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

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Paper presented in a “Discussion Programme on Access and Benefit Sharing in Relation to Crop Genetic Resources, SAWTEE, Hotel Shangrila, August 5, 2013, Kathmandu
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
- *Insitu* and *Exsitu* 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

- Plant Variety Protection (PVP) and Farmers Rights Bills (Draft)
- Seed Vision (2013-2025)
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

- 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

- PGRs in Genebank (MLS)
- Farmers TVs
- ABS
- Farmers New Improved Varieties
- Breeders New Improved Varieties

- SMTA
- PIC
- BRs?
- IPR
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.
References


Thank you