Final Report of the Project

ENHANCING UNDERSTANDING AND IMPLEMENTATION OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE IN ASIA (GCP/RAS/284/JPN)
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Subash Dasgupta and Duncan Vaughan

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IX. Technical papers

Implementing the International Treaty on Plant Genetic Resources for Food and Agriculture: experiences and achievements of eight countries from around the world

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Acknowledgement

We thank the eight country teams and their national partner organizations of the project ‘Strengthening National Capacities to Implement the International Treaty on Plant Genetic Resources for Food and Agriculture’ for their efforts to advance the implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture and its multilateral system of access and benefit-sharing in particular. The project receives funding from the Dutch government.

Background: the ‘GRPI 2’ project

The project ‘Strengthening National Capacities to Implement the International Treaty on Plant Genetic Resources for Food and Agriculture’ (known as the Genetic Resources Policy Initiative 2 or ‘GRPI 2’), led by Bioversity International and funded by the Dutch government, aims to: promote the national implementation of the multilateral system of access and benefit-sharing (the MLS for short); increase countries’ overall participation in the multilateral system both as providers and recipients of genetic resources; and pursue options to benefit from other aspects of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty for short), including technology transfer provisions.

Following an open, competitive selection process since 2013, the GRPI 2 project has been supporting implementation activities led by the national ITPGRFA focal points in eight countries in four regions, i.e. Bhutan and Nepal in South Asia, Burkina Faso and Côte d’Ivoire in West Africa, Rwanda and Uganda in East Africa, and Costa Rica and Guatemala in Central America. National teams in those countries have conducted research and capacity-building activities to identify options for policy, legal and administrative mechanisms to implement the MLS (Halewood and Vernooy 2014). In addition, they have conducted complementary research on policy actor networks related to the national implementation of the Treaty; germplasm flows and national dependence on ‘foreign germplasm,’ particularly for climate change adaptation; linkages between the Treaty/MLS and farmers’ management of plant genetic diversity through the lens of community seed banks (Vernooy et al. 2014), and technology transfer (as a non-monetary benefit under the Treaty). In the eight countries, the practical implementation process has followed a participatory, multi-stakeholder approach aimed to build common understanding and broad support for Treaty/MLS implementation. (Space does not allow us to discuss the effectiveness of this approach.)
Despite numerous challenges of various nature, including changing political landscapes and changes in government, lengthy and often cumbersome administrative procedures, scarce human and financial resources, and general low levels of awareness about the Treaty and its relevance, the eight countries have made substantial progress on Treaty/MLS implementation and the related research core themes. Most of them will continue their policy development efforts directly related and required for effective implementation in 2015. In this paper, we will present some of the achievements obtained to date, identify some of the challenges encountered, and present some thoughts about future activities.

**Progress in implementation: experiences from eight countries**

**Part 1: General overview**

In order to guide the eight country teams in their research and capacity building efforts, Bioversity International suggested, based on past Treaty implementation experiences and research done, a series of core tasks for effective implementation. These are:

- Analyse whether there is legal space for the implementation of the MLS. In practical terms, this implies finding out whether there are policies or laws in force in the country that would impede the ability to provide facilitated access to plant genetic resources for food and agriculture using the standard material transfer agreement. If there is not the requisite legal and administrative space, identify options for the revision of the relevant policies, laws, and/or other instruments. Develop draft amendments to the relevant instruments. In this regard, based on experiences from the GRPI 2 countries and other countries, the harmonization of the Treaty/MLS and the Nagoya Protocol under the CBD has emerged as a very important issue and challenge (Halewood *et al.* 2013).

- Introduce those draft policies, laws, executive orders regulations and or administrative guidelines into the formal policy-making processes of the relevant organizations and political bodies.

- Clarify who in the country has authority to consider requests for access to materials in the multilateral system. There may be several, depending on the source of the material, so this needs to be worked out and agreed upon at appropriate policy levels to ensure efficient functioning.

- Identify/confirm what PGRFA in [country] are ‘under the management and control of the Contracting Party and in the public domain’ (i.e. materials that are automatically included in the multilateral system).

