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United Nations**



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

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Item 12 of the Provisional Agenda
SIXTH SESSION OF THE GOVERNING BODY
Rome, Italy, 5 – 9 October 2015
Compilation of Submissions on Farmers' Rights for the Sixth Session

Executive Summary

This information document reviews the contents of the submissions received by Contracting Parties and relevant organizations on the implementation of Farmers' Rights as set out in Article 9 of the Treaty, since its entering into force. It is intended to be read together with document IT/GB-6/15/13.

I. INTRODUCTION

1. At the request of the Governing Body, through Resolution 8/2013, this information document provides a compilation of all the submissions received to date by Contracting Parties, Non-Governmental Organizations (NGOs) and Civil Society Organizations (CSOs) highlighting the knowledge, experiences and best practices of various countries in respect of Farmers' Rights in terms of Article 9 of the Treaty. The document supports working document IT/GB6/15/13, which reviews these submissions. The purpose of this document is to provide the Governing Body with a comprehensive and concise table reflecting all the submissions received.

2. Since the entering into force of the Treaty and to date, 17 Contracting Parties and 17 Non-Governmental Organizations (NGOs) or Civil Society Organizations (CSOs) have provided submissions to the Secretary in respect of its experiences in the implementation of Article 9 on Farmers' Rights.

3. The submissions received are as follows:

Contracting Parties:

1. Australia;¹
2. Canada;²
3. Czech Republic;³
4. Democratic Peoples Republic of Korea;⁴
5. Ecuador;⁵
6. France;⁶
7. Germany;⁷
8. Italy;⁸
9. Madagascar;⁹
10. Mali;¹⁰
11. Niger;¹¹
12. Norway;¹²
13. Pakistan;¹³
14. Poland;¹⁴
15. Syrian Arab Republic;¹⁵

¹ IT/GB-3/09/Inf.6 Add.1

² IT/GB-3/09/Inf.6 Add.1

³ IT/GB-4/11/Inf.6

⁴ IT/GB-4/11/Inf.6

⁵ IT/GB-3/09/Inf.6

⁶ IT/GB-3/09/Inf.6 Add.4

⁷ IT/GB-3/09/Inf.6; IT/GB-4/11/Inf.6

⁸ IT/GB-3/09/Inf.6 Add.1

⁹ IT/GB-5/13/Inf.8; IT/GB-4/11/Inf.6; http://www.planttreaty.org/sites/default/files/Madagascar_FR_submissions.pdf

¹⁰ IT/GB-3/09/Inf.6

¹¹ IT/GB-3/09/Inf.6

¹² IT/GB-2/07/Circ.1; IT/GB-5/13/Inf.8; IT/GB-3/09/Inf.6 Add.5;

http://www.planttreaty.org/sites/default/files/Norway_FR_submissions.pdf;

http://www.planttreaty.org/sites/default/files/Norway_FR_submission_2014.pdf

¹³ IT/GB-3/09/Inf.6; IT/GB-3/09/Inf.6 Add.1

¹⁴ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Poland_FR_submissions.pdf

¹⁵ IT/GB-3/09/Inf.6

16. Uruguay;¹⁶
17. Zambia.¹⁷

Non-Governmental Organizations:

1. Asocuch;¹⁸
2. The Berne Declaration;¹⁹
3. Biowatch;²⁰
4. Centre for Genetic Resources (CGN);²¹
5. Centre for Sustainable Development (Cenesta);²²
6. Community Technology Development Trust (CTDT);²³
7. Development Fund;²⁴
8. European Seed Association;²⁵
9. Fridtjof Nansen Institute;²⁶
10. Green Foundation;²⁷
11. International Institute for Environment and Development (IIED);²⁸
12. International Seed Federation (ISF);²⁹
13. La Vie Campesina;³⁰
14. Let's Liberate Diversity-Coordination of the European Forum;³¹
15. LI-BIRD;³²
16. Practical Action;³³
17. The Global Community Biodiversity Development and Conservation Network.³⁴

4. The table contained in *Appendix 1* of this document reviews the submissions received from Contracting Parties, Non-Governmental Organizations and Civil Society Organizations. No information in this table shall be understood as expressing a view of the Secretariat.

¹⁶ IT/GB-4/11/Inf.6

¹⁷ IT/GB-2/07/Circ.1; IT/GB-3/09/Inf.6; IT/GB-4/11/Inf.6

¹⁸ IT/GB-5/13/Inf.8

¹⁹ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Berne%20Declaration%20%20FR_submissions.pdf

²⁰ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Biowatch_FR_submissions.pdf

²¹ IT/GB-3/09/Inf.6 Add.2

²² IT/GB-4/11/Inf.6

²³ IT/GB-3/09/Inf.6 Add.2

²⁴ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Development%20Fund%20FR_submissions.pdf

²⁵ IT/GB-5/13/Inf.8;

http://www.planttreaty.org/sites/default/files/European%20Seed%20Association%20cover_page_FR_submissions.pdf

²⁶ IT/GB-5/13/Inf.8;

http://www.planttreaty.org/sites/default/files/Fridtjof%20Nansen%20Institute%20%20FR_submissions.pdf;

<http://www.planttreaty.org/sites/default/files/gb3i06a3e.pdf>

²⁷ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Submission_GREEN%20Foundation.pdf

