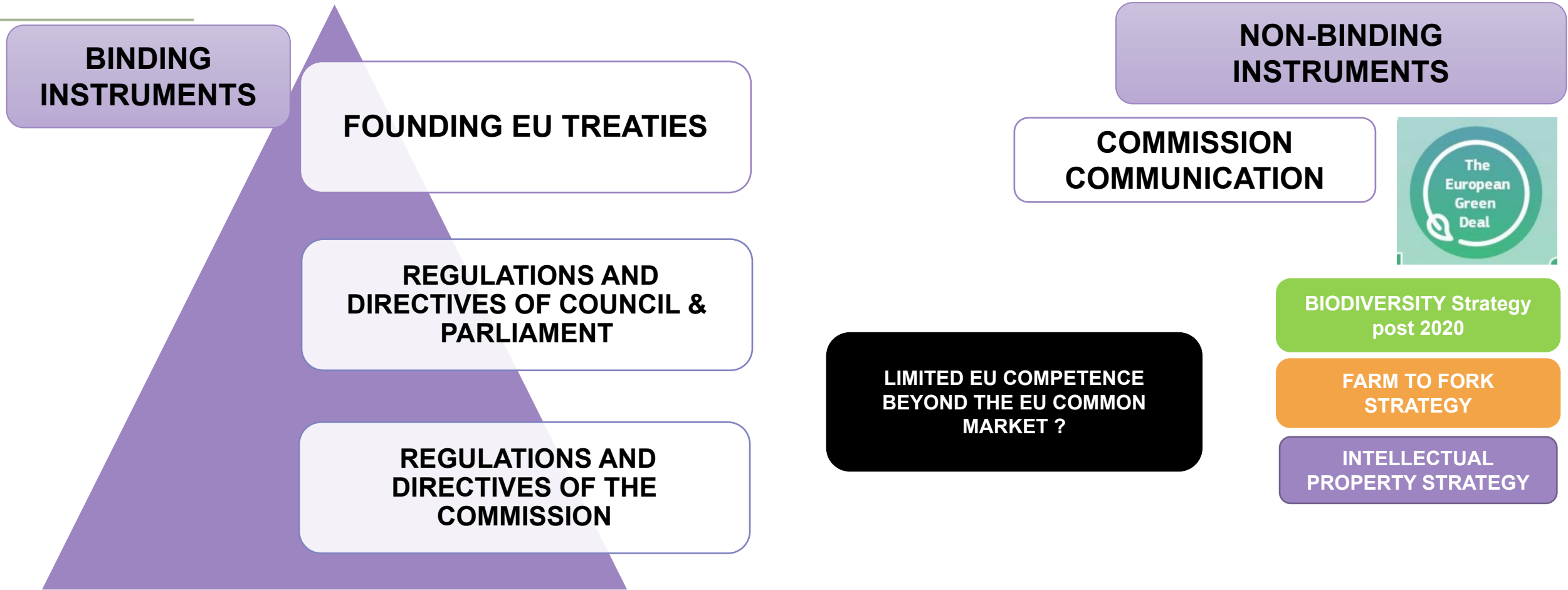


EU COMPETENCE IN SEEDS & THE EUROPEAN GREEN DEAL





EU COMPETENCE IN SEEDS & THE EUROPEAN GREEN DEAL





**BIODIVERSITY
CONSERVATION,
SUSTAINABLE USE &
BIOPIRACY**



SEED MARKETING



**INTELLECTUAL
PROPERTY RIGHTS**



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW

EU STRATEGY (SOFT LAW)

EU LAW



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW



ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS

REVERSE DECLINE

BIOPIRACY



Convention on
Biological Diversity

29.12.1993

12.10.2014 Nagoya Protocol



FOOD & AGRI GENETIC RESOURCES

INTERDEPENDENCE

FOOD SECURITY



The International Treaty
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

29.06.2004

SOVEREIGNTY

CONSERVATION

SUSTAINABLE USE

- *Promote the development and maintenance of diverse farming systems*
- *Strengthen research for the benefit of farmers,*
- *Promote participatory plant breeding*
- *Broaden the genetic base of crops and increase the range of genetic diversity available to farmers;*
- *Promote the expanded use of local and locally adapted crops, varieties and underutilized species;*
- *Review and adjust breeding strategies and regulations concerning variety release and seed distribution.'*



