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REGINE ANDERSEN

Enhancing the functioning of the Multilateral System of Access and Benefit-Sharing under the Plant Treaty

Results from an international survey

Key points

- Despite major achievements, the Multilateral System of Access and Benefit-sharing (MLS) is not functioning according to expectations, and negotiations in this regard came to a halt in 2019.
- Opinions diverge as to expanding the Plant Treaty's Annex 1 list of crops covered by the MLS and regarding the inclusion of 'digital sequence information' (DSI) in the MLS.
- Major stumbling blocks to achieving consensus on the issue of DSI are uneven capacity to access, analyse and use DSI, and to related technology.
- A subscription system with benefit sharing has broad support among survey respondents, along with capacity-building and technology transfer related to DSI.



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Facilitation of this survey

This survey was conducted as part of the [Fridtjof Nansen Institute \(FNI\)](#) research project [Global environmental governance as a tool for poverty alleviation](#). The results also feed into the research project [Pathways to food security, poverty alleviation and livelihoods through the implementation of farmers rights to crop genetic diversity \(DIVERSIFARM\)](#), carried out by the FNI in collaboration with five partners from three continents. Both projects are funded by the [Research Council of Norway](#).

Background

The Multilateral System of Access and Benefit-sharing (MLS) under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) has been established to facilitate access to genetic resources for food and agriculture (PGRFA) and ensure the fair and equitable sharing of the benefits arising from their use. However, although the MLS represents a great achievement in terms of facilitating access to PGRFA and the support provided through the Benefit-sharing Fund established under the MLS, the MLS has not functioned according to expectations. Payments have been slow in coming and insufficient to enable the sharing of benefits at the scales envisaged under the ITPGRFA; moreover, many countries that are parties to the Treaty have not yet included their relevant PGRFA and related information in the MLS.

For the past decade, the Governing Body of the ITPGRFA has sought ways of expanding benefit-sharing under the MLS and the scope of the MLS itself. However, after years of formal negotiations on enhancing the functioning of the MLS, the process came to a halt in November 2019, at the Eighth Session of the Governing Body of the ITPGRFA, due to strongly diverging positions among delegations. No resolution was adopted, and no decision was made as to any further formal negotiations. The present survey report explores the options for resuming negotiations on enhancing the functioning of the MLS, in the hope that the results may help Contracting

Parties in taking stock and assessing next steps.

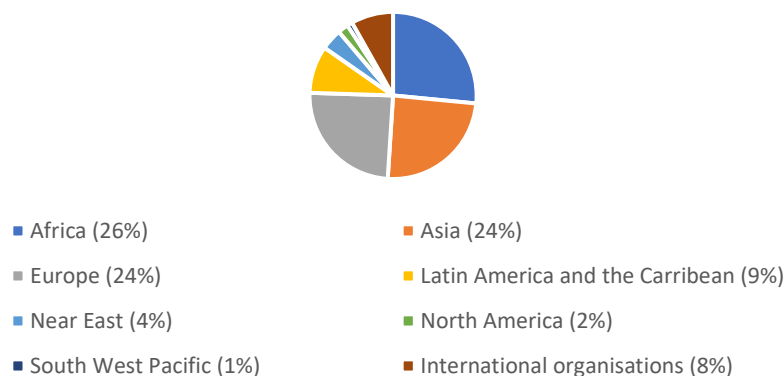
About the survey

A questionnaire was developed through informal consultations with experts from relevant research projects (see box) and Governing Body delegation participants from different regions and was sent out in English, French and Spanish via SurveyMonkey and as a Word file on 9 December 2020. It was distributed to delegates and observers at the Seventh and Eight Sessions of the Governing Body of the ITPGRFA and the *Ad-Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit Sharing of the ITPGRFA*. Recipients were also invited to share the questionnaire with colleagues who had participated in regional consultations on the topic. The survey was closed for further submissions in February 2021. This is a short presentation of the results; the full report with tables and graphics is available in English [here](#).

