



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

**Views, Experiences and Best Practices as an example of possible options for
the national implementation of Article 9 of the International Treaty**

Note by the Secretary

At its [second meeting](#) of the Ad hoc Technical Expert Group on Farmers' Rights (AHTEG), the Expert Group agreed on a revised version of the [template](#) for collecting information on examples of national measures, best practices and lessons learned from the realization of Farmers' Rights

This document presents the updated information on best practices and measures of implementing Article 9 of the International Treaty submitted by France on 31 July 2019.

The submission is presented in the form and language in which it was received.



Template for submission of

Measures, Best Practices and Lessons Learned from the Realization of Farmers' Rights as set out in Article 9 of the International Treaty

Basic information

- Title of measure/practice : **Copyrights/droits d'auteur**
- Date of submission
- Name(s) of country/countries in which the measure/practice is taking place : **France**
- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person) :

There is no institution in charge of granting copyright in France.

- Type of institution/organization (categories):
- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))
 - **INPI: Institut National de la Propriété Industrielle / with 'Soleau' envelopes**
 - **Collective management by authors societies**
 - **Officers (notary or bailiff)**

Description of the examples

Mandatory information:¹

- Short summary to be put in the inventory (max. 200 words) including:
 - Implementing entity and partners: **INPI and various authors' societies and notaryies/bailiffs.**
 - Start year :
 - **in France** law 19 July 1793: Act on literary and artistic property granted authors an exclusive reproduction right for their lifetime plus ten years for the heirs
 - Law on Literary and Artistic Property of 11 March 1957 modified in July 1985: with the introduction of moral rights.
 - Objective(s): **To allow the protection of author's rights.**
 - Summary of core components

Author's right/Copyright law is governed by Section I of the French Intellectual Property Code.

¹ This mandatory information is required in order for the measure/practice to be included in the Inventory.



**Food and Agriculture
Organization of the
United Nations**



The International Treaty
**ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

All works of intellectual creation are protected by Author's right law, based simply upon their creation, without any formal requirements. The following conditions must be satisfied in order to benefit from copyright protection:

- the work must be fixed in a material form; and
- the work must be original. A work is considered original if it is endowed with the personality of its author: therefore, if the work is the "fruit of the creation of its author", it is original.

- **Key outcomes:**

Author's rights recognised. as long as they fulfill the two conditions of materiality and originality, every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, is eligible for copyright protection in France, such as in particular books, brochures and other writings, conferences, speeches...

- **Lessons learned (if applicable)**

It is advisable (not compulsory) to indicate on the work and all reproductions thereof that such work is protected by a copyright. This notice will serve to inform the public that the work is registered and to grant protection in the countries that require such notice (in particular, in order to be granted damages in an infringement action).

All author's right/copyright rules are another approach to strengthen the position of traditional knowledge holders or healers, by viewing them as providers of knowledge just like scientists, rather than simply informants.

Taking into consideration that there is no specific formality in France for copyright, several tools have been develop:

- **INPI and "Soleau" envelopes or e-soleau, mainly used by authors to keep evidence of a date of creation.** Indeed, copyright protection in France is acquired as from the date of creation without any filing being required. The Soleau envelop does not grant legal protection. Nevertheless, in case of copyright infringement, the envelope can be used to prove that its content has been created by the applicant at a given date without the content or the date being questionable, thus showing the object and date of copyright protection. It consists in an envelope having two compartments. They are purchased from INPI. A copy of a same document is sealed in each compartment of the envelope and the envelope is filed within INPI with the indication of the name and address of the applicant or representative (if any). Both compartments are dry-stamped (laser stamp) by INPI. One compartment is returned to the applicant. He/she should keep the returned and stamped compartment sealed. The envelope should not have a thickness larger than 5mm or contain hard material for allowing dry stamping (perforation).

- **Collective management by authors societies**

They have in charge the following steps: **(i) Registration and Documentation, (ii) licensing and collection, (iii) distribution.**



**Food and Agriculture
Organization of the
United Nations**



The International Treaty
**ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

A creative work is protected by copyright law from the moment of its creation. It only needs to be tangible. Authors' societies encourage authors to register all the works they create. This will allow effective exercise of their rights. Some conditions for the registration of works vary from society to society. The basic information required to protect intellectual property rights effectively, are details on the creator and on his or her works. This documentation allows collective administration to carry out its task.

- **Notary or bailiff : they can also play a role to register the works of the authors.**

- **Brief history (including starting year), as appropriate**

One French approach to recognise and value traditional knowledge system related to plant genetic resources is in the framework of French law and Directive related to copyright:

Directives: Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

- **Core components of the measure/practice (max 200 words)**

In France, the author's right/copyright concerns the protection of the "works of the mind". It confers on the author or co-authors an exclusive right of ownership over his creation, as well as moral rights (disclosure, in particular) and patrimonial rights (exploitation right of the work: representation, reproduction or adaptation).