²⁸ IT/GB-4/11/Inf.6

²⁹ IT/GB-4/11/Inf.6

³⁰ IT/GB-3/09/Inf.6 Add.1; IT/GB-5/13/Inf.8; IT/GB-4/11/Inf.6;

http://www.planttreaty.org/sites/default/files/La%20Via%20Campesina%20%20FR_submissions.pdf

³¹ IT/GB-5/13/Inf.8;

http://www.planttreaty.org/sites/default/files/Lets_LiberateDiversity_Coordination_of_the_European_Forum_FR_submissions.pdf

³² IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/LI-BIRD%20%20FR_submissions.pdf

³³ IT/GB-5/13/Inf.8; http://www.planttreaty.org/sites/default/files/Practical%20Action%20FR_submissions.pdf

³⁴ IT/GB-3/09/Inf.6 Add.1

5. As requested by the Governing Body in Resolution 8/2013, the review of the submissions was based on certain categories (knowledge, views, experiences and best practices) and compiled, under the four elements of Article 9, in order to derive examples as potential options for national implementation of Article 9, namely,

- Article 9.2a, protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
- Article 9.2b, the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture;
- Article 9.2c, the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture;
- Article 9.3, right to save, use, exchange and sell farm-saved seed/propagating material.

6. An additional issue, “Miscellaneous”, was added to include all information from the submissions that could not be subsumed under the above elements of Article 9 of the Treaty.

7. The above categories were selected to remain in line with the Resolutions of the Governing Body, in particular Resolution 8/2013. Submissions received by NGOs and CSOs regarding experiences and best practices in certain countries were also presented, specifying to which country reference was made.

8. The table compiling the different submissions received is in *Appendix 1*. The table has been compiled to reflect all the information received in the submissions under the different headings, namely, knowledge or views, experiences, best practices and needs or concerns identified in the various submissions. Generally the submissions also highlight needs or concerns in respect of the national implementation of Farmers’ Rights. A respective category has therefore been included in the table. In order to keep the table concise, only the key points relevant under the various categories have been reflected.

Appendix 1

COMPILATION OF SUBMISSIONS RECEIVED

	KNOWLEDGE/VIEWS	EXPERIENCES	BEST PRACTICES	NEEDS/CONCERNS
<p>ARTICLE 9.2a</p> <p>PROTECTION OF TRADITIONAL KNOWLEDGE RELEVANT TO PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</p>	<p><i>Germany</i></p> <ul style="list-style-type: none"> • Creation of a special system for the protection of TK relevant to PGRFA is deemed unnecessary. • If TK is not protected by other legal standards (e.g. IP) then the original carrier of knowledge has no right to share in the benefits that other users might possibly reap from the utilization of this knowledge. • TK cannot be attributed retrospectively to individuals but rather collective knowledge, which have developed over long period of time. • Passing on of TK is important to its protection. Knowledge of 	<p><i>Poland</i></p> <ul style="list-style-type: none"> • TK is protected, promoted and disseminated by diverse stakeholders. <p><i>Germany</i></p> <ul style="list-style-type: none"> • TK relating to PGRFA and which fulfills the requirements for granting IPRs is protected by the general legislation regulating this area (Art. 14 of German Basic Law and the Additional Protocol of the European Human Rights Convention and the EU Charter of Fundamental Rights). <p><i>Australia</i></p> <ul style="list-style-type: none"> • TK used in relation to access, recognizes the need to ensure that use is undertaken with the cooperation and 	<p><i>Poland</i></p> <ul style="list-style-type: none"> • List of Traditional Products (Act of 17 December 2004) on registration and protection of names and indications of agricultural products and foodstuffs and on traditional products. The list aims to inform and promote traditional products. • Traditional products must have quality and characteristics, which result from using traditional methods of production and be a part of cultural heritage of a region. <p><i>Democratic Peoples Republic of Korea</i></p> <ul style="list-style-type: none"> • Farmers/cooperative farms apply to 	<p><i>Norway</i></p> <ul style="list-style-type: none"> • Gap exists between the needs and goals regarding documentation, preservation and dissemination of the knowledge on preserved genetic material, and the resources available for this. • Difficulty to document old varieties from the Nordic climate zone as hard to prove that they were historically cultivated in Norway. • Collaboration between different organizations and government agencies in the field of agriculture and

