

Development of Ghana's Plant Variety Protection Framework And Accession to UPOV

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Presentation Overview

Introduction

Development of PVP in Ghana: 2000-2020

Development of PVP in Ghana: Challenges

Lessons Learnt

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:** Draft bill for the protection of new plant varieties.
- ❑ It failed to gain consensus because of limited understanding of a subject area: -
 - ❑ Mixed up of intellectual property concepts with conventions such as Convention on Biodiversity (CBD) and the International Treaty on Plant Genetic Resources for Food and Agriculture (PGRFA Treaty)
- ❑ **2001:** Concerns from civil society, breeders, farmers and consumers were collated arising out of workshops culminating in a draft Plant Breeders' Right bill, 2001.
- ❑ **2005:** Plant Breeders' Right Bill was reviewed in 2005 incorporating comments and concerns articulated in previous discussions. Comments received on the bill pointed out that provisions in the 2005 draft bill deviated from the essential provisions of the UPOV Convention and contained provisions borrowed from other treaties.

Development of PVP Framework in Ghana cont'd

- **2009** - Conducive environment and policy makers were better informed to lead discussions and debate the advantages and disadvantages of the Plant Breeders' Rights system.
- **2010** - Amended the Seed Law, Plant Quarantine Act and the Fertilizer Act and passed the Biosafety Act.
- **2010-11** - The Bill was further reviewed by an independent local consultant in 2011 and was subjected to stakeholder reviews .

Development of PVP Framework in Ghana cont'd

- 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. Nationwide stakeholder consultations held, report to Cabinet
- 2020 - Bill passed by Parliament.
- 2021 - Stakeholder engagement on Draft Implementing Regulations . Accession to UPOV

Development of PVP Framework in Ghana



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



Challenges and Lessons Learnt

2010-
2022



Challenges Encountered and Lessons Learnt

- ISSUES RAISED IN PETITIONS:
- Clause 20 (6) c of the Bill stipulated 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 stipulated 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

Challenges cont'd

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

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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.....

Development of PVP Framework in Ghana

Michief Encountered



Association for Plant Breeding for the Benefit of Society

Reply by APBREBES to Circular E-21/077

Comments by APBREBES 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.]

Challenges cont'd

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”.

Challenges cont'd

- **How did we respond to the challenges?**
- Capacity building and development of human resources.(UPOV Training courses, etc.)
- Improved collaboration between institutions by key officials (MOJ, MOFA , CRI, Farmer Organizations, MDA's,)
- Government initiatives to improve agricultural sector
- Engaged extensively at the national level (Chiefs, Religious leaders, farmers, civil society, academics, parliamentarians)
- Continuoos sensitization and awareness creation.

Respond to Challenges cont'd

- **Other recent developments:-**
- Adoption of Arusha Protocol.
- Climate Change (, drought, flood, pest, etc)
- Consumer preferences and demands.
- Responses to issues are fact based

Lessons Learnt

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

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 develop human resource.**

THANK YOU