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW



ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS



Convention on
Biological Diversity



FOOD & AGRI GENETIC RESOURCES



The International Treaty
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

TRADITIONAL KNOWLEDGE

- *Indigenous communities*
- *Innovative and traditional practices and uncodified knowledge cannot be used in research and development without their consent & benefit-sharing*

FARMERS' RIGHTS

- *Farmers and local communities*
- *Promotion or support farmers efforts to manage and conserve on-farm their plant genetic resources for food and agriculture*
- *Protection of traditional knowledge & participation in benefit-sharing*
- *Nothing to limit the right to save, use and sell farm-saved seeds, subject to national law*



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW

EU STRATEGY (SOFT LAW)

ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS

- COMMISSION COMMUNICATION : EU Biodiversity Strategy



> Establish protected areas for at least:



30%
of land in
Europe



30%
of sea in
Europe

With stricter protection of remaining EU primary and old-growth forests legally binding nature restoration targets in 2021.

> Restore degraded ecosystems at land and sea across the whole of Europe by:



Increasing organic farming and biodiversity-rich landscape features on agricultural land



Halting and reversing the decline of pollinators



Restoring at least 25 000 km of EU rivers to a free-flowing state



Reducing the use and risk of pesticides by 50% by 2030



Planting 3 billion trees by 2030



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW

EU STRATEGY (SOFT LAW)

ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS

- *COMMISSION COMMUNICATION : EU Biodiversity Strategy*



May 2020
#EUGreenDeal

- > Establish protected areas for at least:



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With stricter protection of remaining EU primary and old-growth forests legally binding nature restoration targets in 2021.

- > Restore degraded ecosystems at land and sea across the whole of Europe by:



Increasing org
farming and biodi
rich landscape fe
on agricultural



Unlock 20 billion EUR/year for biodiversity through various sources, including EU funds, national and private funding. Natural capital and biodiversity considerations will be integrated into business practices.



Put the EU in a **leading position in the world** in addressing the global biodiversity crisis. The Commission will mobilise all tools of external action and international partnerships for an ambitious new UN Global Biodiversity Framework at the Conference of the Parties to the Convention on Biological Diversity in 2021.



BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW

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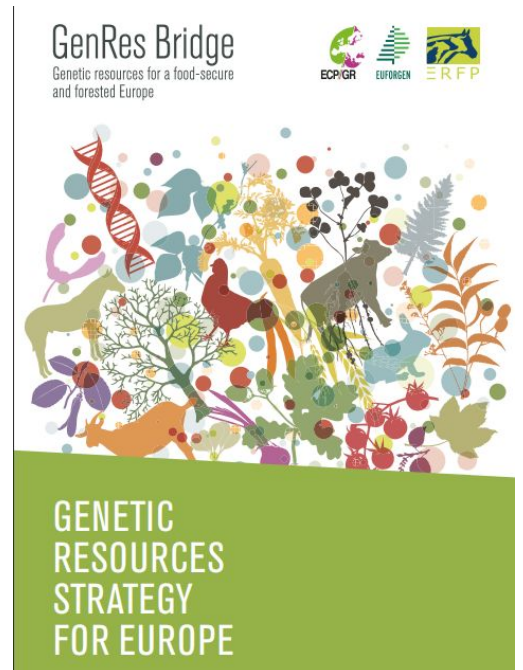
ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS

FOOD & AGRI GENETIC RESOURCES

- *Nothing formal at EU level : only « Preparatory Actions for Genetic resources »*
- *EU research project outputs : need for formal EU action !*



Under the 2030 Biodiversity Strategy, the European Commission commits to taking steps to facilitate the registration of plant varieties to ensure easier market access for traditional and locally-adapted crop varieties, as well as to restoring at least 10% of agricultural land under high diversity landscape features,





BIODIVERSITY CONSERVATION, SUSTAINABLE USE & BIOPIRACY

INTERNATIONAL LAW

EU STRATEGY (SOFT LAW)

EU LAW

ALL BIOLOGICAL DIVERSITY & ECOSYSTEMS



UNEP



Convention on
Biological Diversity



FOOD & AGRI GENETIC RESOURCES



The International Treaty
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



**BIODIVERSITY
CONSERVATION,
SUSTAINABLE USE &
BIOPIRACY**

Any questions?