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	<p>taxonomy, cultivation, breeding, further development and utilization of plant genetic resources also has to be passed on in a practical way to make sure it is not lost.</p> <p>Mali</p> <ul style="list-style-type: none"> Farmers recognized as holders of local varieties and local related knowledge. <p>BIOWATCH (South Africa)</p> <ul style="list-style-type: none"> Small-scale farmers have a rich body of knowledge and practices about traditional agriculture and agro-ecology, but these are under threat. <p>International Institute for Environment and Development (IIED)</p> <ul style="list-style-type: none"> <u>China</u> – Farmers’ TK and seed systems are still not fully recognized. Scientists 	<p>approval of the holders of that knowledge and on mutually agreed terms.</p> <p>Canada</p> <ul style="list-style-type: none"> IP regime provides a wide a wide range of options for protection of TK including protection of trade secrets. <p>France</p> <ul style="list-style-type: none"> Practice is to develop its TK. First European country to implement the new directive on conservation varieties. It also established in 1997 a list of old varieties for vegetable species and will create a list of species for old varieties of crops. <p>LI-BIRD (Nepal)</p> <ul style="list-style-type: none"> Farming communities have improved diversity of crops by careful selection and 	<p>register their knowledge as new to the National Agricultural Science and Technology Review Committee (“Committee”). The Committee organizes relevant tests and evaluates the knowledge, and, if suitable, issues a certificate of a new scientific and technological achievement.</p> <p>Italy</p> <ul style="list-style-type: none"> Regional catalogues of local varieties allow the exchange of seeds among farmers and protect knowledge from misappropriation. <p>International Institute for Environment and Development (IIED)</p> <ul style="list-style-type: none"> <u>India</u> - Plant Variety Protection and Farmers’ Rights Act 	<p>environment would be important for the development of a strategy for TK.</p> <p>Democratic Peoples Republic of Korea</p> <ul style="list-style-type: none"> There’s a need for public awareness of the value of the GRs and related laws and regulations in force. <p>BIOWATCH (South Africa)</p> <ul style="list-style-type: none"> National Department of Agriculture should spearhead a process to develop a coherent and supportive national policy for Farmers’ Rights and agricultural biodiversity that involves small-scale farmers and includes the voices of the poor and marginalized. <i>Ex-situ</i> conservation of PGRFA highly fragmented and

	KNOWLEDGE/VIEWS	EXPERIENCES	BEST PRACTICES	NEEDS/CONCERNS
	<p>assume that gene banks are enough to conserve PGRFA.</p> <ul style="list-style-type: none"> Stress the importance of recognizing collective rights. Therefore measures to protect TK including prior informed consent must also be collective. Measures to protect TK should also provide incentives for innovation and be based on customary laws and practices of indigenous and local communities. 	<p>breeding.</p> <p><i>International Institute for Environment and Development (IIED)</i></p> <ul style="list-style-type: none"> <u>Peru, Panama</u> – have developed laws to protect TK of indigenous peoples but these laws do not protect rights of farmers and communities over associated GRs. <u>Peru, India, China</u> - existence of IPR protection for plant breeders' rights without equivalent for farmers' rights. <u>India</u> - Patent Amendment Act provides defensive protection to farmers with a disclosure provision. <u>India</u> - National Biodiversity Act recognizes rights of 	<p>(2001) aims to protect farmers' rights through registration of farmers' varieties and benefit sharing. But it is still not implemented and therefore an unclear system for farmers to apply for registration.</p> <ul style="list-style-type: none"> <u>China</u> - Chinese Centre for Agricultural Policy working with farmers to protect farmer knowledge and local GRs and promote benefit sharing. <u>Panama</u> - Kuna of Panama have developed a protocol for research on biodiversity on their territories that sets out the processes for prior informed consent. <p><i>Asocuch</i></p> <ul style="list-style-type: none"> Community seed banks allow the 	<p>poorly coordinated. A coherent, needs-based and well-resourced strategy should be developed and implemented for the <i>ex-situ</i> conservation.</p> <p><i>International Institute for Environment and Development (IIED)</i></p> <ul style="list-style-type: none"> Develop effective national legislations for protection of Farmers' rights. Address impact of other policies and laws on farmers' rights.

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		<p>communities over TK.</p> <ul style="list-style-type: none"> • <u>China</u> - Protection of TK and Farmers' Rights included in NBSAP but no specific legislation to protect TK of farmers' rights. <p>Green Foundation</p> <ul style="list-style-type: none"> • National Biodiversity authority in India recognizes the rights of the communities over TK. 	<p>communities to keep control over their seeds.</p>	
<p>ARTICLE 9.2b</p> <p>THE RIGHT TO EQUITABLY PARTICIPATE IN SHARING BENEFITS ARISING FROM THE UTILIZATION OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</p>	<p>France</p> <ul style="list-style-type: none"> • The sharing of benefits is mainly ensured by the protection of plant varieties. Any progress achieved is immediately available to all. <p>BIOWATCH (South Africa)</p> <ul style="list-style-type: none"> • Continued access to PGRFA is vital. • Recognition to the strong customary rights, need for prior informed 	<p>Germany</p> <ul style="list-style-type: none"> • Farmers benefit from the utilization of PGRs by means of seeds from efficient, site adapted varieties with a high yield potential and improved quality and resistance properties which offer good income opportunities. • Access to PGRFA and equitable sharing of benefits depends on the 	<p>Democratic Peoples Republic of Korea</p> <ul style="list-style-type: none"> • Any benefits arising as a result of the TK/GR, the provider of the TK/GRs are given a bonus. • If a farm member proposes a promising GR/TK, the farm management board assesses the value of the proposal. • Should another farm 	<p>Madagascar</p> <ul style="list-style-type: none"> • Regular meetings are needed to exchange and share information through a network of PGRFA including farmers regarding access. <p>Germany</p> <ul style="list-style-type: none"> • Use of patents on plants and animals considered a threat to the safeguarding of equitable sharing of benefits arising from

