



Accession to the UPOV Convention Ghana's Experience

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Map of Ghana



Presentation Overview

Introduction

Development PVP framework In Ghana

Lessons Learnt

Potential Benefits of the PVP framework

Introduction

- ❑ The protection of plant variety by means of intellectual property gained increasing importance after the adoption of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization
- ❑ TRIPS required contracting parties to protect plant varieties either by patents or by an **effective sui generis** system of protection or by a combination of both. (Article 27.3b)

Introduction cont'd

- In 2000 Ghana opted to develop a sui generis system for the protection of new plant varieties in line with the UPOV Convention.



DEVELOPMENT OF PVP FRAMEWORK IN GHANA

Legislative History

2000 - Initial draft of PVP Bill

2003 - All Industrial property laws enacted with the exception of PVP

2009 – Conducive environment and policy makers well informed to lead the discussion and debate the advantages and disadvantages of the Plant Breeders Rights System

2010- Amended the Seed Act, Plant Quarantine Act, and the Fertilizer Act and passed the Biosafety Act.



Development of PVP Framework in Ghana cont'd

- 2010-11 - The Bill was further reviewed by an independent local consultant in 2010 and was subjected to stakeholder reviews in 2011.
- 2012-13- The Bill received Cabinet approval and was referred to Parliament in June 2013 for consideration Bill submitted to the UPOV Council .
- 2016 - Bill was suspended at third reading to consider petition sent to Parliament.
- 2017- New Parliament, Bill has to go through due process once again
- 2019- Cabinet gives approval subject to a nationwide awareness and sensitization
- 2020- Nationwide stakeholder consultations held, report made to Cabinet, Bill passed
- 2021 Stakeholder engagement on Draft Implementing Regulations .

UPOV

International Union for the Protection of New Varieties of Plants

PRESS RELEASE

UPOV Press Release 131

September 8, 2021

Reaffirmation by the Council of the positive decision of 2013 concerning Ghana

The Council noted the developments on the Plant Variety Protection Act (Act 1050 of 2020) of Ghana and reaffirmed its 2013 decision on conformity with the 1991 Act of the UPOV Convention, allowing Ghana to become a UPOV member.



Development of PVP in Ghana Cont'd

Nov 3, 2021
Accession to
UPOV



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Challenges and Lessons Learnt

2010-
2022



Challenges Encountered and Lessons Learnt

- ISSUES RAISED IN PETITIONS:
- Clause 20 (6) c of the Bill stipulates that “an essentially derived variety may be obtained for example by the selection of a variant individual from a plant of the initial variety, back crossing or transformation by genetic engineering”. The concern was to the effect that the clause is to provide an opportunity for the production of Genetically Modified Organism (GMOs)
- Bill focused solely on promoting and protecting breeders, farmers and seed producers that develop genetically uniform seeds/plant varieties suitable for agriculture (small, medium and mechanized large-scale farming)

Challenges

➤ ISSUES RAISED IN PETITIONS:

- Clause 23 of the Bill stipulates that “ A plant breeders right shall be independent of any measure taken by the Republic to regulate within Ghana the production, certification and marketing of material of a variety or the importation or exportation of the material”.
- The interpretation given of the clause was that the clause is seeking to prohibit the Government of Ghana from regulating the activities of the plant breeders as regards production, certification and marketing of material of a variety or the importation or exportation of the material

Some Mischief Encountered

#WithdrawPlantBreederBill!@GhanaPresidency No doubt, the interests behind the push for the UPOV-compliant Plant Breeders Bill are rich and powerful. Hence this is a struggle that can only be waged at the grassroots. For instance, if you do

Development of PVP Framework in Ghana

Mischief Encountered

FSG REJECTS ATTORNEY-GENERAL'S SLEIGHT OF HAND IN FORCING GHANA TO JOIN UPOV 1991
July 3, 2021 by Food Sovereignty Ghana 0 comments
<https://twitter.com/FoodSovereignGH/status/1411320196762116097>
Food Sovereignty Ghana (FSG) together with other civil society, as well as faith-based organisations in Ghana have waged a consistent and vociferous battle against Ghana's Plant Variety Protection Bill, based on UPOV 1991 for.....



Mischief Encountered



APBRES

Association for Plant Breeding for the Benefit of Society

Reply by APBRES to Circular E-21/077

Comments by APBRES on the document “Developments on the Plant Variety Protection Act (Act 1050 of 2020) of Ghana” (document C/Developments/2021/1)

We are pleased to comment on the document “Developments on the Plant Variety Protection Act (Act 1050 of 2020) of Ghana”¹. This commentary was prepared jointly and with the support of Food Sovereignty Ghana. Although there are various elements in the document that are of major concern (e.g. Clause 60 on offences), we will focus on Clause 22 in the new Plant Variety Protection Act.

The amended Clause 22 reads as follows:

Measures regulating commerce

“22. ~~23~~. A plant breeder right ~~shall be independent of~~ is subject to any measure taken by the Republic to regulate, within Ghana, the production, certification and marketing of material of a variety or the importation or exportation of the material.”

[The changes in the 2020 Act compared to the 2013 draft law are underlined and crossed out.]

Mischief Encountered: Reported in the newsletter of APREBES(Association for Plant Breeding for the Benefit of Society

Food Sovereignty Ghana goes to Supreme Court over UPOV Convention

Food Sovereignty Ghana (FSG) filed a legal suit at the Supreme Court of Ghana on 11 November 2021, challenging the constitutionality of the Plant Variety Protection Act, Act 1050, 2020. In their press release, FSG stated that “This court action is the culmination in our long struggle to uphold the rights of farmers to freely save, use, exchange and sell farm-saved seed and other propagating materials.” They criticise the fact that the Act does not take into consideration related international conventions and the Human Rights System such as the Treaty on Plant Genetic Resources for Food and Agriculture of the United Nations Declaration on the Rights of Peasants.” In a statement issued by FIAN International, Valentin Hategekimana, FIANS International Africa coordinator concluded “Rather than advancing the agriculture sector, Act 1050 will be a source of human rights violations in Ghana”.

Lessons Learnt

- Importance of national dialogue
- Importance of national strategy
- Need for National Champions
- Availability of resources for capacity building and sensitization activities



Collaborations



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Potential Benefits of the PVP framework

- ❑ Increase in local bred new plant varieties with improved performance (eg. yield, pest and disease tolerance, nutritional qualities, early maturity and tolerance of abiotic stress)
- ❑ Increased access to foreign varieties/germplasm
- ❑ Access to new markets
- ❑ Facilitate public /private partnership for plant breeding
- ❑ Increased investment in the seed sector

Conclusion

- ❑ **The PVP system has enormous potential to improve agricultural productivity, the seed system, protect genetic diversity and empower farmers to access new markets and attract private sector investments in plant breeding .**
- ❑ **To reap the benefits of the PVP system, stakeholders will require policy and strategic intents on how to utilize the PVP system, make investments in systems and human resource.**