SEED MARKETING



**INTELLECTUAL
PROPERTY RIGHTS**



SEED MARKETING (incl. PLANT HEALTH)

HISTORY

PRINCIPLES

SCOPE

DEROGATIONS

PAST REFORM

NEW REFORM

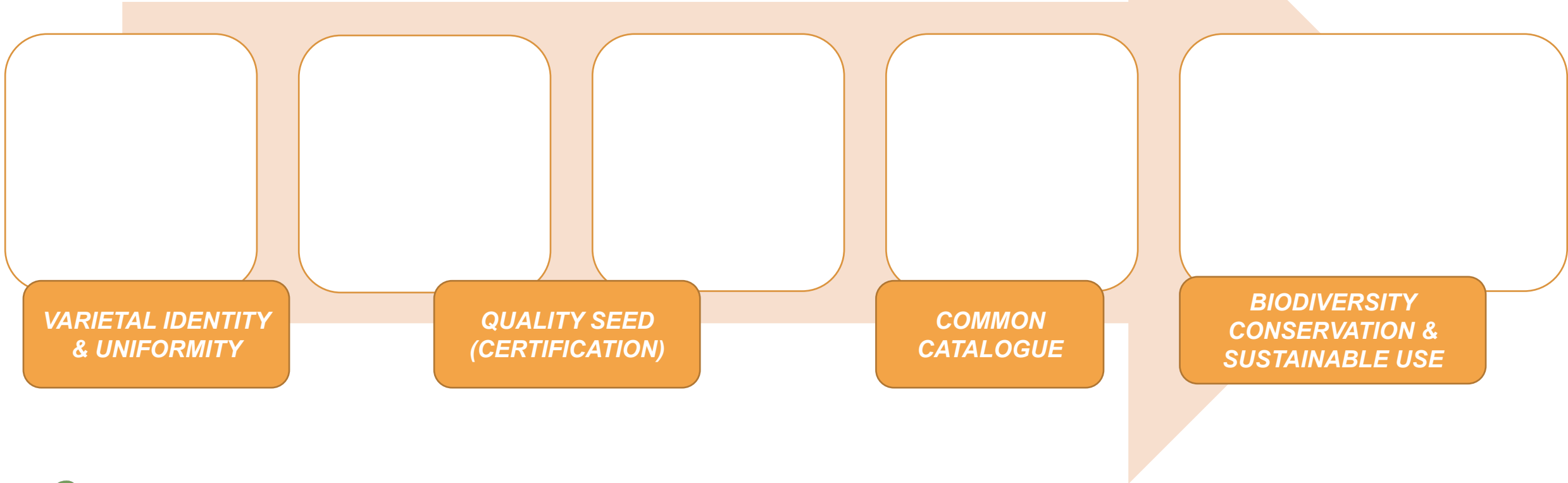


“Sustainable food systems also rely on seed security and diversity. Farmers need to have access to a range of quality seeds for plant varieties adapted to the pressures of climate change. The Commission will take measures to facilitate the registration of seed varieties, including for organic farming, and to ensure easier market access for traditional and locally-adapted varieties”.



SEED MARKETING (incl. PLANT HEALTH)