	KNOWLEDGE/VIEWS	EXPERIENCES	BEST PRACTICES	NEEDS/CONCERNS
	<p>consent, and the use of incentives and agreements to enable equitable benefit sharing.</p> <p><i>International Institute for Environment and Development (IIED)</i></p> <ul style="list-style-type: none"> Equitable benefit sharing at community level is important to ensure conflicts over benefits are minimized and the benefits and conservation incentives widely distributed. <p><i>Let's Liberate Diversity-Coordination of the European Forum</i></p> <ul style="list-style-type: none"> The concept of benefit sharing has not been able to mobilise necessary financial resources for on-farm conservation even though industry's seeds are developed from seeds collected for free from fields of farmers who selected and 	<p>owners.</p> <ul style="list-style-type: none"> <i>In situ</i> property rights to biological resources are not directly regulated (biological and GRs may be owned privately or by the state). If private then at the discretion of the owner. If public then use is open (subject to regulations). Participation of the public in the sharing of benefits from use of PGRs is not provided for. <p><i>France</i></p> <ul style="list-style-type: none"> Equitable participation in sharing benefits is ensured through the IP system on plant varieties. <p><i>CENESTA (Iran)</i></p> <ul style="list-style-type: none"> Access is at discretion of the Director of the Gene Bank of Iran and/or the Director of 	<p>request the use of the germplasm and TK, a relevant contract is made between the donor farm and the other farm.</p> <ul style="list-style-type: none"> Benefits arising out of the use are shared amongst the two farms in accordance with provisions of the contract. The donor farm management board would give incentives in deferent forms to the provider of germplasm and TK. Any problem arising in the course of implementing the contract is dealt with by the Central or Local legal authorities. <p><i>Germany</i></p> <ul style="list-style-type: none"> To realize possible benefits, those involved can make 	<p>the utilization of PGRFA. It reduces the range on offer at the relevant agricultural markets through their promotion of monopolisation tendencies.</p> <p><i>BIOWATCH (South Africa)</i></p> <ul style="list-style-type: none"> Different policies needed to regulate different kinds of use. <p><i>Let's Liberate Diversity-Coordination of the European Forum</i></p> <ul style="list-style-type: none"> Farmers should be granted free access to PGRs in ex situ seed banks. <p><i>LI-BIRD</i></p> <ul style="list-style-type: none"> Challenge to identify the representative of the custodian communities.

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	conserved them.	<p>the Seed and Plant Improvement Institute.</p> <p>Green Foundation/IIED</p> <ul style="list-style-type: none"> Indian PPVFRA adopted provisions of CBD relating to benefit sharing. <p>LI-BIRD</p> <ul style="list-style-type: none"> Nepal produced the first draft of Access to Genetic Resources and Benefit Sharing in 2002. The approval process has yet to move forward. 	<p>use of the whole set of tools of the relevant IPR available.</p> <ul style="list-style-type: none"> Farmers using farm-saved possibilities must pay an adequate remuneration (farm-saved remuneration) to the owner of the plant variety right (remuneration should be lower than the usually collected licensing fee). <p>Australia</p> <ul style="list-style-type: none"> <i>In situ</i> GRs, including botanical resources, legislation allows for access providers, such as traditional landowners, to negotiate terms for, and receive benefits from, the use of GRs found on their land. <p>Canada</p> <ul style="list-style-type: none"> Farmers groups participate in sharing 	

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			<p>the benefits of the development of new varieties.</p> <p>IIED</p> <ul style="list-style-type: none"> • <u>China</u> - 2 types of benefit-sharing agreements established: between farmers and communities; and formal breeding institutions. <p>LI-BIRD</p> <ul style="list-style-type: none"> • Established multi-stakeholder agreements on the modality and framework of implementing farmers' rights in Nepal 	
<p>ARTICLE 9.2c</p> <p>THE RIGHT TO PARTICIPATE IN MAKING DECISIONS, AT THE NATIONAL LEVEL, ON MATTERS RELATED</p>	<p>Poland</p> <ul style="list-style-type: none"> • Right to participation for farmers is implemented by way of formally conveying to the farmer's organizations relevant acts of law concerning 	<p>Norway</p> <ul style="list-style-type: none"> • Different farmers' organization increasingly aware and involved, e.g. through participating on the national committees for GRs, chaired by the 	<p>Australia</p> <ul style="list-style-type: none"> • Consultations at the National level to raise issues and concerns on PGRFA including in web-based public consultation and variety registration. 	<p>Madagascar</p> <ul style="list-style-type: none"> • Needs a Committee comprising of relevant stakeholders (including Farmers) at the national level and to carry out and implement the

