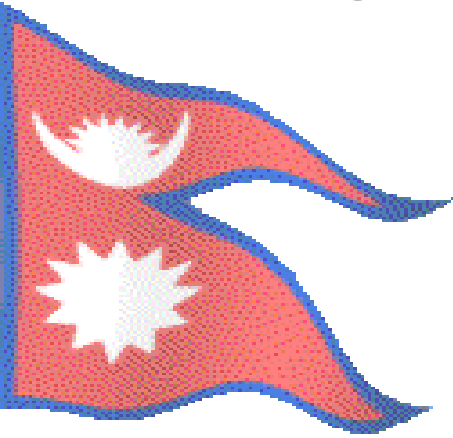


International Treaty on Plant Genetic Resources for Food and Agriculture, National Policy, Legislation and Access and Benefit Sharing in Nepal



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Provisions of ITPGRFA and MLS of ABS

- Aims at the conservation and sustainable use of PGRFA and the fair and equitable sharing of benefits arising out of their use **in harmony with Convention on Biological Diversity.**
- Brings PGRFA into **public domain**, that are covered by multilateral systems and calls for **facilitated access.**
- Monetary benefits derived from commercialization (or voluntary donations) are directed to an **international benefit sharing fund**, which dispenses funds under the direction of the ITPGRFA's governing body.
- Technology Transfer provision of ITPGRFA is a means of **non-monetary benefit sharing** mechanisms

What are the benefits of Multilateral Systems in ITPGRFA?

- Reduction of **transaction costs** (no need of bilateral negotiations for each of the germplasm or its derivatives) in accessing needed materials
- **Quicker access** of materials in **no** or **at a minimum** cost for genetic materials required for country's food security
- Access to **technologies, training** and **investment support** from Global system

Current Mechanism of Sharing PGRFA Materials in MLS

- Keep PGRFA materials in **common pool** in **IARCs Gene Bank** as a **public good** that have common benefits to global community for ensuring global food security
- Sharing of PGRFA materials through “**facilitated**” access rather than **free** or **restricted** access
- **Access, exchange** and **sharing** of germplasms through “**Multilateral System**” (not by bilateral mode) using a common **SMTA** forms

Prospects & Benefits of Participation in MLS

- Access to wider range of crop genetic resources
- Access to Global Crop Diversity Fund
- Access to technology, information and capacity building
- Participate in sharing of benefits
- Opportunities to raise national concerns in Governing Body of IT
- Emergency disaster help
- Supportive framework for national legislation



Interrelationships and Differences between CBD and ITPGRFA

- The **objectives** of **CBD** and **ITPGRFA** are basically identical- as they aim to promote
 1. -the **conservation** of genetic resources
 2. -**sustainable use of the biological and genetic diversity**
 3. -the **equitable sharing of benefits derived from its use**

However they differ in access and benefit sharing (ABS)

- **ITPGRFA** focus on international pooling and sharing of genetic resources through **multilateral system (MLS)** of access and benefit sharing for agricultural research and food security.
- **CBD**: focus on bilateral access and benefit sharing subject to individually tailored access and benefit-sharing agreements through its **national sovereignty** of genetic resources

Interrelationship and Differences between CBD & ITPGRFA



Feature of CBD

- Bilateral Systems of ABS
- *In situ and Ex situ* Conservation
- Sovereignty of Genetic resources

Feature of ITPGRFA (MLS)

- Multilateral Systems of ABS
- Provision of Farmers' Rights
- Public domain of PGRFA

Current Policy Status and Initiatives related to ABS of Genetic Resources in Nepal

- National Biodiversity Strategy (2002)
- National Agrobiodiversity Policy (2007)
- Plant Variety Protection (PVP) and Farmers Rights Bills (Draft)
- Access to Genetic Resource & Benefit Sharing Draft Bill (2002)
- Seed Act (1988) amendment (2008) & Seed Regulations (2013)
- 8/5/2013 Seed Vision (2013-2025) DCauchan

National Agrobiodiversity Policy (2007)

