

Legal instruments for PGRFA, their coverage and status

| Law or Policy | Topic / Applicability | Status / Jurisdiction |
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| International Treaty on Plant Genetic Resources for Food and Agriculture (IT) | <ul style="list-style-type: none"> Covers all PGRFA (does not regulate non-food and agricultural uses) and addresses diverse topics, including conservation, use, international cooperation, technical assistance, and farmers' rights Establishes multilateral system for select crops (approx. 35 crops/crop complexes plus certain forages) Sets rules for access and benefit sharing for these materials, both <i>ex situ</i> and <i>in situ</i> Does not specify access and benefit-sharing rules for non-multilateral system PGRFA (except for CGIAR holdings of such crops that are currently covered under FAO-CGIAR 'in-trust' agreements) | <ul style="list-style-type: none"> Entered into force on June 29, 2004 Legally binding for all ratifying countries (36 as of May 2005); will not apply to those not ratifying |
| Convention on Biological Diversity (CBD) | <ul style="list-style-type: none"> Covers all biodiversity Provides general principles for access and benefit sharing concerning materials accessed after the coming into force of the CBD, yet not covered by the International Treaty on PGRFA (i.e. non-multilateral and non-CGIAR PGRFA) | <ul style="list-style-type: none"> Entered into force in 1993 Legally binding for countries that have ratified (188 as of December 2004) |
| International Plant Protection Convention | <ul style="list-style-type: none"> Addresses phytosanitary issues with the transfer of plants and animals, including PGRFA | <ul style="list-style-type: none"> Entered into force in 1952 Legally binding for the countries that have ratified (137 as of April 2005) |
| International Undertaking on Plant Genetic Resources (IU) | <ul style="list-style-type: none"> Covered all PGRFA Addressed the exploration, preservation, evaluation and the making available of PGRFA | <ul style="list-style-type: none"> Adopted at FAO, 1983 Not legally binding for the countries that have adhered to the IU (113) |
| WTO-TRIPS Agreement | <ul style="list-style-type: none"> Member States must comply with minimum standards of protection of IP Must ensure protection of micro-organisms, non-biological and microbiological processes and plant varieties that meet protection criteria | <ul style="list-style-type: none"> Entered into force January 1995 Legally binding for all WTO members that have ratified it (148 as of February 2005) |
| UPOV 1961, 1972, 1978, 1991 (Plant Breeders' Rights) | <ul style="list-style-type: none"> Through a succession of international laws, UPOV aims to harmonize national laws for protecting plant varieties | <ul style="list-style-type: none"> Four versions; only 1991 still open for joining Legally binding for the countries that have ratified it (58 as of November 2004) |
| Regional Agreements (e.g., Andean Community) | <ul style="list-style-type: none"> Co-ordinated laws/policies exist regarding some PGRFA-related topics, through the EU (biotech, patenting) and the Andean Pact (access) | <ul style="list-style-type: none"> Legally binding |

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| Network Agreements | <ul style="list-style-type: none"> • Networks exist at both the regional and crop levels. Virtually all regions have multiple, regional /sub regional networks. Some have crop working groups • Crop networks relate to conservation, genetic resource transfer and breeding / improvement, and function for a wide array of crops, at the regional and supra-regional levels. See FAO's State of the World's Plant Genetic Resources (1998) for a listing and description • FAO (through the International Undertaking) has an international network of <i>ex situ</i> collections. The FAO Commission on Genetic Resources oversees and sets policies for the network <i>per se</i> • SADC and Nordic regions have centralized germplasm storage and agreements covering ownership and transfer of these materials • There are some NGO networks dealing with conservation and farmer participatory crop improvement • There are also joint country / private sector projects (e.g. Latin American Maize Project) involving germplasm conservation and evaluation | |
| National Laws | <ul style="list-style-type: none"> • National laws/regulations may address diverse topics such as conservation, use, access, benefit sharing, farmers' rights, quarantine, seed marketing standards, IPRs | <ul style="list-style-type: none"> • Legally binding |
| FAO-CGIAR In-Trust Agreements Placing Collections under the Auspices of FAO Associated documents/ instruments include a. 2 joint FAO-CGIAR statements on the agreement b. standard material transfer agreement (MTA) | <ul style="list-style-type: none"> • Agreements apply to the management, availability and transfer of specifically designated germplasm • Joint statements address concerns about the practical implementation of the agreement; the agreed MTA (which has the force of a binding contract on recipients) is used in the transfer of designated germplasm. | <ul style="list-style-type: none"> • 11 CG centres (those having <i>ex situ</i> collections) have signed binding agreements with FAO • Agreements were foreseen as interim, pending the coming into force of the IT; thus, the Treaty's governing body and the centres will develop new agreements in line with Article 15 of the Treaty. Until then, current agreements apply |
| FAO Global Plan of Action | <ul style="list-style-type: none"> • Contains specific 'activities' on <i>in situ</i> conservation and development, <i>ex situ</i> conservation, utilization, and institutions and capacity building | <ul style="list-style-type: none"> • Adopted 1996 by 4th Intl. Technical Conference on PGRFA (150 countries) • Legally non-binding • Serves as framework, guide and catalyst for PGRFA efforts • Referenced in the IT: has bearing on and relation to a legally binding agreement |

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| FAO/IPGRI Genebank Standards | <ul style="list-style-type: none"> • Sets out recommended genebank storage standards for seeds of orthodox species only | <ul style="list-style-type: none"> • Recommended by FAO and IPGRI to be used as the reference in national, regional and international genebanks • Endorsed 1993 by FAO Commission on Plant Genetic Resources in • Not legally binding • <i>Note: both FAO and IPGRI have published other 'standards' in the past, inter alia on design of genebanks, germination, information handling, regeneration and multiplication, as well as descriptor lists</i> |
| FAO Code of Conduct for Plant Germplasm Collecting and Transfer | <ul style="list-style-type: none"> • Deals with the etiquette of collecting and transfer of PGRFA • Has provisions on collectors' permits, responsibilities of collectors, sponsors, curators and users, as well as on reporting, monitoring and evaluating observance of the Code | <ul style="list-style-type: none"> • Adopted by FAO Conference in 1993 • Not legally binding • <i>Note: both the ITPGRFA and the CBD have provisions that add to or modify the guidance provided by the Code</i> |
| CGIAR policies/instruments | <ul style="list-style-type: none"> • Policy on steps to be taken to implement the MTA (pertains only to germplasm designated under agreements with FAO) • Guidelines for germplasm acquisition • Guidelines for designation of accessions under the FAO agreements • Model MTA for non-plant genetic materials • Guidelines for acquisition and transfer of germplasm: micro-organism, animal and aquatic and marine • Ethical principles related to genetic resources • Guiding principles on IPRs • Principles involving centre interaction with the private sector • Position statements on biotechnology, the FAO-CGIAR agreements, 'genetic use restriction technologies', and on the need to resolve certain issues concerning IPRs and genetic resources. | <ul style="list-style-type: none"> • Apply only to the CGIAR • <i>Note: some of the policies and instruments are related to the FAO-CGIAR agreements and specify actions that must be taken by centres to meet these contractual obligations. With the coming into force of the International Treaty on PGRFA, some of these will need to be modified (e.g., the MTA), while some will become inoperable (e.g., guidelines for designation)</i> |