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<p>TO THE CONSERVATION AND SUSTAINABLE USE OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</p>	<p>the agricultural sector through public consultations.</p> <p><i>International Institute for Environment and Development (IIED)</i></p> <ul style="list-style-type: none"> • <u>India</u> - Farmers' participation limited. Rich industrial farmers have influence. Government institutions more open to farmer and community involvement but closed to NGOs. • <u>Peru</u> - some farmer and community involvement in national environment policy making but more consultation than participation. Less involvement in agriculture sector. <p><i>Global Community Biodiversity Development and Conservation Network</i></p> <ul style="list-style-type: none"> • <u>Africa</u> - numerous institutional, policy and legal gaps that hinder promotion of farmers' 	<p>Norwegian Genetic Resources Centre.</p> <ul style="list-style-type: none"> • Farmers active in political decision-making processes, (members of two main unions for farmers and smallholders). Organic producers have their own organization (Oikos). • Large part of the agricultural sector is organized through cooperatives that are fully or partially managed by the farmers. Both plant breeding and seed sales takes place under the auspice of a large cooperative (Felleskjøpet Agri), and is in principle controlled by farmers. <p><i>Australia</i></p> <ul style="list-style-type: none"> • Rights of farmers are established under a broad legislative 	<p><i>Italy</i></p> <ul style="list-style-type: none"> • National law 46/2007 on conservation varieties and its implementing decree, issued in 2008, explicitly allows the use, exchange and sell of conservation varieties by farmers. <p><i>Germany</i></p> <ul style="list-style-type: none"> • Participation of farmers in the decision-making process is in line with generally established participation principles. • Federal Association of German Plant Breeders is a member of the professional representation of farmers' interests, the German Farmers' Union. Common law rights. 	<p>activities concerning Farmers' Rights. Presence of lawyers, legal officers at all the meetings strongly recommended.</p> <p><i>Germany</i></p> <ul style="list-style-type: none"> • Farmers have opportunities to participate in decision-making processes on the conservation and use of PGRs, in particular in pre-breeding and breeding activities, are still limited. <p><i>Berne Declaration</i></p> <ul style="list-style-type: none"> • Strengthen the involvement of farmers, farmers' organizations and other relevant stakeholders in processes and discussions. <p><i>Development Fund (Norway)</i></p> <ul style="list-style-type: none"> • Countries are not

	KNOWLEDGE/VIEWS	EXPERIENCES	BEST PRACTICES	NEEDS/CONCERNS
	<p>rights.</p> <ul style="list-style-type: none"> • <u>Philippines</u> - difficulties of development organization in pushing for farmers' rights stem from same problems in efforts to alleviate poverty. 	<p>framework that provides a comprehensive set of intellectual, property and legal rights, including common law rights.</p> <p><i>Democratic Peoples Republic of Korea</i></p> <ul style="list-style-type: none"> • Farmers actively participate in the PGRs management by providing their knowledge and germplasm for breeding and production. • Supreme People's Assembly (Parliament) consists of all nationals including farmers. • To release a new variety, a national cultivar, registration conference is organized with participation of officials of the Ministry of 		<p>paying sufficient attention to ensuring that farmers' organizations represent all farmers, or to using participatory processes to identify and address the problems farmers face in their national programs.</p> <p><i>International Institute for Environment and Development (IIED)</i></p> <ul style="list-style-type: none"> • Support farmer and community level initiatives. • Support and institutionalize farmer participation in national decision-making. <p><i>Let's Liberate Diversity-Coordination of the European Forum</i></p> <ul style="list-style-type: none"> • Ensure active and effective treatment of farmers, practitioners

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		<p>Agriculture, agricultural scientists, farmer representatives and other related people. The farmer representatives present their opinion on new varieties, and prime consideration is given to it since they are the users of seeds.</p> <p><i>France</i></p> <ul style="list-style-type: none"> • Include representatives of the agricultural world in professional organizations of farmers. <p><i>CENESTA (Iran)</i></p> <ul style="list-style-type: none"> • Farmers not consulted in a systematic way or included automatically in national decision-making on the management of agricultural biodiversity. 		<p>and consumers who participate in the conservation of agricultural biodiversity.</p>

	KNOWLEDGE/VIEWS	EXPERIENCES	BEST PRACTICES	NEEDS/CONCERNS
<p>ARTICLE 9.3</p> <p>RIGHT TO SAVE, USE, EXCHANGE AND SELL FARM-SAVED SEED/PROPAGATING MATERIAL</p>	<p><i>Czech Republic</i></p> <ul style="list-style-type: none"> Accepts Farmers' Rights concept but these rights are not relevant for Czech farmers and actually they are not applied. <p><i>Berne Declaration</i></p> <ul style="list-style-type: none"> Farmers do not have the right to offer, sell, market or stock propagating material of patented or protected varieties without the agreement of the holder of the patent or of the title of plant variety protection, except for private, non-commercial and experimental purposes and breeding of new varieties. Reproduction of many protected PGRs officially banned by the revised plant variety protection law and the corresponding ordinance. <p><i>Green Foundation</i></p>	<p><i>Norway</i></p> <ul style="list-style-type: none"> Nordic Genetic Resource Centre (NordGen) administers the common Nordic gene bank and the depositing of material in the Global Seed Vault. Right to save, use, exchange and sell seeds is related to regulations regarding the approval and protection of crop varieties, requirements for listing on the National list of varieties, DUS-testing (distinctness, uniformity and stability of crops) and the costs associated with this. Norwegian Genetic Resources Centre is working with the NordGen and the Norwegian Food Safety Authority on 	<p><i>Norway</i></p> <ul style="list-style-type: none"> Regulations influence farmers' possibilities to use own seeds and to develop their own crop material, as well as exchange and sell such material <p><i>Poland</i></p> <ul style="list-style-type: none"> Farmers' Rights partially implemented through the Seed Act, the Law on the Legal Protection of Plant Varieties and Community Programs, i.e. Agri - Environmental Plan. <p><i>Democratic Peoples Republic of Korea</i></p> <ul style="list-style-type: none"> Germplasm submitted to the national gene bank is tested for distinctness and value before issuing a national GR registration certificate. New cultivar 	<p><i>Norway</i></p> <ul style="list-style-type: none"> Legislation regarding the improvement of old varieties/landraces and development of amateur varieties of cereals is an unresolved issue. No real opportunity to multiply and sell seeds of new or improved landraces. Could establish incentives that encourage the use and development of locally adapted varieties. <p><i>Green Foundation</i></p> <ul style="list-style-type: none"> More plant variety protection certificates being issued in India means more breeders having control over plants and seed materials which were freely available to farmers.