HISTORY

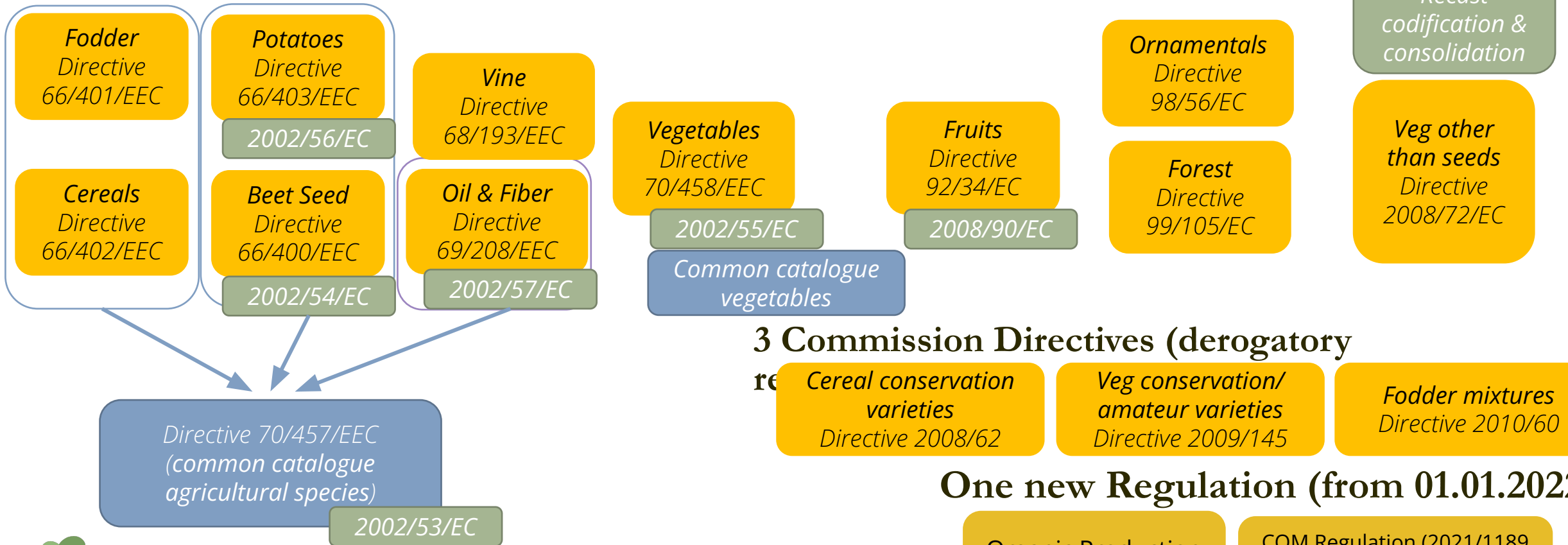




SEED MARKETING (incl. PLANT HEALTH)