- Inform potential users about genetic resources that are included in the multilateral system.

- Identify incentives and disincentives for natural and legal individuals to voluntarily include materials in the multilateral system that are not automatically included. Identify policy options to create incentives/eliminate disincentives for voluntary inclusion of such materials in the MLS.

- Identify possible options concerning *in situ* materials under article 12.3.h of the International Treaty.

- Send a notification to the Treaty Secretariat about accessions included in the MLS.

- Report germplasm transfers to national and international authorities.
In practice, while taking into consideration the particular political system in each country, all of the eight GRPI 2 country teams ended up spending considerable time and effort on the first, second, third and fourth activities. Experiences from the majority of the eight countries indicate that fulfilling the first (and second if necessary), third and fourth activities turns out to be essential actions for MLS implementation. The emphasis on the second bullet point – the need to develop and adopt formal policy instruments such as legislation, regulations – can be explained to a very large degree to the relatively centralized political systems in place in the eight countries (table 1 summarizes the development of policy/legal instruments in the GRPI 2 project countries). The Treaty is silent on whether or not it is necessary to have implementing legislation, and many countries have made significant progress without doing so. The political-legal culture of each country influences what country parties in each of the eight countries have considered necessary to implement the MLS.

Table 1. Development of policy/legal instruments to create legal space for Treaty/MLS implementation in GRPI 2 countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Policy/legal instrument</th>
<th>Status April 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>ABS policy</td>
<td>For approval by the government</td>
</tr>
<tr>
<td></td>
<td>Revised 2003 Biodiversity Act</td>
<td>Revision planned for the summer of 2015</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>New ABS law</td>
<td>Yet to be finalized. Expected to be submitted for government approval in 2015</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>New ABS law</td>
<td>Under development</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>New ABS law</td>
<td>Submitted for approval by government</td>
</tr>
<tr>
<td></td>
<td>Treaty decree</td>
<td>Expected to be developed in 2015</td>
</tr>
<tr>
<td></td>
<td>New ABS policy and ABS law (will likely focus on harmonization of CBD and ITPGRFA)</td>
<td>Under development</td>
</tr>
<tr>
<td>Nepal</td>
<td>Revised Agrobiodiversity Policy</td>
<td>Approved</td>
</tr>
<tr>
<td></td>
<td>New Agrobiodiversity Act</td>
<td>Yet to be developed</td>
</tr>
<tr>
<td>Rwanda</td>
<td>New ABS law</td>
<td>Under development</td>
</tr>
<tr>
<td></td>
<td>Treaty procedure</td>
<td>Yet to be developed</td>
</tr>
<tr>
<td>Uganda</td>
<td>Revised National Environment (Access to genetic resources and benefit sharing) Regulations</td>
<td>Under development</td>
</tr>
<tr>
<td></td>
<td>Temporary procedure for accessing plant genetic resources for food and agriculture (statutory instrument)</td>
<td>Approved</td>
</tr>
</tbody>
</table>

Sources: Compiled by the authors based on GRPI 2 2014 technical reports.
In seven of the countries, excluding Bhutan, efforts to identify a competent authority (requirement number 3) have also been considerable. At the outset of the GRPI 2 project, there appeared to be several possible candidate agencies to assume this role, but due to a lack of formal decision making mostly due the absence of a clearly defined legal space for implementation (requirements 1 and 2), further progress was hampered. The exception is Bhutan where the Ministry of Agriculture and Forests (MoAF) was assigned as competent authority for all Treaty related matters. By the end of 2014, six of the seven countries, except Côte d’Ivoire, had identified, but not yet formalized, a competent national authority. Table 2 presents an overview of progress made on this issue.