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	<ul style="list-style-type: none"> • <u>Philippines, India</u> - community seed banks considered viable way of farmers accessing their seeds. <p>Global Community Biodiversity Development and Conservation Network</p> <ul style="list-style-type: none"> • <u>Philippines</u> - “right to seeds” equated with farmers’ rights. • <u>Laos</u> - seeds regarded as essential to survival of farmers. • <u>Brazil</u> - right to seeds bound with other rights that bear access to resources of biodiversity. <p>Let’s Liberate Diversity-Coordination of the European Forum</p> <ul style="list-style-type: none"> • For each newly registered variety it should be mandatory to disclose the breeding method used. • Genetically modified 	<p>facilitating the inclusion of relevant conservation/traditional varieties on the official crop list, so more such crops can be grown and their seeds sold.</p> <p>Poland</p> <ul style="list-style-type: none"> • Implementation of Farmers’ Rights mainly from EU law and national legislation. <p>France</p> <ul style="list-style-type: none"> • Prohibits any use of protected varieties of farm-saved seed. <p>CENESTA (Iran)</p> <ul style="list-style-type: none"> • “Act of Plant Varieties Registration, Control and Certification of Seeds and Seedlings”. According to the National Seed Policy Document, not only are farmers allowed to save their seeds, but also the government is 	<p>developed and released by a germplasm registered, the provider reserves a right to be awarded a national certificate of cultivar development, together with the breeder.</p> <p>Germany</p> <ul style="list-style-type: none"> • Material within the direct control of the Federal Government is registered in the Multilateral System. • Farmers as well as plant breeders, scientists and other persons have access to seed and planting stock in the genebanks according to their needs. <p>France</p> <ul style="list-style-type: none"> • Introduced a bill in 2006 under conditions compatible with the UPOV Convention 	<p>Global Community Biodiversity Development and Conservation Network</p> <ul style="list-style-type: none"> • <u>Brazil</u> - limits and threats to free use of seeds originate mostly from commercial agribusiness and State. <p>International Seed Federation (ISF)</p> <ul style="list-style-type: none"> • If farm saved seed of protected varieties is permitted and used, breeders should receive a fair remuneration for that use. • Failure to respect and protect the property newly created by breeders will eventually restrict the release of genetically diverse and improved varieties to the detriment of farmers

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	<p>plants should be banned from dissemination.</p> <p>Practical Action</p> <ul style="list-style-type: none"> In Europe, there are developments in seed legislations which will affect Member States. It seems that the Commission's proposals are not in line with the Treaty's provisions with regard to Farmers' Rights. The legislation may further constrain the development and use of farm-saved seeds rather than enhance this 	<p>even responsible for helping them to improve the quality of farm- saved seeds.</p> <p>Asocuch</p> <ul style="list-style-type: none"> Positive experiences are made with community seed banks in Central America (reservas comunitarias de semillas – RCS), for example in Guatamala and Honduras. They are being considered as a viable strategy and comparatively cheap option for strengthening food security in communities, which are frequently vulnerable to extreme climate change. They also enable the communities to maintain control over their seeds. 	<p>and European regulations, the use of farm seeds. Until bill is finally adopted, the Ministry of Agriculture has facilitated an agreement between the breeders and farmers for the use of soft wheat farm seeds.</p> <ul style="list-style-type: none"> Regarding non-protected varieties, has implemented the EU regulation on conservation varieties and old varieties. <p>Uruguay</p> <ul style="list-style-type: none"> Progress has made in developing legislation regarding Farmers' Rights, including Seed Law No. 16.811 of February 21, 1997, as amended by Law 18,467 of February 27, 2009. Cultivating object property title may be 	<p>and to society as a whole.</p> <ul style="list-style-type: none"> Farmers still have the opportunity to freely use seeds of landraces and seeds of varieties that are not or no longer protected, independently of the consent of the breeder. <p>BIOWATCH (SOUTH AFRICA)</p> <ul style="list-style-type: none"> Extension services and support weak and inappropriate for small-scale farmers practicing agro-ecology and traditional agriculture. Farmers have strong customary rights to GRs but face threats from more restrictive statutory regimes to protect commercial plant breeders.

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			<p>used without being granted any right to its holder for compensation. Seeds are stored and sowed for their own use and not for commercial purposes. When one stores and sows seeds for their own use is a small farmer, this standard is of public order.</p>	<ul style="list-style-type: none"> • PBR laws should give adequate recognition and protection to small-scale farmers and their unrestricted rights to save, exchange and develop seeds. • South Africa should not ratify UPOV 1991 and work towards realizing Farmers' Rights through giving farmers the legal space to freely save, use, exchange and sell farm-saved seed. <p><i>Let's Liberate Diversity- Coordination of the European Forum</i></p> <ul style="list-style-type: none"> • Farmers' rights cannot be restricted only to rights for registration of varieties in common or "conservation" catalogues and to pay royalties to breeders every time farmers