The survey was distributed to participants who were present at previous sessions of the Governing Body. Altogether 95 responses were received from individuals and groups, mostly from government institutions (37%), gene banks (21%) and research institutions (15%). Also respondents from non-governmental organizations (4%), seed industry (3%), farmer organizations (2%), and persons with other affiliations participated. Some responses were sent in by groups of respondents.

Figure 1: Regional distribution of responses

Regional distribution of respondents



Most responses were received from Africa (26%), Asia (24%) and Europe (24%) Fewer responses were received from Latin America and the Caribbean (9%), the Near East (4%), North America (2%), the South-West Pacific (1%), and from international organizations (8%).

Almost all respondents had participated in relevant meetings under the ITPGRFA; the majority had been members of delegations or delegation leaders (57%). Other respondents had been observers at these meetings (34%) or had not participated (7%).

Is there a need to resume negotiations?

To find out whether there was a perceived need to resume negotiations on enhancing the functioning of the MLS, we prepared several statements and invited respondents to give their views on these. There were 87 responses to this question.

Altogether, 62 per cent of our respondents agreed totally that there is a great need to enhance the functioning of the MLS; 25 per cent agreed to some extent. However, 5 per cent felt that there was no need to enhance the functioning of the MLS, and 20 per cent agreed to this to some extent. There were some overlaps, due to the option of multiple choices.

Thus, on the whole, the vast majority of our respondents came out in favor of finding solutions to enhance the functioning of the MLS. No significant patterns emerged with regard to the distribution of responses between regions or stakeholder categories.

What is important to achieve with an enhanced MLS?

To find out what respondents consider should be achieved with an enhanced MLS if negotiations are resumed, we presented a list, and invited respondents to indicate their views as to their relative importance. The 89 responses showed the following priorities:

1. **'A system that promotes the sustainable use of PGRFA'.** All respondents found this either

very important, important or quite important, with the exception of one, who was not sure. Of these, 85 per cent deemed it very important.

2. **'A system that generates a fair and equitable level of benefits to be shared according to the relevant provisions of the Treaty'.** All respondents found this important: 81 per cent considered it very important.
3. **'A system that promotes the conservation of PGRFA'.** This purpose was considered important by all, except for two per cent, who were not sure; 75 per cent deemed it very important.
4. **'A system that facilitates farmers' access to PGRFA'.** Almost all respondents found this important: 69 per cent considered it to be a very important purpose; however, four were not sure, and one respondent deemed this not important.
5. **'A system that is simple and requires a minimum of bureaucratic effort for those involved'.** attracted broad support: 67 per cent considered this very important. No respondents held that it was not important, although one respondent was not sure.
6. **'A system that is conducive to scientific progress and innovation in plant breeding'.** received the least support: nevertheless 67 per cent of the respondents deemed it to be very important, and 21 per cent quite important. Three respondents felt it was not important, and one was not sure.

Respondents were invited to suggest other purposes as well. The 38 responses here generally concerned the need for an inclusive governance system for the MLS, the importance of enabling facilitated access and to ensure benefit sharing, and that the system must be transparent and reliable. Respondents also stressed



that the system would have to be 'future-ready' and 'business-ready', and that a shift in the positions of European and Northern governments and the position of the seed industry would be required to make progress in the negotiations.

What elements to include in an enhanced MLS?

Next, we focused on the elements proposed at the last session of the Governing Body which the respondents thought could be part of an enhanced MLS under the ITPGRFA, if the negotiations were resumed. Respondents were to state whether they felt that the proposed elements must be included, could be included, should preferably not be included, must be excluded; or whether they were not sure. 87 respondents answered this question. Here, the proposed elements are listed according to the priorities indicated by the respondents:

1. There is broad consensus among the respondents that a **subscription system** with functional elements of benefit sharing must (59%) or could (33%) be included in the MLS. preferably not be included and one that it should be excluded.
2. Respondents were positive to including **capacity building and technology transfer** related to additional measures of non-monetary benefit-sharing as an element in an enhanced MLS. A total of 55% of our respondents stated that it must be included, whereas 34% said that it could be included. Only 3% felt that it should be excluded and 2% that it must be excluded; 5% were not sure on this point.
3. There was also broad support for including a **single access system** (44% 'must be included'; 26% 'could be included'). However, 6 respondents felt that it should preferably not be included. None were directly opposed.
4. As for **expanding the Annex 1** list of crops under the MLS,

opinion diverged: 48% of our respondents stated that it should be included and 21% that it could be included, as contrasted with 8% who held that it should preferably not be included, 6% that it should preferably be excluded; 5% were not sure. Some respondents also stressed that an expansion of Annex 1 should mean the inclusion of *all* PGRFA, and not be undertaken on a species-by-species basis.