Table 2. Designation of a competent authority for Treaty implementation in the GRPI 2 countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Competent authority</th>
<th>Status April 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>Ministry of Agriculture and Forests, with delegation of Treaty administration to the National Biodiversity Centre</td>
<td>Legalized</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Commission Nationale de Gestion des Ressources Phytogénétiques</td>
<td>Legalized</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>National Seed Agency</td>
<td>Proposed to government</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>Not yet identified</td>
<td>Under study</td>
</tr>
<tr>
<td>Guatemala</td>
<td>Institute of Agricultural Science and Technology</td>
<td>Approved in 2015</td>
</tr>
<tr>
<td>Nepal</td>
<td>National Gene Bank</td>
<td>Proposed to government</td>
</tr>
<tr>
<td>Rwanda</td>
<td>National Gene Bank</td>
<td>Proposed to government</td>
</tr>
<tr>
<td>Uganda</td>
<td>Uganda National Council for Science and Technology</td>
<td>Legalized</td>
</tr>
</tbody>
</table>

Sources: Compiled by the authors based on GRPI 2 2014 technical reports.

By the end of 2014, in all eight countries, national GRPI 2 project teams had identified at least some PGRFA in the country that are ‘under the management and control of the Contracting Party and in the public domain’ (i.e., materials that are automatically in the multilateral system). Rwanda was the only country that had done this already early on in the GRPI 2 project, in 2013. It is expected that in 2015, notification of this PGRFA (i.e. collections included in the MLS) to the Secretary of the International Treaty will follow. Table 3 presents an overview of progress made on this requirement.

In brief, by the end of 2014, all eight countries had made significant progress developing policy/law proposals, introducing them into formal national policy process to, identifying what genetic resources within their country are to be included in the global PGRFA pool for agricultural research and plant breeding established by the ITPGRFA, and empowering competent authorities to share those resources with users both inside and outside the countries concerned.
The following paragraphs offer a summary of main achievements by country (based on the country technical reports for 2014 submitted to Bioversity International).

**Part 2: country overviews**

**Bhutan:** Based on a lengthy and extensive consultation process with stakeholders across the country led by the GRPI 2 country project coordinating agency, the National Biodiversity Centre (NBC) of Bhutan under the MoAF (note that the NBC has been delegated by ministerial decree the responsibility of administering Treaty implementation in particular concerning the MLS), a draft ABS policy has been formulated and submitted to the cabinet for approval. The policy promotes the conservation of biological diversity and regulates the access and use of biological resources in the country, including materials under the ITPGRFA, balancing national interests and international commitments on issues related to PGRFA.

Policy development in Bhutan usually has to go through a lengthy procedure and so is the case related to PGRFA. The draft ABS policy was presented to the Gross National Happiness Commission (GNHC, the advisory body in the country with the highest authority) twice and

<table>
<thead>
<tr>
<th>Country</th>
<th>Accessions identified</th>
<th>Status April 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>60</td>
<td>Yet to be approved by the government. Not yet sent notification to the Secretary of the ITPGRFA.</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Under study</td>
<td></td>
</tr>
<tr>
<td>Costa Rica</td>
<td>1 598 (ICTA accessions)</td>
<td>Not yet sent notification to the Secretary of the ITPGRFA.</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>Under study</td>
<td></td>
</tr>
<tr>
<td>Guatemala</td>
<td>1 459</td>
<td>Not yet sent notification to the Secretary of the ITPGRFA (dependent on the approval of National Seed Agency as national competent authority).</td>
</tr>
<tr>
<td>Nepal</td>
<td>3 624</td>
<td>Yet to be approved by government. Not yet sent notification to the Secretary of the ITPGRFA.</td>
</tr>
<tr>
<td>Rwanda</td>
<td>The collections held by the Rwanda Agriculture Board (RAB) in the various agriculture research centres of the Board throughout Rwanda. (<a href="http://www.rab.gov.rw">http://www.rab.gov.rw</a>)&lt;br&gt;The bean, Irish potatoes and rice collections held by the Higher Institute of Agriculture and Animal Husbandry (ISAE) located in Musanze, Rwanda. (<a href="http://www.isea.ac.rw">http://www.isea.ac.rw</a>).</td>
<td>Notified in 2013.</td>
</tr>
<tr>
<td>Uganda</td>
<td>760</td>
<td>Not yet sent notification to the Secretary of the ITPGRFA.</td>
</tr>
</tbody>
</table>

The following paragraphs offer a summary of main achievements by country (based on the country technical reports for 2014 submitted to Bioversity International).