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				<p>multiply their own seeds.</p> <ul style="list-style-type: none"> • Farmers' seeds should be protected from genetic contamination and appropriation through contamination by patented genes. • Need for new agricultural and research policies that promote participatory breeding, and dissemination and use of reproducible seeds.
MISCELLANEOUS	<p>Madagascar</p> <ul style="list-style-type: none"> • Farmers Rights perceived in different ways. • Unanimous recognition that measures in accordance with the needs and priorities of farmers should be taken into account to protect and promote these rights. 	<p>Poland</p> <ul style="list-style-type: none"> • Agri-Environmental Plan (part of Rural Development Plan 2007 – 2013) allows for farmers to receive financial support for cultivation of landraces and relict species of crop plants. Main aims are preservation of the biodiversity in the agricultural systems, 	<p>Berne Declaration</p> <ul style="list-style-type: none"> • Swiss federal patent and plant variety protection laws were revised in 2008, and a revised ordinance on seeds and propagation material entered into force in 2010. The revised patent law explicitly allows for patents on biological 	<p>Norway</p> <ul style="list-style-type: none"> • Financial support could be used to ensure that reasonably priced breeding material is available on the market, but also to compensate farmers for cultivating certain varieties that give lower yields.

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	<ul style="list-style-type: none"> Definition - Farmers defined as those who cultivate PGRFA. <p>Poland</p> <ul style="list-style-type: none"> Definition - Farmer: physical, legal person or the group such persons irrespective of the status of the group, whose farm is located on territory EU and who conduct agricultural activity. Definition - Agricultural activity: the production, breeding or the cultivation of agricultural products, involving harvest, milking, breeding of animals and keeping animals for economic purposes, or keeping the ground in the good agricultural culture in accordance with environmental protection. 	<p>preservation of the cultural legacy and diversifying the agricultural production.</p> <ul style="list-style-type: none"> Farmers' privilege (agricultural exemption) - gives farmers the right to use saved seed without the consent of the owner (right holder) of the variety in question. Farmers (with the exception of small farmers) have to pay the holder an equitable remuneration. If the parties cannot agree on the remuneration, it should be 50% of the amounts charged for the licensed protection of propagating material. <p>Poland</p> <ul style="list-style-type: none"> Regulations define conditions for which 	<p>material, and both laws narrow the farmer's privilege by restricting the reproduction and suppressing the exchange of protected varieties.</p> <p>Fridtjof Nansen Institute</p> <ul style="list-style-type: none"> Centre for Genetic Resources, The Netherlands (CGN) and the Community Technology Development Trust (CTDT, Zimbabwe) opened an on-line conference platform to discuss legal options to facilitate the contribution of farmers to on-farm maintenance and development of plant genetic resources. <p>LI-BIRD</p> <ul style="list-style-type: none"> Established biodiversity 	<ul style="list-style-type: none"> Financial support for a scheme for crop insurance compensation for traditional varieties is also much sought after. Need for strong protection of farmers by government through grants and tolls on imported agricultural produce. <p>Zambia</p> <ul style="list-style-type: none"> Further consultations involving all relevant stakeholders. Greater sensitization of farmer groups and farmers, to express their views and make demands on what they require at the national level. Recommended that a Working Group be put in place.

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	<p>Pakistan</p> <ul style="list-style-type: none"> Plant Breeder's Rights Act is under process and the same draft includes the Farmers' Rights on PGRFA recognizing their contribution in conserving the seeds of important genetic resources. <p>Democratic Peoples Republic of Korea</p> <ul style="list-style-type: none"> Farmers' Rights is conducive to the collection, conservation and utilization of GRs since it gives incentives to the farmers/cooperative farms that have the know-how, knowledge and seeds of genetic resources. Implementation of the clause concerning Farmers' Rights encourages farmers to readily provide the genetic resources and related knowledge for conservation and 	<p>farmers's can apply for financial assistance (i.e. farmer who owns or rents lands in Poland).</p> <ul style="list-style-type: none"> Participates in the following EU quality schemes: PDO (protected designation of origin), PGI (protected geographical indication) and TSG (traditional specialty guaranteed) promote and protect names of quality agricultural products and foodstuffs. <p>Zambia</p> <ul style="list-style-type: none"> Policy review of existing national policies and laws underway to examine their adequacy in accommodating the provisions of the Treaty including the Farmers' Rights in accordance with 	<p>conservation and development committees as an appropriate community level institution to organize custodian farmers to manage community level functions related to farmers' rights.</p> <p>Asocuch</p> <ul style="list-style-type: none"> Positive experiences with community seed banks in Central America (reservas comunitarias de semillas – RCS), e.g. in Guatemala, Honduras; viable strategy and comparatively cheap option for strengthening food security in communities which are frequently vulnerable to extreme climate change; it they also 	<p>Niger</p> <ul style="list-style-type: none"> Initiatives being developed by the National Institute for Agricultural Research of Niger (INRAN) and possibly the National Council of the Environment for Sustainable Development (NCA) are blocked by the lack of financial means. <p>Syria</p> <ul style="list-style-type: none"> Consider establishing a Special Global Fund to fund some of the small-scale projects for the conservation and protection of the GRs held by peasants and farmers. <p>Green Foundation</p> <ul style="list-style-type: none"> Lack of coordination amongst various laws and bodies that has posed problems in realizing Farmers'