5. Opinion diverged even more concerning the **inclusion of DSI** in the MLS to enable regulation of access and benefit-sharing. Here, 50% of our respondents felt that it must be included; 19% held that it could be included; 5% felt that it should preferably *not* be included; 17% stated that it must be excluded; and 9% were not sure.

Invited to suggest other elements, respondents (16) tended to focus on how to develop the various potential elements that had already been listed. There were suggestions as to how to shape the subscription system in a realistic way, how to improve the mechanisms of benefit-sharing, how to deal with DSI in the context of the MLS, and whether and how to expand the list of Annex 1 crops under the MLS. Respondents also highlighted the importance of non-monetary benefit-sharing, such as capacity building and support for conservation and sustainable use for PGRFA. One respondent stressed that farmers and Indigenous Peoples should be 'in the driver's seat' in developing an enhanced MLS.

How does digital sequence information relate to the ITPGRFA?

The next questions were aimed at clarifying positions relating to a topic of great concern for many negotiators during the last two sessions of the Governing Body of the ITPGRFA: *digital sequence information (DSI)*. As defined by the ITPGRFA, 'plant genetic resources for food and agriculture means any genetic material of plant



origin of actual or potential value for food and agriculture' (Article 2). The Contracting Parties to the ITPGRFA have agreed to facilitate access to plant genetic resources for food and agriculture, and to share, in a fair and equitable way, the benefits arising from the utilization of these resources (Article 10.2). We asked respondents how, in their opinion, digital sequence information relates to the ITPGRFA. Here we invited them to respond to a set of statements, indicating whether they agree fully, agree partly, disagree partly, disagree totally, or are not sure. 87 respondents replied to this question. The following list of statements reflects the priorities indicated by these respondents:

1. **'Exchange of information and technologies related to plant genetic resources for food and agriculture is included as a benefit in the MLS (Art. 13.2.a) and facilitated access is regarded as a major benefit as well (Art. 13.1). Thus, access to digital sequence information about plant genetic resources for food and agriculture is already included in the Treaty and should be regulated by an enhanced MLS.'** 44% of our respondents agreed fully with this statement; 22% agreed partly, 16% disagreed partly, 9% disagreed totally, and 8% were not sure.
2. **'Plant genetic resources for food and agriculture include the genetic material of plant origin as well as associated genetic information. Thus, access to digital sequence information about plant genetic resources for food and agriculture should be regulated by an enhanced MLS.'** 44% of our respondents agreed fully, 32% agreed partly, 5% disagreed partly, 17% disagreed totally, and 2% were not sure.
3. **'The specificity and the needs of the food and agriculture sector requires a specialized solution to digital sequence information. We cannot wait for an all-**

encompassing new international regime on this which may not even fit the specific needs of the sector. A solution has to be found under the ITPGRFA and could then form a part of a more comprehensive solution later.'

42 % of our respondents agreed fully with this statement; 22% agreed partly, 12% disagreed partly, 12% disagreed fully, and 13% were not sure.