HISTORY

12 Directives (Council/Parliament)



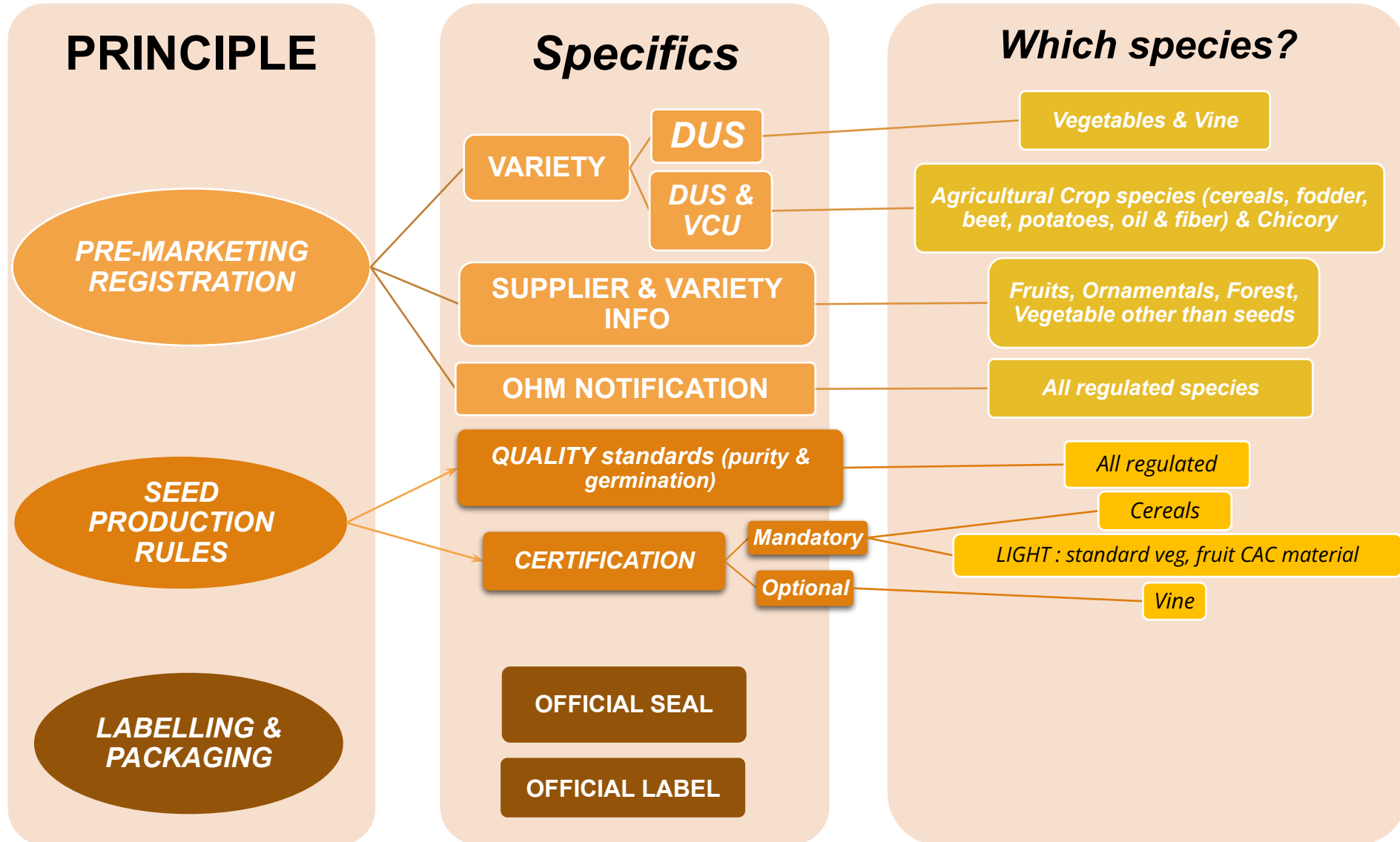


SEED MARKETING (incl. PLANT HEALTH)

PLANT HEALTH RULES

Reg. 2016/2031

Trigger: movement (not marketing)





SEED MARKETING (incl. PLANT HEALTH)

HISTORY

PRINCIPLES

SCOPE

Seed marketing laws only apply to listed species

WHICH SPECIES ?

- *Regulated?*
- *Which Directive or national law?*

Seed marketing laws only apply to seed marketing

WHAT DO YOU DO WITH YOUR SEEDS ?

- *Non-commercial" use, outside of any commercial exploitation (i.e. farming systems)?*
- *Research & selection?*
- *If offered for sale (on the Internet or markets), to whom and in what context do you sell seeds & propagating material?*



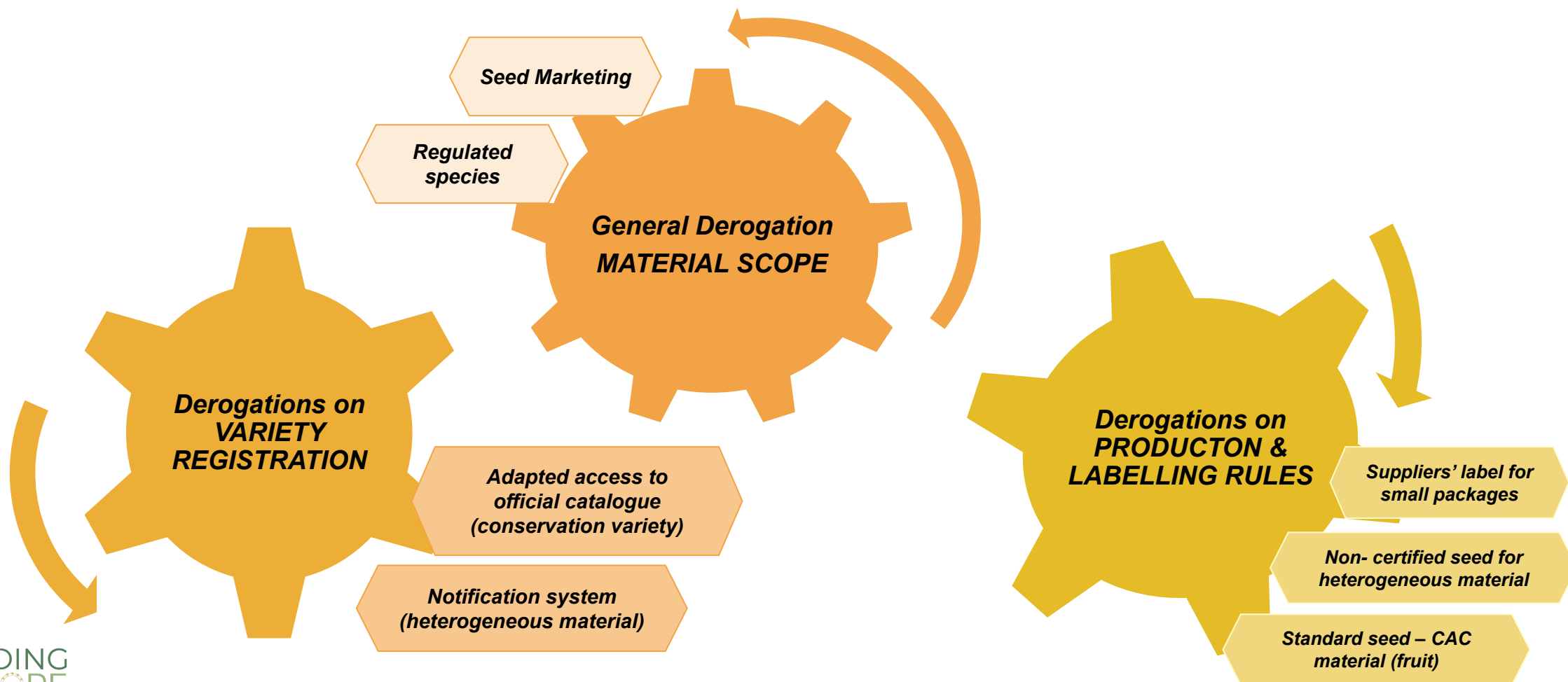
SEED MARKETING (incl. PLANT HEALTH)