- Conservation, sustainable use and benefit sharing
- Access to genetic resources and sharing of benefits based on provision of prior-informed consent (PIC)
- Provisions of farmers rights to their genetic resources, traditional knowledge and rights to participate in decision making and equitable sharing of benefits
- Registration of agricultural genetic resources and traditional knowledge
- No provision for Multilateral System of ABS and IT Implementation Mechanism

Plant Variety Protection (PVP) & Farmers Rights Draft Bill (2005)

- Balance rights of Plant Breeders and Farmers
- Rights over farmers' traditional varieties
- Rights over new plant varieties (claim IPR and act as breeders)
- Rights to compensation for losses due to bad quality seed or wrong information about the new variety
- PIC, disclosure, and ABS requirements on use of traditional varieties

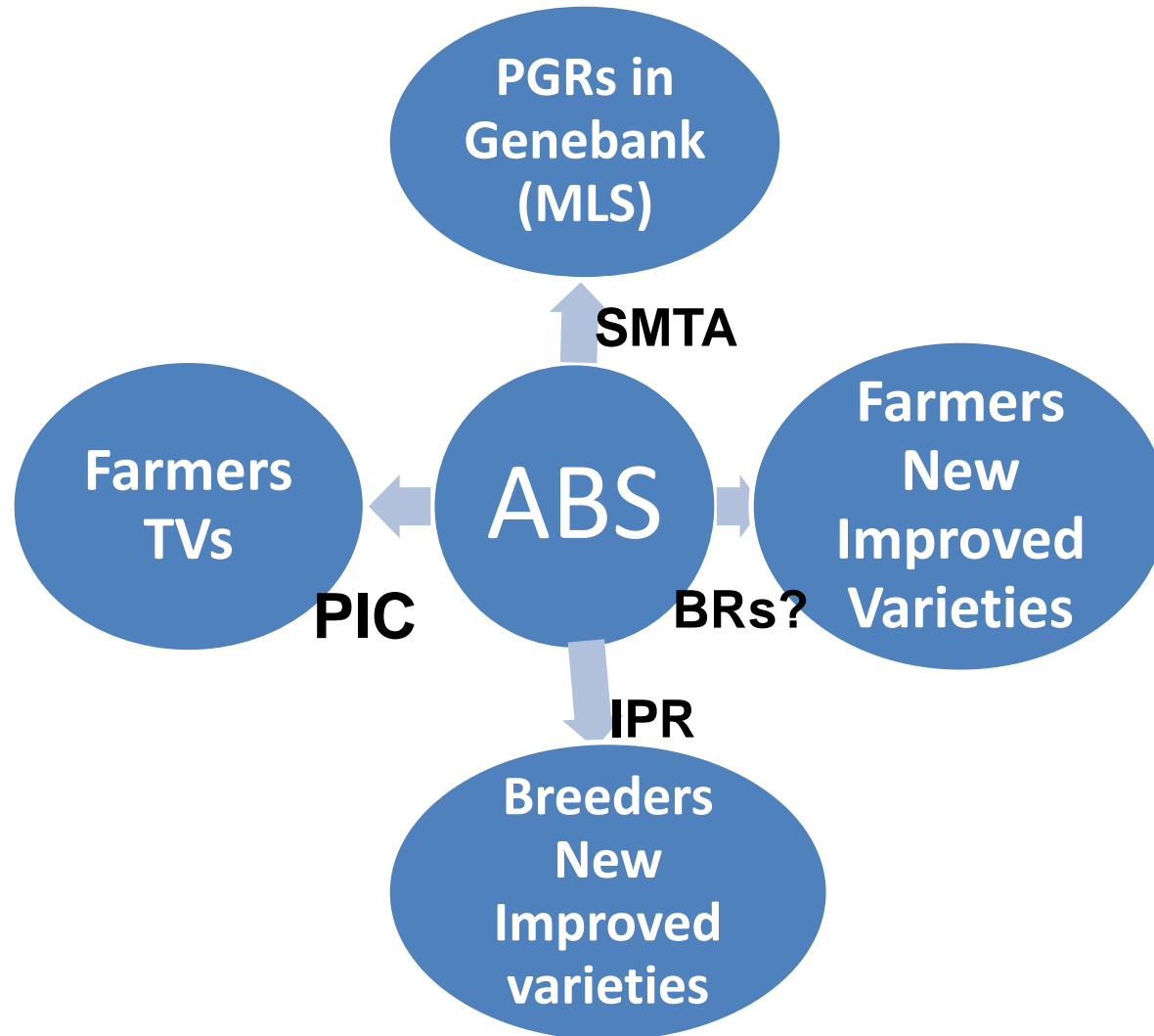
Access to Genetic Resources and Benefit Sharing Bill (Draft)