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	<p>utilization of plant genetic resources for food and agriculture.</p> <p>Ecuador</p> <ul style="list-style-type: none"> Guarantees the rights of farmers in the conservation and sustainable use of agricultural biodiversity. <p>Uruguay</p> <ul style="list-style-type: none"> The Executive, at the initiative of the Ministry of Livestock, Agriculture and Fisheries, defines "small farmer." Also progress is being made nationally on how to make the registration of native varieties, which will within the framework on the law on genetic resources will soon be put to the consideration of the legislature. <p>European Seed Association</p> <ul style="list-style-type: none"> Supports open access to 	<p>Article 9.</p> <p>Green Foundation</p> <ul style="list-style-type: none"> India entitles farmers who have bred/developed a new crop variety to have same entitlements as plant breeders' rights. <p>European Seed Association</p> <ul style="list-style-type: none"> EU countries have implemented regulations for variety registration, variety listing and seed certification, in order to guarantee a good seed quality combined with objective and adequate information for farmers about the quality and potential value of the best varieties. These regulations have contributed extensively to the successful development of agriculture in Europe. 	<p>enable the communities to maintain control over their seeds; <i>in situ</i> community seed banks as a community alternative enabling the conservation of strategic seeds in a defined area with influence at the community level.</p> <p>Practical Action</p> <ul style="list-style-type: none"> <u>United Kingdom</u> – a network of more than 60 'Seedy Sundays' (introduced to the UK by Canada) allows for people to meet each year to swap seeds, exchange information and learn about related issues. 	<p>Rights.</p> <ul style="list-style-type: none"> Countries, including Brazil, India, Philippines have passed/considering passing laws which provide framework for "collective IPRs". <p>Let's Liberate Diversity-Coordination of the European Forum</p> <ul style="list-style-type: none"> Need for contributions to the Treaty's Fund to support on-farm conservation and such funding shouldn't be voluntary. Need a dialogue/debate to be initiated with the Governing Body with the participation of organizations defending biodiversity on farms. Create an ad hoc

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	<p>all GRs, including land races, gene bank accessions, wild relatives and protected varieties for breeding purposes by all breeders: farmers or companies alike</p> <ul style="list-style-type: none"> • Against regulations which forbids or discourages farmers to breed or participate in plant breeding or to use other ways of improving the value of their crop. • Favours Plant Breeder's Rights based on the UPOV 1991 Convention as it provides an adequate protection of plant varieties against inappropriate exploitation by others. <p><i>La Vie Campesina</i></p> <ul style="list-style-type: none"> • Treaty prohibits the exercise of collective rights. • Small-scale farmers can 	<p><i>Fridtjof Nansen Institute</i></p> <ul style="list-style-type: none"> • Norway funded a project that focused on how countries could best implement Farmers' Rights, the need for cooperation in this regard within the framework of the Treaty. <p><i>Practical Action</i></p> <ul style="list-style-type: none"> • <u>Kingdom of Bhutan</u> – set of traditional and benign customs and practices in concert with local organizations, which permit most actions set forth in the Treaty's Article 9 and which also protect farmers from threats posed by the dissemination of industrial seeds and practices. • <u>United Kingdom</u> – rich diversity of organic seed breeders who struggle to keep their activities within 		<p>working group on the sustainable use of PGRs with the active participation of civil society.</p> <p><i>LI-BIRD</i></p> <ul style="list-style-type: none"> • Non-monetary benefits also of importance to realizing farmers' rights. • Farmers need protection from the industrial production models, protection from patents, IPRs and diversity reducing seed laws. <p><i>La Vie Campesina</i></p> <ul style="list-style-type: none"> • Countries should apply farmers' rights to preserve, use, exchange and sell their seeds and protect farmers from bio-piracy, contamination by patented genes. • Germinative capacity

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	<p>no longer preserve varieties.</p> <p>Practical Action</p> <ul style="list-style-type: none"> • Little, if any, substantive and effective implementation of Farmers' Rights at national level. • Farmers in all regions looking for protection from industrial production model as well as protection from patents and IPRs and diversity reducing seed laws. 	<p>prescribed regulations.</p> <p>Asocuch</p> <ul style="list-style-type: none"> • Positive experiences are made in Central America with participatory plant breeding (maize in Guatemala, beans in Honduras, sorghum in Nicaragua). Participatory plant breeding constitutes a way of integrating technical and agricultural stakeholders in a simple process, e.g. to improve and select maize and bean varieties with easily identifiable results. 		<p>should be preserved and phylogenetic resources in gene banks should be made freely available.</p> <ul style="list-style-type: none"> • Mobilize financial partners to develop programs of participative selection in the field and not distribute non-reproducible industrial seeds. <p>Practical Action</p> <ul style="list-style-type: none"> • Non-monetary benefits are also of importance in realizing Farmers' Rights. These can include the broadest interpretation of benefits such as the existence and implementation of the Treaty itself. This should be a benefit for humankind and especially for farmers if their capacity to conserve, use

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				<p>sustainably and develop agricultural biodiversity on-farm were to be enhanced by the implementation of the Treaty.</p> <ul style="list-style-type: none"> • Farmers' Rights will be better implemented if, in decision making, the Governing Body were to include legitimate representatives of the social movements of these biodiverse small-scale farmers, including in the allocation of the Benefit Sharing Fund. • They would be well advised to adopt similar procedures to those of the UN FAO Committee on World Food Security that has a more open, transparent and effective mechanism for the inclusion of

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				civil society, who self-organize their participation in the processes and debates in the Committee.