HISTORY

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SEED MARKETING (incl. PLANT HEALTH)

HISTORY

PRINCIPLES

SCOPE

DEROGATIONS

PAST REFORM

2008

*FCEC Study
(external
evaluation)*

2010

*FCEC Study
Variety
registration*

2011

*European
Commission
Options Paper
& Public
consultations*

2012

*European
Commission
Impact
Assessment*

**MAY 2013
PROPOSAL**

**OCTOBER
2013**

*EP AGRI
Report*

FEB 2014

*ENVI opinion &
AGRI rejection
MARCH 2014
EP plenary
rejection*

MARCH 2014

*Withdrawal
proposal*



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REGULATION

- Replaces 12 Directives, uniform application & loss of flexibility

SEED MARKETING ?

- No more link to “commercial exploitation” but “making available on the market”
- Exception for seeds ONLY intended for conservation, exchange between non-professionals (not farmers)

REGULATED SPECIES ?

- Formal criteria : area / value of production in EU, high number of operators
- Annex of the Regulation, to be amended by Commission Regulation



SEED MARKETING (incl. PLANT HEALTH)

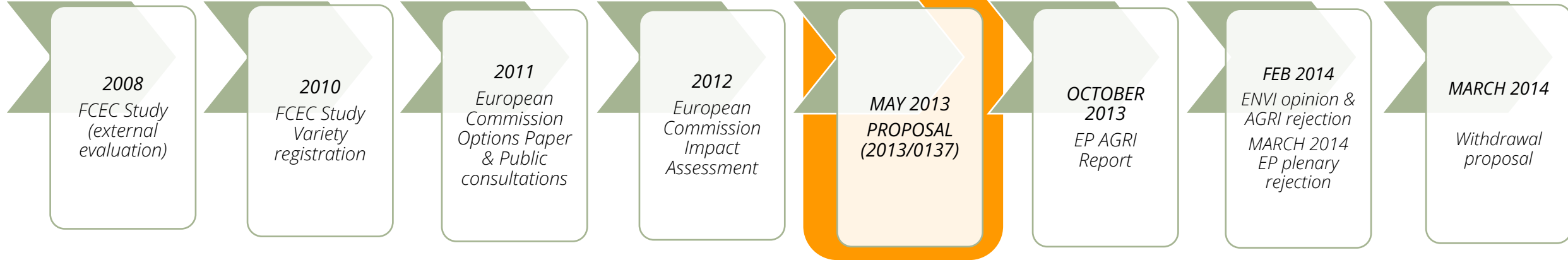
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PAST REFORM



PRINCIPLE OF REGISTRATION

- Mandatory for all operators
- Mandatory for all crop species (except rootstocks)
- Based on DUS and environmental VCU for species of particular agricultural importance

DEROGATIONS ?