4. **'The ITPGRFA needs to be amended to explicitly include information about plant genetic resources for food and agriculture in its scope. Only if amended this way could access to digital sequence information about plant genetic resources for food and agriculture be regulated by an enhanced MLS.'** 30% agreed fully with this statement, and 10% agreed partly. However, 16% disagreed partly, 32% disagreed totally; and 11% were not sure.
5. **'Digital sequence information concerns all life on earth and is difficult to compartmentalize within specific multilateral agreements. It should thus be regulated in a new and integrated way, outside of the ITPGRFA.'** Here, 17% agreed fully, and 19% agreed partly. However, 20% disagreed partly, 33% disagreed totally; and 12% were not sure.
6. **'Digital sequence information is not within the scope of the Treaty and should thus not be part of an enhanced MLS.'** 17% of our respondents agreed fully with this statement; 15% agreed partly, whereas 16% said that they disagreed partly; 43% disagreed totally and 7% were not sure.

Finally in this section, respondents were asked whether they felt that there were other important options as to how digital sequence information could relate to ITPGRFA. Their responses (20) focused on legal guarantees to



contracting parties concerning what including DSI in the MLS would imply; further, the following needs: avoiding further regulation of information flow, achieving simplification, the need for processes aimed at reaching a joint understanding, finding a solution under the ITPGRFA and for co-ordination with other international processes. There were also concerns about the urgency of the matter, and reflections on the options provided in this survey and the way they were formulated.

What are the main stumbling blocks?

Our next set of questions concerned what the respondents considered the **main stumbling blocks** towards achieving consensus in the Governing Body on how digital sequence information relates to the ITPGRFA. We listed potential stumbling blocks as indicated in the discussions and literature on the topic and invited respondents to tick all those they found relevant, indicating how serious they deemed these constraints to be. 87 respondents replied to this question, but not all of them replied to all the suggested constraints. The following constraints are listed according to the priorities set by respondents:

1. **'Uneven capacity to access and use DSI'.** 46% of our respondents considered uneven capacity to access and use DSI to be a 'very serious' constraint to relates to the ITPGRFA, and 30% found it to be a 'serious' constraint. 12% saw it as a minor constraint, whereas 10% felt that it was not a constraint, and 2% had no opinion on this.
2. **'Unequal capacity to analyse DSI'.** 46% of our respondents saw unequal capacity for analysing DSI as a 'very serious' constraint to achieving consensus on how DSI relates to the ITPGRFA; 26% considered it to be a 'serious' constraint. However, 3% saw it as a 'minor' constraint, whereas 10% felt that it was not a constraint, and

5% had no opinion on the matter.

3. **'Unequal access to technology required to analyse DSI.'** 45% of our respondents found this to be a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA, and 30% deemed it a serious constraint. 12% held that it was a minor constraint, whereas 7% felt that it was not a constraint and 5% had no opinion on this.
4. **'Knowledge of farmers and indigenous and local communities is not recognised in DSI.'** 41% of our respondents saw it as a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA that knowledge of farmers and indigenous and local communities is not recognised in DSI, and 16% found it to be a serious constraint. However, 18% saw it as only a minor constraint, 11% felt that it was not a constraint, and 14% had no opinion on this.
5. **'Poor scientific and technical understanding about digital sequence information and policy implications.'** 35% of our respondents considered poor scientific and technical understanding about digital sequence information and policy implications as being a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA. 40% found it to be a serious constraint, 13% held it was a minor constraint, whereas 6% felt that it was not a constraint, and 7% had no opinion on the matter.
6. **'Difficult to establish the provenance of digital sequence information.'** 32% of our respondents saw the difficulty in establishing the provenance of digital sequence information as a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA. 36% found this to be a serious con-



straint; 20% saw it as a minor constraint, whereas 8% felt that it was not a constraint, and 4% had no opinion on this.

7. **'Understanding the link between physical material and digital sequence information.'** Here, 27% of our respondents felt that difficulties in understanding the link between physical material and digital sequence information represented a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA. 41% saw this as a serious constraint, 20% as a minor constraint, whereas 3% felt that it was not a constraint and 7% had no opinion on this.
8. **'Impacts on research and development of including DSI in the MLS are not understood.'** 28% opined that poor understanding of the impacts on research and development of including DSI in the MLS was a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA. 38% saw it as a serious constraint; by contrast, 23% meant that it was a minor constraint, 6% felt that it was not a constraint and 5% had no opinion on this.
9. **'Reaching consensus on a definition for digital sequence information.'** 28% of our respondents considered reaching consensus on a definition for digital sequence information to be a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA. 33% saw it as a serious constraint, 29% as a minor constraint, 3% felt that it was not a constraint, and 7% had no opinion on this.
10. **'Access to DSI in private databases is difficult.'** As for difficulties of accessing DSI in private databases, 23% found this a very serious constraint to achieving consensus on how DSI relates to the ITPGRFA, and 41%

saw it as a serious constraint. However, 19% held that it was only a minor constraint, 7% felt that it was not a constraint, and 10% had no opinion on this.

