



APSA

Quality seed, Quality life

Becoming a UPOV Member: Ghana's Experience and PVP up-date

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Presentation Overview

Introduction

Development of PVP in Ghana: 2000-2022

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)
- ❑ **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

- ❑ **Historical Perspective.**
- ❑ **2000:** Ghana initiated the drafting of a bill for the protection of 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)

Development of PVP Framework in Ghana cont'd

- ❑ **2001:** Concerns from civil society, breeders, farmers and consumers were collated.
- ❑ **2005:** Plant Breeders' Right Bill reviewed 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 :- 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 .

Ghana cont'd

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- A faint, stylized world map is visible in the background of the slide, showing the outlines of continents in various colors like yellow, orange, and blue.
- 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 members of 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
 - 2022 - Draft Implementing Regulations to be placed before Parliament

Development of PVP Framework in Ghana

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



Legal Framework for the Protection of Plant Varieties cont'd

- The provisions of the Act apply to all plant genera and plant species.
- Criteria for registration are same as those found in UPOV, namely ,novelty, distinctness, uniformity and stability .
- Act recognises priority of applications.
- Act includes possibility to register essentially derived varieties.
- Act recognises authorisation of holder for specific acts

Legal Framework cont'd

Exceptions to plant breeder right;

Section 20. (1) A plant breeder right shall not extend to cover any act done:

- (a) privately and for non-commercial purposes;
- (b) for experimental purposes; or
- (c) for the purpose of breeding other varieties, except in relation to EDV's

Legal Framework cont'd

Farmers allowed to save seed for propagating purposes on own holding (Article 15 UPOV).

Minister required to make regulations , respecting the legitimate rights of the breeder and safeguarding the interest of breeder

- Reward breeders and different actors, with ultimate aim of enhancing food security.

Legal Framework cont'd



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:** Measures Regulating Commerce
 - 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

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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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)
- Continooes sensitization and awareness creation.

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

- Positive engagements with all stakeholders including parliamentarians is necessary.
- The PVP system is a positive development which seeks to address the interests of plant breeders and other stakeholders along the seed value chain.
- The benefits of the Act cuts across several sectors of the economy and will promote national development.
- The PVP has an enormous potential to improve productivity, the seed system, protect genetic diversity, and empower farmers to access new markets and attract private sector investments in plant breeding.

Acknowledgement

- We would like to acknowledge the organizers(APSA) of the workshop and UPOV Secretariat for inviting us to participate in this workshop.



THANK YOU