- **Heterogeneous material** (not variety, to be sold as standard seed, but details to be defined in Commission delegated acts)
- **Niche market material** (only in small quantities by micro-entreprises & non-professionals, standard seed but details to be defined in Commission delegated acts)
- **Varieties with official description** (replaces conservation varieties : landraces and deleted varieties, only in region of origin, details in delegated acts)



SEED MARKETING (incl. PLANT HEALTH)

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SEED PRODUCTION

- Mandatory seed lot certification
- Exception standard seed for all species, but only for derogatory regimes & “proportionate”

LABELLING & PACKAGING

- Official label
- Operators' label : controls “under official supervision” (also for other elements)
- Derogations for small packages



SEED MARKETING (incl. PLANT HEALTH)

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AGRI RAPPORTEUR (Silvestris, EPP) : proposed AMENDMENTS TO PROPOSAL

- COM Proposal not sufficiently clear, especially on derogatory regimes
- More simplification needed in variety registration procedure (especially niche material) & no limitation to micro-entreprises
- Too many delegated acts



SEED MARKETING (incl. PLANT HEALTH)

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ENVI Opinion (Ayuso, EPP) : proposes REJECTION

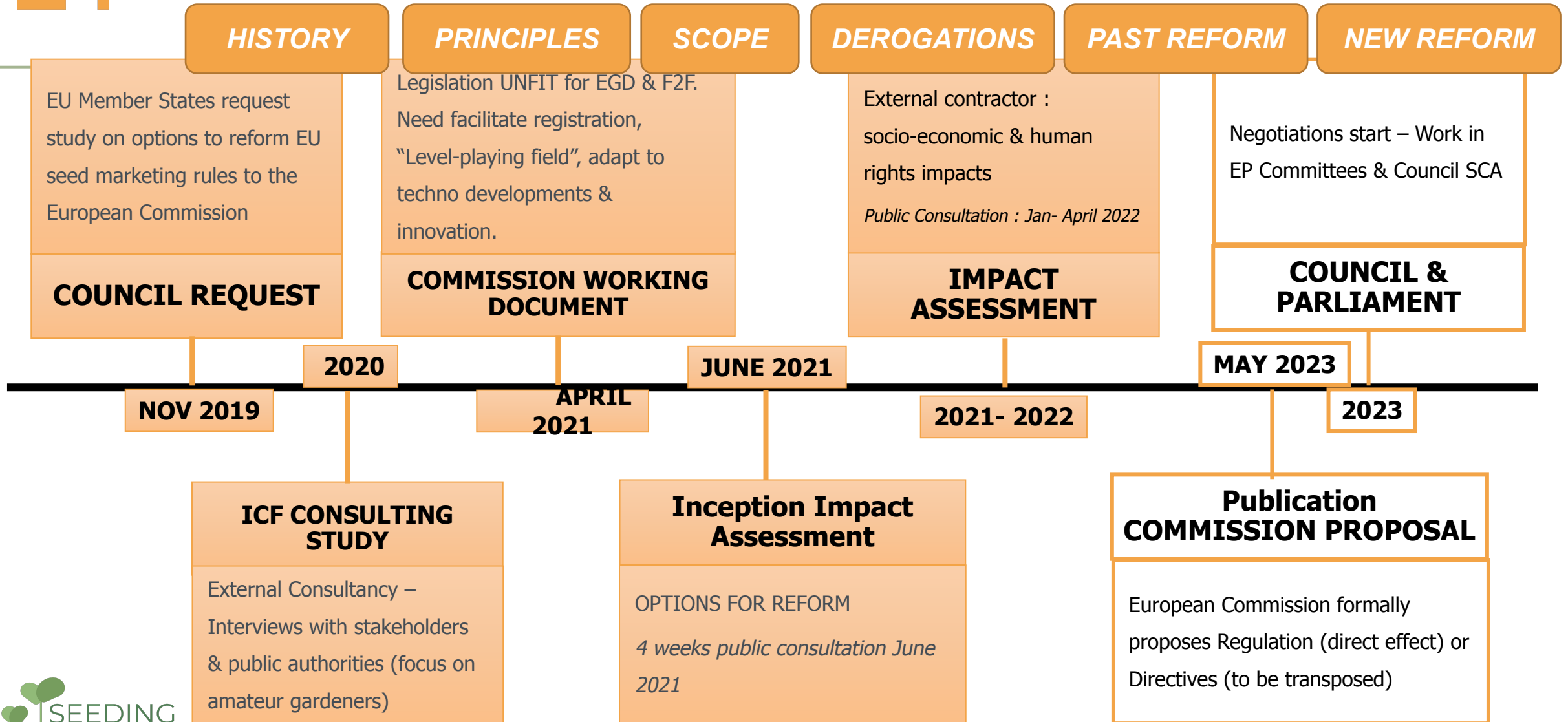
- Overall objective should include facilitation & encouragement biodiversity maintenance in agriculture & horticulture
- "One size fits all" & too many delegated Acts, Concerns over forest material, ornamentals, sale to home gardeners
- Extended powers to CPVO & private actors