What are the main challenges involved in including DSI in the MLS?

Following from these questions, we wished to find out what the respondents consider the main challenges in including DSI in the MLS, provided that consensus could be reached in the Governing Body that DSI is within the scope of the ITPGRFA. Again, drawing on discussions and the available literature, we listed various challenges, and invited respondents to tick all those that they felt were applicable, and to indicate how serious they deemed these constraints to be. The following challenges are listed according to the priorities indicated by our respondents:

1. **'Difficult to monitor the exchange and use of digital sequence information.'** 46% of our respondents saw this as a very serious constraint to including DSI in the MLS, and 32% found it to be a serious constraint. On the other hand, 15% considered it to be a minor constraint, 3% felt that it was not a constraint, and 3% had no opinion on this.
2. **'Lack of consensus regarding intellectual property rights and digital sequence information.'** 41% of our respondents found this a very serious constraint to including DSI in the MLS and 34% saw it as a serious constraint. However, 17% felt it was a minor constraint, 3% felt that it was not a constraint, and 5% had no opinion here.
3. **'Lack of involvement of farmers and indigenous and local communities in the negotiation process.'** 34% of our respondents considered this to be a very serious constraint to including DSI in the MLS, and 18% found it to be a serious constraint. However, 29% saw it





as a minor constraint, 12% felt that it was not a constraint, and 7% had no opinion on this.

4. **'Difficult to design benefit-sharing mechanisms.'** 29% of our respondents saw this as a very serious constraint to including DSI in the MLS, and 33% found this to be a serious constraint. 29% meant that it was a minor constraint, whereas 5% felt that it was not a constraint, and 4% had no opinion on the matter.
5. **'Lack of possibilities for the Governing Body to establish a protocol for the management of digital sequence information related to plant genetic resources for food and agriculture under the ITPGRFA.'** 21% of our respondents found this a very serious constraint to including DSI in the MLS; 36% considered it to be a serious constraint, whereas 23% meant that it was only a minor constraint, 9% felt that it was not a constraint, and 11% had no opinion on this.

Finally in this section, we asked our respondents about other main challenges involved in including DSI in the MLS, if consensus could be reached in the Governing Body that DSI is within the scope of the ITPGRFA. The 18 respondents who made use of this possibility discussed the difficulties of reaching consensus on DSI and whether it lies within the scope of the Treaty. The main argument cited here for DSI being within the scope of the Treaty was that most genetic material for food and agriculture is already accompanied by DSI; however, other respondents felt that this was an argument why it would be difficult to include it in the MLS. Among users of DSI, fears were voiced that including DSI in the MLS could represent an obstacle to research and development – but this was at the other hand compared to the IPR system, arguing that a similar system could be set up for DSI, enabling compensation for its use.

It was suggested that capacity building in DSI as a technology should be stre-

ngthened for countries that regard themselves as providers of crop genetics, to help to bridge the positions of the two main blocks in the negotiations on DSI. However, another respondent stressed that the DSI question should not be reduced to one of capacity building. It would be essential to agree on a feasible/ agreeable rate for sharing the benefits from accessing PGRFA and related information, one respondent emphasized. Two other respondents stressed that fairly simple approaches could be used for a solution, but that the political will to committing to the required financial contributions has been lacking. Two respondents felt that the DSI issue had become a barrier for creating good solutions for the conservation and sustainable use of PGRFA and Farmers' Rights.

How to achieve resumed negotiations?