If the copyright applies from the birth of the work, the protection that it brings supposes to prove the existence of it. To be protected, these creations must be original (legal expression of the creativity of the author) and expressed in a tangible way. No formality is required.

But in case of dispute, the author must be able to prove that he is the author and the date of creation of his work.

- **Description of the context and the history of the measure/practice is taking place (political, legal and economic framework conditions for the measure/practice) (max 200 words)**

The Intellectual Property Code distinguishes three categories of works that appeal to a plurality of authors: (L113-215 CPI)

- **Works of collaboration: the creation of which have participated several individuals.**
- **Composite works: the new work in which is incorporated a pre-existing work without the collaboration of the author of the latter.**

Collective works: collective work is that which is created on the initiative of a natural or legal person, who publishes, publishes and discloses it under his direction and his name, and in which the personal



contribution of the various authors is based on the whole for which it is conceived, without it being possible to attribute to each of them a distinct right over the whole achieved.

The new Directive (2019/790) on Copyright in the Digital Single Market provides also a framework for a **mandatory exception that would allow cultural heritage institutions to digitize their collections and that would require Member States to implement collective licensing mechanisms for the making available of Out Of Commerce works.**

The target groups are ‘farmers’ which are quoted in publication under works of collaboration or collective works.

- To which provision(s) of Article 9 of the International Treaty does this measure relate

Art. 9.1

Art. 9.2a

Art. 9.2b

Art. 9.2c

Art. 9.3

Other information, if applicable

- Please indicate which category of the Inventory is most relevant for the proposed measure, and which other categories are also relevant (if any):

No.	Category	Most relevant ²	Also relevant ³
1	Recognition of local and indigenous communities’, farmers’ contributions to conservation and sustainable use of PGRFA, such as awards and recognition of custodian/guardian farmers		
2	Financial contributions to support farmers conservation and sustainable use of PGRFA such as contributions to benefit-sharing funds		
3	Approaches to encourage income-generating activities to support farmers’ conservation and sustainable use of PGRFA		
4	Catalogues, registries and other forms of documentation of PGRFA and protection of traditional knowledge	X	

² Please select only one category that is most relevant, under which the measure will be listed.

³ Please select one or several categories that may also be relevant (if applicable).



5	In-situ/on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites		
6	Facilitation of farmers' access to a diversity of PGRFA through community seed banks ⁴ , seed networks and other measures improving farmers' choices of a wider diversity of PGRFA.		
7	Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection		X
8	Farmers' participation in decision-making at local, national and sub-regional, regional and international levels		
9	Training, capacity development and public awareness creation		
10	Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.		
11	Other measures / practices		

- In case you selected 'other measures', would you like to suggest a description of this measure, e.g. as a possible new category? _____
- Objective(s)
- Target group(s) and numbers of involved and affected farmers⁵ : farmers which participate in publications (books, articles in scientific reviews, ...)
- Location(s) and geographical outreach : France
- Resources used for implementation of the measure/practice.
- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture?

This measure does not affect directly the conservation of PGRFA and sustainable use.

To recognised the participation of farmers in book or articles is a way to provide recognition to farmers for their involvement for conservation and sustainable use of PGRFA.

- Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words)
- Other national level instruments that are linked to the measure/practice
- Are you aware of any other international agreements or programs that are relevant for this measure/practice?
- Other issues you wish to address, that have not yet been covered, to describe the measure/practice

⁴ Including seed houses.

⁵ Any classification, e.g. of the types of farmer addressed, may be country-specific.



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

Lessons learned

- Describe lessons learned which may be relevant for others who wish to do the same or similar measures/practices (max 250 words).

All author's right/copyright rules are another approach to strengthen the position of traditional knowledge holders or healers, by viewing them as providers of knowledge just like scientists, rather than simply informants.

- What challenges encountered along the way (if applicable) (max 200 words)
 - (i) The system to protect author's right/copyright is not the same in all the countries.
 - (ii) Farmers are not used to be quoted in scientific publication.
 - (iii) To sensitize farmers that their knowledge is an asset.
 - (iv) In order to be recognised the works need to be tangible (fixed in a material form) and original. This is no frequently the case taking into account that the knowledge takes generally an oral form and a collective tradition.
- What would you consider conditions for success, if others should seek to carry out such a measure or organize such an activity? (max 100 words)

The investment in trainings and awareness raising will increase the knowledge of various stakeholders' group with recognition of author's right.

Further information

- Link(s) to further information about the measure/practice

http://www.bdl-ip.com/upload/Etudes/uk/bdl_the_ soleau _envelope.pdf

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.130.01.0092.01.ENG

https://fr.wikipedia.org/wiki/Convention_de_Berne_pour_la_protection_des_%C5%93uvres_litt%C3%A9raires_et_artistiques

<https://umr-agap.cirad.fr/animations-scientifiques/animagap-pierre-riviere-rsp-et-isabelle-goldringer-inra>

<http://www.eclm.fr/ouvrage-370.html>