AGRI REPORT : requests plenary to REJECT proposal

CONFIRMED IN PLENARY VOTE



SEED MARKETING (incl. PLANT HEALTH)





**BIODIVERSITY
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SEED MARKETING

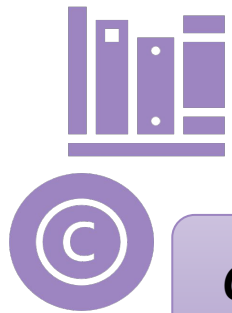


**INTELLECTUAL
PROPERTY RIGHTS**

Any questions?

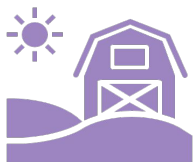


INTELLECTUAL PROPERTY RIGHTS



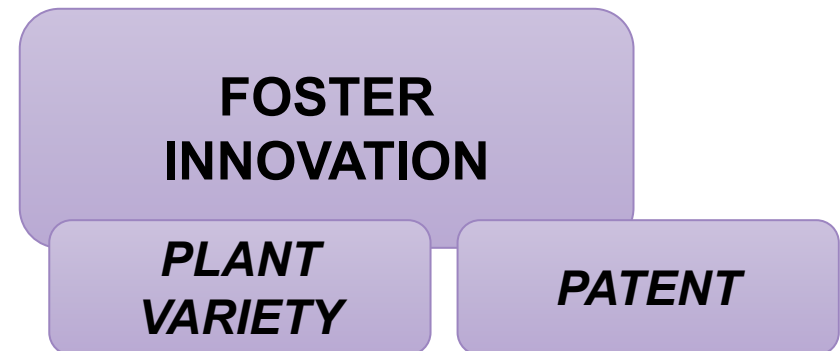
**RESPECT
CREATIVITY**

COPYRIGHT



**HONOUR AGRI PRODUCT
/ TRADITION**

***GEOGRAPHICAL
INDICATION***





INTELLECTUAL PROPERTY RIGHTS



© Syngenta



PLANT VARIETY PROTECTION

PHENOTYPE. Plant varieties SX387 and/or OLMECA

Need Syngenta's consent to use the PROTECTED variety outside of breeders & farmers' privilege



PATENT GENOTYPE.

EP1812575 - Tomato plants higher levels of resistance to Botrytis (HYPOTHETICAL) *Need Syngenta's consent to use the variety (for acts listed in national laws)*



TRADEMARK

"KUMATO"

Need Syngenta's consent to use the name Kumato on tomatoes



INTELLECTUAL PROPERTY RIGHTS



Action Plan on Intellectual Property



25 November 2020

Update IP protection

- Support rapid rollout of **unitary patent system**
- Optimise the **supplementary protection certificate system**
- **Strengthen protection for geographical indications**
- Upgrade **design protection**
- **Improve system for protection of plant varieties**
- Promote use of new **technologies** (blockchain, AI)

Targeted reform to start in 2023



A HUMAN RIGHTS PERSPECTIVE ON SEEDS?

United Nations

A/HRC/RES/39/12



General Assembly

Distr.: General
8 October 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 3

**Resolution adopted by the Human Rights Council
on 28 September 2018**

**39/12. United Nations Declaration on the Rights of Peasants and Other People
Working in Rural Areas**

Right to save, use, exchange & sell
their own seeds

Right to maintain, control &
develop their own seeds

Right to have access to locally
adapted seeds

Right to participate in
decision-making

Right to the protection of TK &
sharing of benefits

STATE obligation to respect,
protect and fulfil the right to seeds

Support peasant seed systems and to promote
the use of peasant seeds and agrobiodiversity

Ensure participation of peasants in decision-making



THANK YOU !

See you this Friday...