Finally, we asked: If the negotiations on the enhanced functioning of the MLS under the ITPGRFA are to be resumed, what would be the best way to achieve that in your opinion? We indicated some options, based on experiences from the Governing Body, and invited respondents to indicate their opinions. Altogether 87 respondents replied to this question, prioritizing the options as follows:

1. **'If informal meetings for key negotiators, including members of the previous Ad Hoc Open-ended Working Group to Enhance the Functioning of the MLS, succeed in reaching an agreement on a set of agreed elements of an enhanced MLS, request the Bureau to include the item in the agenda for the Ninth Session of the Governing Body of the ITPGRFA.'** As many as 56% of the respondents found this option very conducive to achieving resumed negotiations. 20% found it quite conducive and 9% found it somewhat conducive. However, 9% meant that it would not be conducive and 6% were not sure. There were no particular patterns as to regional distribution.

2. **'Organize informal meetings of key negotiators, including members of the previous Ad Hoc Open-ended Working Group to Enhance the Functioning of the MLS, by digital means, if necessary, to prepare an input paper for the Ninth Session of the Governing Body of the ITPGRFA.'** 48% of the respondents meant that this would be very conducive to achieving resumed negotiations. In addition, 26% found such an approach quite conducive and 17% found it somewhat conducive. Only 6% found that it would not be conducive and 3 % were not sure. There were no particular patterns as to regional distribution of these responses.
3. **'If the informal meetings mentioned above for key negotiators, including members of the previous Ad Hoc Open-ended Working Group to Enhance the Functioning of the MLS, succeed in preparing an input paper for GB9, the Bureau should be requested to include the item in the agenda for the Ninth Session of the Governing Body of the ITPGRFA.'** Opinions were more polarized here: 47% of our respondents found this option to be very conducive to achieving resumed negotiations and 24% felt that it would be quite conducive, whereas 8% meant that it would be somewhat conducive. On the other hand, 11% meant that such an approach would not be conducive and 9% were not sure. Again, there were no clear patterns as to regional distribution of these responses.
4. **'Await the results of the negotiations on digital sequence information under the Convention on Biological Diversity before considering whether and how the negotiations on the functioning of the MLS under the ITPGRFA should be resumed.'** Only 23% felt that this would be very conducive to achieving resumed negotiations and 15 % that it would be quite conducive, whereas 16% stated that it

would be somewhat conducive. However, 36% meant that it would not be conducive and 9% were not sure. There were no particular patterns as to regional distribution of the responses.

Finally in this section, we asked our respondents whether there could be other ways to achieve the resumption of negotiations on enhanced functioning of the MLS under the ITPGRFA. 17 respondents made use of this opportunity to add their suggestions. Three of these focused on the need for **awareness and knowledge** on DSI as a precondition. Four respondents considered the **timing of negotiations** under the ITPGRFA in relation to other international negotiation processes related to DSI. They argued that there were greater chances of achieving a solution on DSI under the ITPGRFA than under other international regimes, as there is already much DSI related to crop genetics and the MLS is pioneering instrument for access and benefit sharing. Regardless, co-ordination with other international instruments would be important. Two respondents, concerned about how **consensus** could be developed., held that it would be useful to foster consensus through participatory multi-stakeholder processes at the country level as a means of developing national positions, and then to derive regional positions this basis. Negotiable and non-negotiable elements should be identified. Three respondents were concerned about the **types of meetings** required. One was against informal meetings, one proposed informal meetings, and one suggested that the previous *Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit Sharing* of the ITPGRFA be formally reconvened. Four respondents focused on the **composition of participants** at relevant meetings. One argued that it would be good to allow other countries to be involved in the process than those represented in the previous Ad Hoc Open-ended Working Group, to bring fresh and new ideas. Three respondents stressed that informal meetings should involve all relevant stakeholders and not just negotiators from the country delegations: delegates from Peasant and Indige-



nous People's organizations and movements should be included as well.

Further reflections

In the last part of the survey, we invited respondents to share any further reflections relating to the topics of the survey. 24 respondents made use of this opportunity.

