

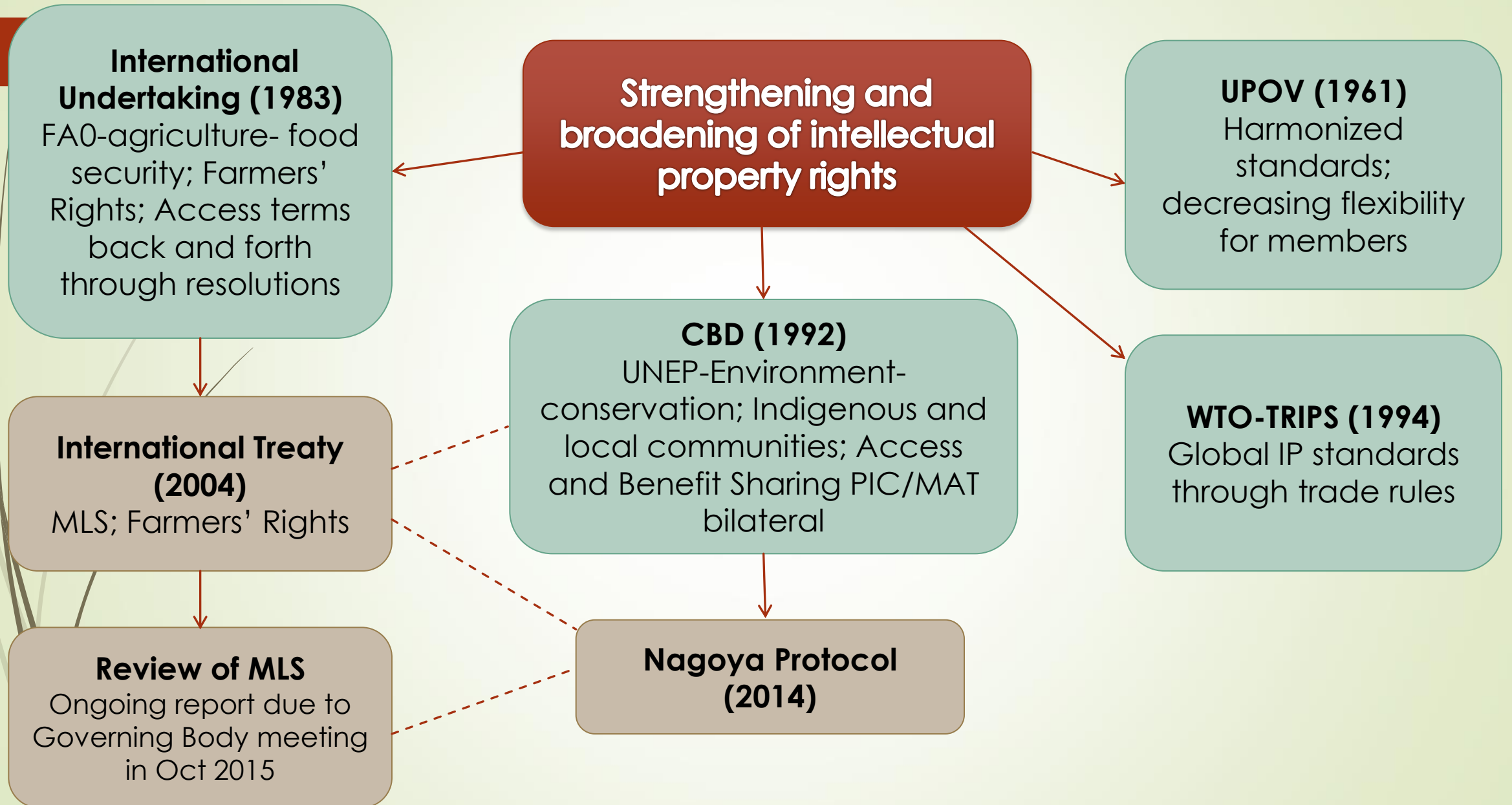


# WIPO IGC Seminar 26 May 2016

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# Reactions and Relationships