Sources: Compiled by the authors based on GRPI 2 2014 technical reports.
submitted to the Policy and Planning Division, MoAF for further submission before it will go back to the Gross National Happiness Commission and then on for submission to the cabinet. The draft policy was presented to the GNHC in June 2014 and feedback incorporated. The draft policy was then put on the GNHC website for comments from June till September 2014 as per policy formulation protocol. It is currently with the cabinet for approval. Once the policy is formally endorsed, the Biodiversity Act of Bhutan 2003 will be reviewed and amended accordingly, followed by the formulation of rules and regulations for implementation of the Act including for the implementation of the Treaty. The Bhutan GRPI 2 project country team will support this process in 2015 with additional support of the GRPI 2 project.

The National Biodiversity Centre also coordinated consultations with stakeholders to develop a first national list of PGRFA in the multilateral system, to be made available globally under the ITPGRFA. Sixty rice accessions have been identified for this purpose. The list will be submitted for appraisal by the Renewable Natural Resources – Gross National Happiness (RNR-GNH) Committee during its next sitting for further directives. Once confirmed, the list will be submitted to the Secretary of the ITPGRFA. One of the constraints in Bhutan is the limited human and resource capacity that exist to carry out germplasm collection missions and related activities, in particular proper characterization. The country does not want to include PGRFA in the MLS that is not properly characterized.

**Burkina Faso:** The national team finalized an in-depth analysis of the policy, legal and institutional environment in the country in relation to the effective implementation of the ITPGRFA/MLS and the CBD/NP. The study concludes that there is growing awareness about the importance of the Treaty/MLS, but that effective implementation is hindered by institutional barriers, such as a lack of collaboration and coordination among government, non-government and civil society actors. The study also observes that many agencies responsible for the conservation and sustainable use of PGRFA are characterized by an unwillingness to move forward in the absence of clear legal arrangements. The national team therefore recommended the development of a specific legal instrument for access and benefit sharing of PGRFA which will spell out rules and regulations for access and benefit sharing, define responsibilities of key agencies and allow key agencies to coordinate actions, including with regard to the MLS. The national team also recommended that such an instrument should cover farmers’ rights. The national team prepared a first draft of a new law on access and benefit sharing of PGRFA which it aims to submit for approval to the government in 2015. The draft was reviewed by Bioversity staff and feedback for revisions provided. The national project team compiled information about germplasm conserved by public institutions (research institutes and universities) and identified possible accessions that could be automatically included in the MLS. However, due to the absence of a competent authority formally in charge, notification to the ITPGRFA Secretariat has not yet taken place.

Through the involvement of a non-governmental organization known as JADE, the national project team initiated work on a series of communication materials to strengthen awareness among different stakeholders involved with PGRFA in the country, notably farmers and farmer organizations, rural development non-governmental organizations, plant breeders and other agricultural researchers, and policymakers. Communication materials will include a poster, brochure, a series of radio programmes and videos, produced in French and local languages. In addition, a series of workshops are being organized with each of these stakeholder groups to raise awareness about the ITPGRFA/MLS.
**Costa Rica**: Based on a number of studies and consultations, the National Council on Plant Genetic Resources (CONARFI) presented a proposal to the Ministry of Agriculture indicating the necessary steps for Costa Rica to facilitate access to plant genetic resources and fully implement the MLS. The proposal was developed based on inputs from the country GRPI 2 project team. The steps in the proposal include: 1) Designation of the national seed agency as the national authority for the implementation of the Treaty’s multilateral system; 2) Recognizing the multilateral system in the new national law on access and benefit-sharing; 3) Expansion and official recognition of the CONARFI as the advisory council for the implementation of the Treaty in Costa Rica. Currently, the Ministry of Agriculture and the National Council for Biodiversity Management (CONAGEBIO) are considering the proposal and taking the preparatory measures for implementing these three steps.

