



Food and Agriculture
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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 information on best practices and measures of implementing Article 9 of the International Treaty submitted by Southeast Asia Regional Initiatives for Community Empowerment (SEARICE) on 19 March 2021.

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



Basic information

- Title of measure/practice

Plant Variety Protection in Practice in Vietnam: The Pains in the Gains Achieved (An assessment of the PVP Law Implementation in Vietnam)

- Date of submission

March 19, 2021

- Name(s) of country/countries in which the measure/practice is taking place

The conduct of the research took place in Vietnam, but the methodology and approaches used in the assessment can be replicated in developing countries to assess the current state of their PVP Law with emphasis on countries considering accession to UPOV.

- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person)

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- Type of institution/organization (categories)
Civil Society Organization

- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))

APBEBES, apreb.es.org; FASTENOPFER, fastenopfer.ch

Description of the examples

Mandatory information:¹

- Short summary to be put in the inventory (max. 200 words) including:
 - Implementing entity and partners
 - Start year
 - Objective(s)
 - Summary of core components
 - Key outcomes

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



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- Lessons learned (if applicable)

In 2019, SEARICE carried out a research to assess the impacts of the implementation of the 1991 Act of the UPOV to various stakeholders in Vietnam since its accession in 2006. The research was inspired by several other working papers using a multi-stakeholder assessment and focusing on its analysis on lasting effects on the seed sector of developing countries. It was aimed at challenging the claims of UPOV on the effect to the PVP system on annual yield increases on crops in country. The study revealed that while plant breeding is necessary, agricultural development must be detached from the notion that a draconian plant variety protection law is a fundamental prerequisite. Furthermore, the PVP system showed marginal effects in crop development, is incompatible with the structure of the seed sector and public institutions and, as it concentrates on rice, may even affect research and development on all other crops. Finally, a sui generis PVP system remains to be the best path to take for Vietnam, and other developing countries who are considering accession to UPOV.

- Brief history (including starting year), as appropriate

SEARICE has implemented several community development projects in Southeast Asia. In Vietnam, it started with the Plant Genetic Resources Conservation Initiative (PGRCI) from 1991-1995 followed by the Community Biodiversity Development and Conservation (CBDC) program in 1995. CBDC, merged with another program called Biodiversity Use and Conservation in Asia Program (BUCAP) in 2006. The two programs have different thrusts but with the same end goals on mobilizing different stakeholders on the promotion of farmers' rights and empowerment towards proper management of PGR conservation, development, and utilization.

CBDC-BUCAP further pushed for the development of the farmer-managed seed system, with the Participatory Plant Breeding (PPB) strategy helping build up the capacities of farmers for them to develop their own rice varieties and establish farmers' seed clubs (FSCs). The efforts continued over the years with the implementation of other projects, Democratizing Agricultural Research and Extension (DARE) which was implemented in 2011- 2013 and Sowing Diversity = Harvesting Security (SDHS). The empowerment of farmers has been a consistent undertaking that enabled the strengthening of the initiatives of the FSCs.

The research on effects of the Plant Variety Protection Law in Vietnam patterned to UPOV is anchored on these decades of work and community development efforts in the country. The result of the study was officially published in March 2021. Using Vietnam's experience, it is aimed at ensuring that even with the ongoing pandemic and immediate efforts of rebuilding economies, countries would examine carefully their policy choices and decision-making that could fundamentally and make irreversible changes to their social structures. Ultimately, it calls on ensuring that policies are responsive to the needs and rights of various stakeholders, with emphasis on Farmers' Rights as stated in Article 9 of the Treaty.

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

Development of methodology on how to analyze the effects of UPOV 1991 modelled PVP laws to various stakeholders with emphasis given on the farmers' right to save, use, exchange and sell farm-saved seed and other propagating material, which could be used by other countries. The impact analysis can be carried out in other developing countries who have since acceded to UPOV, or the basis of policy making of other countries on how to further develop sui generis PVP systems.

The study presented how Vietnam fundamentally changed its agriculture sector and propelled development - through a combination of holistic and targeted solutions with sustained government support and close cooperation with various actors. At the same time, it highlights the importance of the continuous support to

public institutions and presents the threats experienced especially of those involved in plant breeding and seed distribution by rigid PVP Laws. The study revealed the negative impacts on the farmers' seed system as there has been an overemphasis on the encouraging participation of the private sector that drives research agenda. The research concludes that a balance is required, with the institutionalization of mechanisms directed on unlocking the potential of farmers' seed system.

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 structure of the agriculture sector in developing countries is largely small-scale that relies heavily in the farmers' seed system rather than the formal seed system. The farmers' seed systems are not only the basis for food, nutrition and livelihood security of countries but with which the farmers' rights are embedded in. PVP laws based on UPOV 91 curtails the potentials of farmers' seed systems by restricting farmers' rights, disrupting traditions of seed management and sharing. Needless to say, this contributes to the possible exacerbation of the vulnerability of smallholder farmers.

