

Deal or Deadlock? The High-Stakes Talks on the IT PGRFA.

No time to lose.

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Promoting the Seed Business
in the Americas



International Treaty on Plant Genetic Resources for Food and Agriculture

- The international treaty providing since 2004 the framework for:
 - conservation and sustainable use of *all* plant genetic resources
 - fair and equitable sharing of benefits
 - the recognition of farmers' rights
- Specialized instrument
 - Plant breeding
- 154 countries (as of 1 April 2025)



IT PGRFA – Technical Structure under Negotiation

- **Multilateral System** – facilitated access to germplasm for the purpose of research, breeding, training
 - List of 64 crops (“Annex I crops”) – NOT *all* crops, as the scope of the Treaty
- **Standard Material Transfer Agreement** – for accessions of such germplasm by companies from genebanks
 - Standard terms
 - Non-negotiable
 - Predictable, easy to use, but...
 - Not incentivizing accessions by companies (perpetual financial obligations – single access; no genetic dilution threshold; for some crops, possibly no attractive germplasm)

Hotspots of Negotiation

- What is essentially being negotiated are the terms for accession of germplasm i.e., the SMTA:
 - Payment Mechanisms and Rates
 - Incl. temporal limit on obligations (dilution thresholds) and no duplicative payments for DSI/GSD
 - Expansion of Annex I
 - Digital Sequence Information / Genetic Sequence Data (DSI/GSD) from PGRFA

STANDARD MATERIAL TRANSFER AGREEMENT

PREAMBLE

WHEREAS

The International Treaty on Plant Genetic Resources for Food and Agriculture (hereinafter referred to as “the Treaty”)¹ was adopted by the Thirty-first session of the FAO Conference on 3 November 2001 and entered into force on 29 June 2004;

The objectives of the Treaty are the conservation and sustainable use of **Plant Genetic Resources for Food and Agriculture** and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security;

The Contracting Parties to the Treaty, in the exercise of their sovereign rights over their **Plant Genetic Resources for Food and Agriculture**, have established a **Multilateral System** both to facilitate access to **Plant Genetic Resources for Food and Agriculture** and to share, in a fair and equitable way, the benefits arising from the utilization of these resources, on a complementary and mutually reinforcing basis;

Articles 4, 11, 12.4 and 12.5 of the Treaty are borne in mind;

The diversity of the legal systems of the Contracting Parties with respect to their national procedural rules governing access to courts and to arbitration, and the obligations arising from international and regional conventions applicable to these procedural rules, are recognized;

Article 12.4 of the Treaty provides that facilitated access under the **Multilateral System** shall be provided pursuant to a Standard Material Transfer Agreement, and the **Governing Body** of the Treaty, in its Resolution 1/2006 of 16 June 2006, adopted the Standard Material Transfer Agreement.

Status Quo of Negotiations – Payment Mechanisms

- **Two payment mechanisms** included in the SMTA: subscription and single-access
 - **Diverging views** on keeping **single-access** mechanism (Articles 6.7 / 6.8)
 - **Article 6.8** requiring **mandatory** payment (no longer voluntary)
- **Subscription** mechanism
 - Includes an option for exclusion of up to two crops
 - Proposed rate range [0.01 – 0.1%]
 - 10 years, renewable
- **Single-access** mechanism
 - Proposed rate for Article 6.7: [0.77 – 2.5%] of sales of the variety, during 25 years
 - Proposed rate for Article 6.8: [0.1-1%] of annual sales of the variety, during 25 years
 - No payment due if genetic contribution < [1.6-6.25%], and if no trait of commercial value

Status Quo of Negotiations – Expansion of Annex I

- There is some agreement to the proposal to expand the scope of Annex I to all PGRFA:
 - under Contracting Party's control
 - in the public domain and found in *ex situ* collections
- Certain crops can be explicitly excluded by Contracting Parties (up to two)
- PGRFA excluded by one Contracting Party will still be possible to be made available by another.

Remark: some Contracting Parties firmly condition their support for expansion of the Annex I on the receipt of substantial monetary benefit-sharing payments from the industry

Status Quo of Negotiations – DSI/GSD

- 2 outlets of the discussion for payments for the use of DSI/GSD on PGRFA under the Treaty:
 - Whether or not **subscription** models comprehensively address payment expectations for DSI
 - This currently applies to payments under the single-access options.
 - Whether or not payments for DSI/GSD under the Treaty are deemed sufficient with regard to potential payment obligations under the Multilateral Mechanism of the CBD (**avoiding duplicative payments**)

Farmers' rights

- Farmers' rights under the IT PGRFA focus on **collaboration models, improving the livelihoods of farmers** and **preserving their agricultural practices**
- Elements:
 - Protection of TK
 - Right to equitable benefit-sharing
 - Right to participate in decision-making at national level regarding the conservation & sustainable use of PGRFA

Industry's Position in a Nutshell

- Reasonable rates
- Multiple available payment mechanisms:
 - Subscription (i.e., rate applied on entire company portfolio) with option to exclude up to two crops (as currently negotiated) *or* a crop-based subscription
 - Single Access
- Exhaustion of payment obligations
- No overlap of payment obligations under different ABS mechanisms
- Expansion of Annex I to all crops

How Important is the MLS?

- Alternative:
 - Bilateralism?
 - Current SMTA?
 - Financial obligations under the Nagoya Protocol
 - Payments at national level, mechanism depending on a country-by-country basis
 - Amount of obligations
 - Mechanism

Thank you!

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