**Côte d'Ivoire**: Two national policy workshops carried out in 2014 under the GRPI 2 national project with involvement of key stakeholders including high level delegates from the Ministry of Agriculture and the Ministry of the Environment, City Health and Sustainable Development, led to the development of a new draft law on the rules of access to and benefit sharing of genetic resources and the rights of local communities. This process has been led by the national GRPI 2 project team coordinated by the Centre National de Recherche Agricole (National Agricultural Research Centre). This is paving the way for the development of measures to implement the ITPGRFA and the MLS, which are expected to be detailed in a follow up legal decree (on which the country project team has started working already).

Apart from the work on policy and legal issues the country project team completed an inventory and review of national institutions maintaining *ex situ* collections to determine which PGRFA could be automatically included in the MLS. Despite these efforts, the national project team observed that there is still little awareness about the ITPGRFA/MLS in the country and that more work is required. One of the bottlenecks is the absence of a competent authority related to PGRFA. The national project team has proposed to establish a new, multi-stakeholder based agency, perhaps to be named Comité National du Système Multilatéral d’Accès et de Partage (CNSMAP, National MLS Committee) in charge of implementing the MLS. This suggestion has emerged from the series of consultations carried out so far, but has not been formally submitted to the national authorities.¹

**Guatemala**: The national project team made significant progress. The national team also advanced the creation of legal space for the implementation of the ITPGRFA/MLS through interactions with CONARFI (the National Commission on Phylogenetic Resources), the platform created in the country to coordinate policy and legal development related to all PGRFA. One important initiative is the development of a policy and legal framework on access and benefit sharing related to the implementation of the Convention on Biological Diversity and the Nagoya Protocol. The initiative to develop the CBD-related ABS legal framework is being led by the CONAP (Consejo Nacional de Áreas Protegidas, National Council of Protected Areas). Still pending is the legal recognition of CONARFI. A proposal for this purpose was developed by the national project team and presented to the Ministry of Agriculture (MAGA), the MAGA Viceministry of Regulations and the MAGA Legal Department, where it is currently being processed. The proposal has been drafted as a Government Accord, because it involves different

¹ See, the blog post from Edmond Koffi and Ronnie Vernooy at: http://grpi2.wordpress.com/2014/10/16/cote-divoire-les-avances-dun-avant-projet-de-loi/
sectors (environmental, agricultural, food safety and science and technology) of public administration. In the proposed norm, the CONARFI will be formed formally by representatives of public sector, academic, international research institutions and farmers’ associations dealing with in situ and ex situ conservation.

The Institute of Agricultural Science and Technology, ICTA, (Instituto de Ciencia y Tecnología Agrícolas) was designated as the authority to consider requests for access to materials in the MLS. ICTA is the lead agency of the national agricultural research system and responsible for the largest ex situ collection of crops included in Annex 1 of the ITPGRFA. The ICTA Board, according to the Act No. JD-03-2014, dated March 26, 2014, authorized the new role of ICTA as the competent authority for the implementation of the MLS in Guatemala. In the same Act, it is determined to “instruct the General Manager, in coordination with the National Treaty Focal Point, to communicate the designation to the Secretary of the Treaty” and “instruct the General Manager to designate the technical unit, which will be responsible to develop the activities that allow for the implementation of the Multilateral System of Access and Benefit Sharing in Guatemala”. A draft operational guide (Manual de Procedimiento) was developed (Document No. 2) in November 2014 that supports the implementation of the MLS by ICTA. The operational guide confirms ICTA as competent authority, identifies its functions and describes the administrative procedure to follow in case of demands of transfer of material. The operational guide is expected to be formally approved in 2015. The technical unit of ICTA designated as MLS administrative unit shall be the ‘Discipline of Genetic Resources,’ which is the unit responsible for the management of the germplasm bank.

In November 2014, a draft letter of notification to the Secretary of ITPGRFA was prepared by ICTA in which the most relevant collections have been identified for the inclusion under the MLS. The letter is currently being processed for approval and transmission to the Secretary of the ITPGRFA. Collections are Phaseolus vulgaris (752), Zea mays (644), Manihot esculenta (43) and Ipomoea (20) are mentioned in the letter. Notification to the Treaty Secretariat has not yet taken place.