Four of them focused on the necessity of **strengthening the capacity of negotiators** on challenging issues like this. Targeted in-depth on-line training courses should be developed and provided, and delegates should be offered specific capacity-building before, during and after negotiation meetings, reflecting the various approaches involved. Generally, more solid information is required.

Three respondents reflected on the **negotiation process** as such, emphasizing the difficulties of reaching agreement among so diverging interests; they indicated that, even if an agreement could be reached, it would not be implemented due to lack of political will.

Seven respondents proposed possible **benefit-sharing mechanisms** for the MLS: (1) time limits on payments, to reduce the bureaucratic burden on users of PGRFA; (2) 0.1% universal tax on groceries – this would annually generate USD one billion in the USA alone; (3) considering more radical changes than those proposed so far; (4) calling for urgent and ambitious actions to halt the dramatic biodiversity erosion and ecosystem collapse underway; to focus more on the access component; creating a subset of countries that allow free exchange (in or outside the ITPGRFA); (5) create a financial fund, financed by governments and companies (e.g. through a levy on seed sales), to serve as an advance payment for beneficiary countries without creating an initial burden on the user companies; (6) adopting approaches from other areas of digital information, such as music, movies and text in digital books; (7) refrain from implementing a subscription system, because it could place too heavy a bureaucratic burden on gene banks.



Two respondents offered opinions on the proposed **gradual expansion of Annex 1** to the ITPGRFA. One of these highlighted that this should previously be agreed upon in working groups with experts in economic, commercial and intellectual property law, and should enjoy broad prior consensus before being brought to the table of the Governing Body. The other stressed that re-opening Annex I for negotiations would delay the negotiation process on MLS; this respondent proposed strengthening the ITPGRFA instead.

One respondent, representing many, stressed concerns about the **increasing burdens** on access and use of germplasm and other genetic resources at a time when *plant breeding* should be a priority. This respondent, noting the value of non-monetary and in-kind benefit-sharing activities undertaken by seed companies, felt that these valuable contributions are neglected in discussions on monetary benefit sharing.

Finally, six respondents provided feedback on this survey. One respondent held that there were core assumptions in the survey that uncritically accepted certain elements of the ITPGRFA and the MLS. Five respondents, however, took this opportunity to express their gratitude for the survey.

Conclusions

This survey has explored various options for resuming negotiations on enhancing the functioning of the MLS. It has pointed to the need for solutions to enhance the functioning of the MLS – in particular, to achieve a system that promotes the sustainable use of PGRFA, that generates a fair and equitable level of benefits to be shared according to the relevant provisions of the Treaty and promotes the conservation of PGRFA. There is broad agreement concerning a subscription system with functional elements of benefit sharing along with capacity-building and technology transfer related to DSI. There is also broad support for a single access system, whereas opinions diverge as to expanding

Annex 1 and regarding the inclusion of DSI in the MLS.

Most (but not all) respondents agreed that exchange of information and technologies are already included in the ITPGRFA and that access to digital sequence information should be regulated by an enhanced MLS. Major stumbling blocks to achieving consensus in the Governing Body on how digital sequence information relates to the ITPGRFA are uneven capacity to access and use DSI, unequal capacity to analyse DSI, and to the technology required to analyse DSI. This indicates the necessity of strengthening capacity building and technology transfer. Further stumbling blocks were also highlighted in this survey.

The most serious challenges identified regarding including DSI in the MLS were the difficulties involved in monitoring the exchange and use of digital

sequence information and lack of consensus regarding intellectual property rights and digital sequence information. Finding solutions to these issues are thus core to a way forward. Also, the lack of involvement of farmers and indigenous and local communities in the negotiation process was considered a serious challenge by many respondents.

As to how negotiations on enhancing the functioning of the MLS could be resumed, most – but not all – respondents agreed that, provided informal meetings succeed in reaching agreement on a set of agreed elements of an enhanced MLS, the Bureau should be requested to include the item in the agenda of the 9th Session of the Governing Body. Moreover, many respondents made use of opportunities to write free texts and provided insightful suggestions. Studying these proposals may also prove helpful for finding a way forward.



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