Although the research examines the experience of Vietnam, the applicability extends to all developing countries especially true to the Southeast Asian Region where governments have initiated or are in the process of initiating accession to UPOV-91. Through the findings, the research aims to develop not only informed policy choices, but ones that consider their national priorities and where the situation and effects to the most vulnerable populations are central.

- 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 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).



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		
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		
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)

The objective of the measure was to better understand the potential implications of implementation of UPOV 1991 to the various actors involved in varietal development in Vietnam, with special attention to the effects on the realization of farmers' rights. The research aims to raise awareness among actors, especially governments from the developing countries, on the possible irreversible changes on varietal development, the structure of public institutions involved, and the situation of vulnerable populations. By putting indubitable bias on the formal system especially on the private sector, the development of farmers' seed systems can potentially be seriously curtailed, including the farmers' rights embedded in it.

- Target group(s) and numbers of involved and affected farmers⁵

⁴ Including seed houses.

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



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Governments and attached Public Agencies, Farmers' Organizations, Academic Institutions, Civil Society Organizations, International and Regional Organizations. Since it is a national legislation it has the potential to affect the wide majority of farmers that continue to depend on the farmers' seed system in Vietnam, characteristic of the developing countries.

- Location(s) and geographical outreach

The location of the research is Vietnam, but the findings and analysis can be used as a basis for assessments in every country most especially on developing countries. The multi-stakeholder approach used by the study is not limited to the current members of UPOV 1991, but applies to other countries that are currently considering accession to UPOV.

- Resources used for implementation of the measure/practice

Around 25000 euros were utilized for the research and publication.

- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture?

Not applicable on a short term basis.

- Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words)

The research was recently published. It aims on raising awareness not only for Southeast Asian countries, but all developing countries on the PVP Laws, more specifically the dangers of adopting a UPOV-91 style of PVP regime that may be inappropriate to the structure of their seed sector and the conditions of their agricultural sector.

- Other national level instruments that are linked to the measure/practice

To further the development of the farmers' seed system in a sui generis PVP regime, it requires the supportive policies on national seed development including allocation of resources to targeted activities for the farmers' seed system and setting up participative mechanisms for all stakeholders in all policy and decision-making. Establishing complementary programs and initiatives is also key.

- Are you aware of any other international agreements or programs that are relevant for this measure/practice?

One of the most important international agreements related to this is the United Nations Declaration on the Rights of Peasants and Rural Workers, with several articles tangent to this measure. As it relates to the seed systems and varietal development, the most relevant is UNDROP's Article 19 or the Right to Seeds which reiterates the farmers' rights as defined in the Treaty. Additionally, it outlines the integration of agricultural R&D to the needs of peasants and rural workers emphasizing their active role (Art. 19, Sec. 7) and to ensure that policies, not limited to plant variety protection laws, take into account their rights, needs and realities (Art 19, Sec.8). Articles 15 (Right to Food), 10 (Right to Active Participation in Policy Preparation and



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Implementation), 18 (Right to Conservation and Protection of the Environment) are among the many other articles within UNDROF that coincides with the measure.

- Other issues you wish to address, that have not yet been covered, to describe the measure/practice

Lessons learned

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

Several lessons can be derived from conducting a multi-stakeholder approach in assessing Plant Variety Protection Laws in developing countries. First, we realize that there are no shortcuts to agricultural development - as shown by the experience of Vietnam, government support should be consistent with multiple and simultaneous forms of intervention. Second, public funding is crucial for the continuation of activities for R&D and service delivery especially relevant to the smallholder farmers. In Vietnam, the structure and strategies of the R&D institutions shape and is continually being shaped both by the ecological conditions and the socio-economic realities present in their respective geographic locations, as such localized and targeted. Private funding must remain complimentary. Third, while plant breeding is necessary for agricultural development, a draconian PVP regime is not a fundamental prerequisite. With arguably more vulnerable populations dependent on farmers' seed systems, a rigid PVP system patterned to UPOV-91 may exacerbate existing vulnerabilities of smallholder farmers.

- What challenges encountered along the way (if applicable) (max 200 words)

One of the challenges encountered by the research is the difficulty of getting data. For example, there exists no accessible data on the estimated hectares used for particular plant varieties or the adoption rate of certain varieties by farmers, or complete tracking information on varietal development, which companies acquired the license for distribution of protected varieties developed by public institutions, among many others.

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)

Key to conducting a research that measures the impacts of certain policies, is a genuine multi-stakeholder approach. The research solicited the views of smallholder farmers, farmer cooperatives, farmer enterprises, public and private entities including big seed companies, academic institutions and key plant breeding institutions.

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

The entire report, Plant Variety Protection in Practice in Vietnam: The Pains in the Gains Achieved can be downloaded from our website at: searice.org.ph

For more information and other related projects in Vietnam and all other countries in Asia, you may use the same link.