Nepal: The national project team organized several discussion meetings at several levels to raise awareness about the ITPGRFA and MLS, the need for harmonizing the ITPGRFA with the CBD, and concerning the provisions of the ITPGRFA. Workshops about effective implementation were organized with participants from NGOs, farming communities, civil society, universities, seed companies, District Agricultural Development Offices, research stations, crop commodity programmes, Ministry of Agricultural Development, the Department of Agriculture, and other government agencies. The objectives of these workshops were to brief participants about the scope and importance of ITPGRFA/MLS and the country’s interdependency on agricultural plant genetic resources, to understand policy space and necessary action for implementing the ITPGRFA/MLS in Nepal, to discuss and share the list of Nepalese agricultural plant genetic resources for the inclusion under the MLS and to discuss institutional mechanism for germplasm access and flow. These efforts allowed the GRPI 2 project team to prepare a proposal to the government containing three important action points: a first list of 3 624 accessions identified as included in the MLS (of 32 food crops and 8 forages); a so-called one window system to be established for managing both provision and receiving of germplasm into and out of the country under the multilateral system, and the appointment of the national gene bank of NARC as the authorized body consider/approve requests for access to materials in the MLS.
National GRPI 2 project partners coordinated a process to revise the 2007 Agrobiodiversity Policy (for which permission was obtained from the Secretary, Ministry of Agricultural Development, in 2002). This included organizing a series of consultations with seed companies, community seed banks, farmer organizations, other ministries, research organizations and the national CBD, UNFCCC and ITPGRFA focal points. As part of these consultations, the GRPI 2 project team shared information about how access to PGRFA from other countries will become increasingly important for Nepal to adapt to changing climatic conditions. The first draft was considered by the National Agrobiodiversity Conservation Committee, which is chaired by the Secretary of the Ministry of Agricultural Development. The GRPI 2 project team made revisions following the committee’s recommendations, and the revised draft was submitted by the Secretary to the Nepalese Cabinet. The GRPI 2 project coordinator was invited to present the draft policy to the Nepalese Cabinet in late 2014. The policy was approved by the Cabinet in the same session. In addition, the national project team made important contributions over the course of 2013 and 2014 to the development of the National Biodiversity Strategy and Action Plan 2014-2020 (NBSAP), which was adopted in 2014 in order to assure harmonization of the ITPGRFA with the CBD in Nepal.

**Rwanda:** The national project team, led by the Rwandan Agriculture Board (RAB), contributed to the drafting of a national draft law to implement the Nagoya Protocol on access and benefit sharing. They reported to Bioversity that they have been successful in getting text included to recognize the country’s ABS obligations under the ITPGRFA. Still to be developed are guidelines for the implementation of the ITPGRFA in consideration and harmony with the new ABS law. These guidelines will be elaborated in collaboration with the Ministry of Agriculture and Animal Resources. The RAB-lead team also developed a draft bill to implement farmers’ rights under the ITPGRFA, and organized stakeholder consultations concerning that bill. Additional work will be carried out regarding both bills in 2015.

Based on various consultations with national stakeholders, the national project team developed a proposal to nominate a national competent authority for the implementation of the ITPGRFA/MLS, either through the Ministry of Agriculture and Animal Resources or RAB. The proposed institution is the National Gene Bank, more precisely, its director or curator for the purposes of considering requests for access to PGRFA in the gene bank and sending materials out under the Standard Material Transfer Agreements (SMTA). In the draft ABS law, the National Gene Bank has been included as the national competent authority.