- The Kingdom of Nepal exercises **sovereign rights** over her bio-resources
- Access of genetic resources is subject to **prior informed consent (PIC)** and **mutually agreed terms (MATs)**
- Focus on **Pro-bioprospecting** and discourage **bio-piracy**
- Establishment of a **competent Authority**
- **Registration** of Biodiversity and Traditional Knowledge
- **Ownership** – Individuals, Community, Nation

Seed Act (1988) amendment (2008) and Seed Regulation(2013)

- Provision of rights to developer of new plant varieties to individuals
- Provision of listing of farmers varieties
- Licensing of seed producers and traders in seed business
- Provision for compensation to farmers for poor quality seeds
- Focus on commercialization of new seed varieties

Mechanisms for Access and Benefit Sharing for different types of PGRs



Options for Implementation of ABS ITPGRFA in harmony with CBD/NP

- Harmonization of bilateral and Multilateral system of Access and Benefit Sharing
- Revise existing Draft ABS Bills (2002) for inclusion of MLS as per ITPGRFA provisions
- Create a new separate ABS Bill suited for MLS
- Develop separate administrative mechanisms for implementation of MLS in the country (if ABS draft bill is approved as it is)

PGRFA in Public Domain and Voluntary Inclusion for MLS

- Article 11.2 of the Treaty provides that the MLS shall include all PGRFA listed in **Annex 1** that is **‘under the *management and control of Contracting Parties* and in the *public domain*’**.
- Article 11.3 provides that **Contracting Parties shall take appropriate measures to encourage natural and legal entities** holding collections of Annex 1 PGRFA to include them in the MLS.
- Such measures could **include public awareness raising and (for institutions receiving public funds) funding conditions**

What are Incentives for natural and legal individual to Voluntary Include in MLS?

- Provision of ownership evidence of the materials (proprietary rights)
- Recognition of the materials deposited (acknowledgement, certificates of depositions)
- Provisions of some royalties of the materials as an incentives to share voluntarily
- Improved understanding and awareness of the role of MLS in national and global food security

Possible Mechanisms to encourage Voluntary Inclusion of PGRFA

- Awareness among farmers, plant breeders and community seed bank managers
- Technical support and capacity building of farmers and community seed bank managers/leaders
- Develop evidence of certificate, ownership /acknowledgement for voluntary inclusion
- Financial incentives to communities for managing /preserving seeds in their community seed banks

Steps in Implementation of MLS in Nepal

- **First Step:** Information on MLS and SMTA provided to relevant stakeholders through workshops/trainings



- **Second Step:**
 - Identification of PGR in national genebank under direct management of Government of Nepal
 - PGR under control of local government /communities **requested** to include materials voluntarily in national gene bank
 - Other PGRs from legal and natural individuals **invited** to voluntarily to include in national gene bank for MLS



- **Third Step: Analysis and Identification of material in public domain**



- **Final Step: Formal inclusion in MLS and notification.**

Suggestions/ Recommendations

- A good coordination and collaboration is needed between MOAD and MoFSC for the implementation of ABS suited to context of both ITPGRFA and CBD/Nagoya Protocol
- Access and benefit sharing legislation should include an article which exempts the annex 1 of the ITPGRFA from bilateral access system OR create separate legislation for implementation of MLS or separate administrative mechanisms through executive orders
- Government should designate a competent authority for the implementation of MLS of ABS
- The GoN should designate an authority (e.g. National Gene Bank ?) for implementation of MLS in Nepal .

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नमस्कार



धन्यवाद

Thank you