

**The FAO International Treaty (IT) on Plant  
Genetic Resources for Food and Agriculture,  
the Convention on Biological Diversity (CBD),  
and its Nagoya Protocol (NP)**

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# The IT and the CBD

- The IT is a legally-binding Treaty under the UN Food and Agriculture Organization.
- The objectives of the IT are:
  - the conservation and sustainable use of PGRFA (Plant Genetic Resources for Food and Agriculture = plant germplasm) and
  - the fair and equitable sharing of the benefits arising out of their use.
  - The IT is in harmony with the CBD, and focused on sustainable agriculture and food security.
- The CBD is a legally-binding Convention.
- The objectives of the CBD are:
  - the conservation of biological diversity
  - the sustainable use of its components and
  - the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

# The IT and the CBD

- **The IT:**
  - **140+ nations are Parties to it; in force since June 2004.**
  - **The US Senate approved ratification on 29 September 2016; US became a Party on 13 March 2017.**
- **The CBD:**
  - **190+ nations are Parties to it; in force since Dec. 1993.**
  - **The US signed (1993) but has not yet ratified it.**

# The IT and the CBD

- **The IT:**
  - Recognizes nations' sovereign rights over "their" PGRFA but agree to:
  - Establish a multilateral system (MLS) for benefit-sharing and facilitated access to certain PGRFA for crop genetic improvement for food security.
  - Provisions for PGRFA in International Agricultural Research Centers (CIMMYT, IRRI).
- **The CBD:**
  - Recognizes nations' sovereign rights over "their" genetic resources.
  - Emphasizes contractual (bilateral) arrangements.
  - "Prior informed consent" can be required by a nation, and "benefit sharing" takes place via "mutually agreed terms" regarding access to germplasm.

# The IT and the CBD

- **IT's scope includes all PGRFA. The MLS includes:**
  - **PGRFA of 64 food and feed crops key to food security; more crops may be included;**
  - **Held in ex situ collections by national governments (e.g., US National Plant Germplasm System), in the public domain; or held by IARCs; or**
  - **Donated by private entities.**
- **CBD's scope and coverage:**
  - **Most genetic resources under national jurisdiction exchanged internationally post-29 Dec. 1993.**
  - **US considers the IT to cover all PGRFA but some nations' IT interpretations might lead to their applying implementing legislation for the CBD Nagoya Protocol (NP) to crops not now covered by the IT MLS (e.g., soybean, tomato).**

# The IT and the CBD

- **Benefit-sharing under the IT:**
  - In a broad sense, benefit-sharing under the IT will come from nations who are obliged to conserve PGRFA and make them available for research and breeding.
- **Benefit-sharing under the CBD:**
  - Negotiated by providers and recipients (e.g., in contracts for exchanging genetic resources); in some cases involve national governments.
  - In many nations, will be guided by the Nagoya Protocol (NP) on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization: came into force October 2014.

# The IT and the CBD

- **Benefit-sharing under the IT:**
  - In a narrow sense, monetary benefit-sharing will flow from individual PGRFA transactions via the Standard Material Transfer Agreement (SMTA) which details obligations of recipients and providers. Funds do not flow back directly to the PGRFA's country of origin: they are invested in projects supporting farmers in developing countries who conserve crop diversity and assisting farmers and breeders globally.
- **Benefit-sharing under the CBD:**
  - National implementation procedures are under development, and will be key to the NP's effects.
  - See the CBD Access and Benefit-Sharing Clearinghouse for more information:  
<https://absch.cbd.int/>

# The IT and the CBD

- **Germplasm access and exchange under the IT:**
  - **Via the MLS's SMTA, which includes conditions for end use (excludes non-food and non-feed), conservation, management of intellectual property rights (IPRs), and benefit-sharing upon commercialization.**
- **Germplasm access and exchange under the CBD:**
  - **Variable terms, negotiated by parties to individual contracts.**
  - **National implementation of the NP might affect those terms, and might not be tailored to the needs of agriculture, which can involve problematic requirements.**



# Effects of IT and CBD on US germplasm users

- **IT:**
  - Has not affected use of PGRFA acquired pre-IT, nor of domestic US PGRFA.
  - Use of some PGRFA acquired internationally post-IT has been affected by terms and conditions of SMTA.
  - In some cases, the IT's SMTA has facilitated international access to PGRFA for U. S. public-sector researchers, genebanks, etc., but in other cases it has not.
- **CBD:**
  - Generally has not affected use of germplasm acquired pre-CBD, nor of domestic US germplasm.
  - Use of germplasm acquired internationally post-CBD affected by terms and conditions of exchange consistent with U. S. law.
  - Effects of the NP will be determined by its implementation.
  - Post-CBD and post-NP, access to germplasm internationally has become increasingly problematic.