**Uganda:** The national project team carried out a review of the existing national legislation, particularly the Uganda National Environment Act, the National Environment (Access to genetic resources and benefit sharing) Regulations of 2005 and the Guidelines for accessing genetic resources and benefit sharing in Uganda of 2007, to identify if legal space exists in the country to implement the MLS. Based on this review, the national project team decided that there are some areas requiring more legal and institutional clarity, in particular in the form of a revision of the Uganda ABS regulations. The revision should address the following: designating a National Competent Authority to be the lead institution in implementing the Treaty; creating a centralized system of SMTA management (in addition to providers following up on their legal obligation to report transfers directly to the Governing Body of the ITPGRFA); establishing a committee to advise the Authority; sharing MLS information and bringing key stakeholders on board; conducting an inventory and profiling of in-situ PGRFA; developing a strategy and operational plan for the characterization of the country’s plant genetic resources for food and agriculture;
developing an enabling instrument to facilitate the exchange of non-Annex 1 PGRFA. The National Environmental Management Authority (the national focal point for the Convention on Biological Diversity) was chosen to take a lead on the revision of the Uganda ABS regulations and to constitute a multi-sectoral task force comprising UNCST (which is the competent authority for exchanging all genetic resources) and the National Agricultural Research Organization (through the Plant Genetic Resource Centre) (in charge of PGRFA).

The task force specifically developed a temporary procedure for accessing plant genetic resources for food and agriculture (Statutory Instrument) in Uganda while the amendment of the ABS law is in process. The procedure was developed in form of a Memorandum of Understanding and a so-called Guidance Note for the Administration of ITPGRFA between the three mentioned organizations with the aim to control access to and benefit sharing of PGRFA and facilitate cooperation and mutual assistance between these Parties in the discharge of their respective statutory obligations as far as the exchange of Plant Genetic Resources for Food and Agriculture (PGRFA) is concerned.

Based on a process of consultations with stakeholders, a total of 760 accessions were identified to be automatically included in the MLS (23 pearl millet, 64 sorghum, 429 finger millet, 151 wild relatives of millets and 93 common beans). These accessions can be accessed from the Uganda National Gene Bank. The national GRPI 2 project team will follow up on the next step, which is the forwarding of the list to the secretariat of the Treaty. Through community awareness fora, farmer communities from selected regions of the country were informed about the possible benefits of linking their on-farm management initiatives to national efforts of implementing the MLS. Farmers suggested that, although a small number of their accessions are secured in the Uganda National Gene Bank under a black box arrangement (i.e. for conservation only, not for further distribution), there could be a possibility of declaring a portion of this material also included in the MLS through voluntary inclusion.

**The Treaty and the CBD/Nagoya Protocol**

Based in part on lessons learned (and emerging needs identified) in the eight countries, the GRPI 2 project has forged linkages with other organizations that are involved in supporting national level implementation of access and benefit sharing measures under the CBD and the Nagoya Protocol to strengthen capacity for the mutually supportive implementation of both instruments. Bioversity co-organized, with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) funded ABS Capacity Building Initiative and the Secretariats of the CBD and the Treaty, a second workshop on the ‘International Treaty and the Nagoya Protocol: A tandem workshop for National Focal Points’, hosted by FAO, 3–6 June 2014. The overall objective of the ‘tandem workshop’ was to increase national policy actors’ ability and confidence to implement the CBD/NP and ITPGRFA/MLS in mutually supportive ways. It sought to demystify perceptions of ‘grey area issues’ by providing the national focal points with opportunities to work through practical problems related to these issues together, arriving at clear, operable solutions. It also sought to provide participants with the opportunity to consider options for coordination mechanisms and practices ‘back home’ to be able to address such issues on an ongoing basis. 60 participants, including tandems from 20 countries, representatives from GRPI 2 national research teams, international experts and members of the secretariats of both the Treaty and the CBD, came to the meeting. Inputs from the participatory sessions are feeding into a set of fact sheets, decision-making tools and policy briefs. An output of the workshop is a discussion paper on “mutually
supportive implementation of the Plant Treaty and the Nagoya Protocol: A primer for National Focal Points and other stakeholders”. Some of the key issues at the interface of the two international agreements include (for a more detailed discussion, see Halewood et al. 2013, see also the practical examples in Halewood 2015):

**Voluntary inclusions of PGRFA in the MLS: moving materials from one regulatory system to the other**

PGRFA collectors, such as national gene bank curators/managers, who wish to enrich the diversity of materials in their collections and by extension, in the MLS, have an obligation to comply with national ABS norms governing access to PGRFA that is outside the domain of the MLS, for example, collections held by community seed banks. In practice, this will require consulting with local and national authorities responsible for both the Treaty/MLS and the CBD/NP to ensure that the rights of farmers and communities as potential providers are complied with. At the same time, having clear and simple rules and procedures developed for potential providers of materials will allow for effective and low cost transfers.