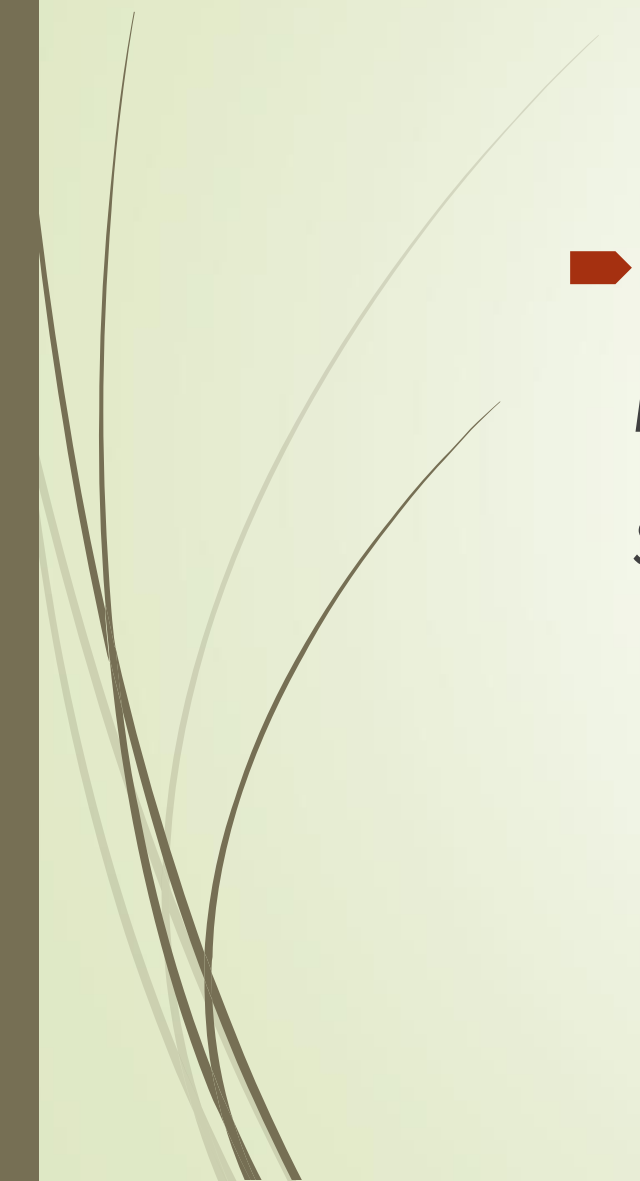


# Graham: what are we trying to achieve and for whose benefit?

- ▶ With a disjointed international legal landscape let's add:
  - ▶ Not only who benefits but who loses?
  - ▶ Who is harmed?
  - ▶ At what cost to individuals, local communities and the global community as a whole?
  - ▶ And what do we do about it? The job of public policy is to regulate and provide in and for the public interest...



## Sustainable Development Goal 2:

- *End hunger, achieve food security and improved nutrition, and promote sustainable agriculture.*
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The international legal architecture of relevance to genetic resources, indigenous and local communities is larger than what we are considering...

- To address food security, the role of ILCs and GR and the inequities identified in Graham's presentation we must consider:
  - The World Trade Organization, in particular the Agreement on Agriculture and the TRIPS Agreement;
  - Human Rights Council Open-ended Working Group negotiating Declaration on Rights of the Peasant;
  - Human Rights Council's open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights.



# The big question....

- ▶ *If* we can identify and fill the gaps, possible conflicts and means of reconciliation amongst the current international legal architecture, **would this be sufficient** to ensure a fair, equitable and secure global food system?



# Major challenge to change

- Power imbalance which is growing with industry consolidation...
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## Instruments or provisions within instruments generally fall into three categories; those that:

- ▶ Promote technology development through IP and trade as a means to achieve food security (WTO AoA and TRIPS, UPOV);
- ▶ Are in part, trying to right the imbalance between 'technology rich' and 'biodiversity rich' countries and for ILCs within these countries (CBD, IT and NP);
- ▶ Are primarily aimed at supporting and protecting human rights (UN Declaration on the Rights of Indigenous Peoples).





# Category One: Market-based and transactional

- ▶ World Trade Organization Agreement on Agriculture: objective to create a fair and market-oriented agricultural trading system;
- ▶ World Trade Organization TRIPS Agreement: establishes minimum standards for IP protection with aim of incentivizing and facilitating the flow of results of innovation.



## Category Two: establishing a means to reap benefits

- ▶ Relates to the provisions on access and benefit sharing through CBD Article 15; the Nagoya Protocol; and the International Treaty's Articles 10-13 establishing the Multilateral System of Access and Benefit Sharing for Annex 1 crops.




## Category three: Securing Human Rights

- ▶ The UN Declaration on the Rights of Indigenous Peoples



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- ▶ Perhaps occupies a middle ground;
  - ▶ Re-thinking intellectual property; particularly around traditional knowledge;
  - ▶ Focus on helping to stop granting of bad intellectual property rights (patents or more?) and supporting the ABS systems created under the CBD, NP and ITPGRFA
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# Conclusions



- Expand consideration to other treaties and instruments, particularly economic instruments such as the WTO AoA and TRIPS;
- Look beyond objectives and beneficiaries instrument by instrument to their effect on one another;
- Find better means to raise understanding and coordination amongst instruments, including the possibility of a neutral forum;
- Understand power imbalances and empower the public sector to regulate in the public interest.