**Requests for PGRFA (otherwise in the MLS) for non-food/non-feed purposes or direct use in cultivation by farmers**

Requests for access to PGRFA for non-food/non-feed purposes are outside the scope of genetic resources for food and agriculture. It would therefore not be appropriate to transfer PGRFA using the SMTA as the SMTA prohibits the recipient from using the transferred materials for those purposes. The request for access should instead be referred to the competent authority under whatever other ABS measures may apply in the country, whether they are designed to implement the CBD or NP or are simply home-grown ABS regulations. Request for materials in the MLS for direct use in cultivation by farmers is not an included use in the MLS. It is therefore not appropriate to use the SMTA to transfer PGRFA for direct use. The Treaty’s Ad Hoc Technical Committee on the Standard Material Transfer Agreement and the Multilateral System suggested that PGRFA distributed to farmers for direct use for cultivation should be accompanied by the statement: “This material can be used by the recipient directly for cultivation, and can be passed on to others for direct cultivation.” If the material concerned was previously received under the SMTA, the provider cannot pass it on to farmers for direct use, but must redirect the access seeker to the original provider, or country of origin of the materials concerned.

**Using the SMTA to provide PGRFA of crops that are not included in the MLS**

Some countries, notably in Europe, have voluntarily adopted policies to make non-Annex I PGRFA (thus outside the MLS) in publicly held collections available using the SMTA. Countries that have taken this step are doing so by exercising their rights under the CBD or national laws implementing the CBD (or just their national sovereignty generally when those countries are not actually member states of the CBD or NP).

**Developing a shared vision and coordination between agencies (ministries/departments) responsible for implementation of both instrument**

Coordination between agencies and individuals responsible for both agreements is critically important for coherent, effective and efficient implementation. In some countries, coordination is nascent. In a few countries, the same ministry is responsible for both instruments, sometimes
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Even with the same person serving as the national focal point for both the Treaty and the CBD/NP (e.g. Rwanda, United Kingdom). Other countries have created coordination committees that bring together those involved in implementation of the two instruments for regular discussions (e.g. Uganda). When a provider of material under the MLS receives a request for access that falls outside the MLS, they know who to contact for information on how to proceed. Similarly, when a provider of material under general ABS rules receives a request for access that they think may fall within the MLS, they also need to know who to contact for information on how to proceed.

**Looking ahead**

Although significant implementation progress in the eight GRPI 2 countries has been made, globally, the rate of national implementation of the Treaty’s MLS is still quite low, especially among developing countries. This suggests that more support, particularly for countries with less strong implementation capacities, is necessary in the coming years. One of the lessons emerging from the GRPI 2 project is that research and capacity building for developing policies, laws and administrative guidelines – or just taking decisions on the basis of existing mandates and distributions of authority – are essential for effective MLS implementation. In many countries, national policy makers and stakeholders most actively appreciate the value of the ITPGRFA/MLS in the contexts of enhancing their country’s collective capacity to adapt to climate changes, and overcoming systematic blockages to dynamic forms of *ex situ* and *in situ* conservation and sustainable use. It has also become clear that one of the challenges to longer term participation in the MLS as providers of PGRFA and curators of value-added information, many/most developing countries will require support to improve or adopt new information systems to record, manage and publish information about PGRFA they are making available through the MLS. Finally, national stakeholders (both governmental and non-governmental) have become increasingly clear in their demand that the Treaty and the Nagoya Protocol are so closely related that they must be implemented in harmonious, coordinated ways.

**References**


