



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



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

**FOURTH MEETING OF THE AD HOC TECHNICAL EXPERT GROUP ON
FARMERS' RIGHTS
(PART I)**

4 – 7 May 2021

REPORT

OPENING OF THE MEETING

1. The fourth meeting of the Ad Hoc Technical Expert Group on Farmers' Rights (Expert Group) was held virtually, due to the ongoing global COVID-19 pandemic, with simultaneous interpretation in Arabic, French and Spanish.
2. The meeting was opened by Ms. Svanhild-Isabelle Batta Torheim (Norway), Co-chair of the Expert Group. She welcomed all participants to the meeting and acknowledged that the unavoidable virtual nature of the meeting required flexibility from all participants, including those who had to join at inconvenient times. She congratulated the Secretariat for the launch of the online version of the Inventory and noted that the main task of this meeting was the finalization of the *Options* document for consideration by the Ninth Session of the Governing Body.
3. Mr. Kent Nnadozie, Secretary of the International Treaty, expressed his appreciation to all participants for their participation in this fourth meeting, despite the different difficulties that we are all experiencing during this period. He regretted the late arrival of the translation of the working documents. He recalled that the Expert Group had intended to meet in person but, unfortunately, the ongoing pandemic meant that all meetings must still be held virtually. Despite the challenges of virtual meetings, he expressed his hope that the Expert Group would have an engaging and fruitful meeting and assured the Expert Group of the full support and assistance of the Secretariat.
4. Mr. Nnadozie conveyed greetings from Mr. Rakesh Chandra Agrawal (India), Co-chair of the Expert Group, who was unable to join the meeting, as expected, due to circumstances beyond his control. Mr. Nnadozie informed the Expert Group that upon consultation with the Bureau of the Ninth Session of the Governing Body, it was agreed to elect, on an exceptional and temporary basis, an interim Co-chair for this meeting of the Expert Group from among the members.
5. The Expert Group appreciated the efforts of Mr. Nnadozie to find a solution at such short notice and welcomed the nomination of Ms. Modester Kachapila Milinyu (Malawi) to act as interim Co-chair. The Expert Group elected Ms. Modester Kachapila Milinyu (Malawi) as interim Co-chair for the meeting.
6. Ms. Kachapila Milinyu expressed her sincere thanks for the confidence entrusted in her and looked forward to successful discussions during this week.

7. The Expert Group expressed its best wishes for Mr. Agrawal and his family as well as to the people of India and the rest of the world in these difficult times.
8. Some experts expressed concerns about the late arrival of documents and their translation which impacted their ability to effectively prepare for and participate in the meeting.

ITEM 1. ADOPTION OF THE AGENDA AND TIMETABLE

9. The Co-chairs recalled that the Expert Group had been invited to adopt its Agenda by correspondence prior to this meeting, in order to save time. As no objections had been received or any additional suggestions made by the established deadline, the Expert Group had thus adopted its Agenda, as provided in *Appendix 1*. The list of participants of the meeting is contained in *Appendix 4*.

ITEM 2. OPTIONS FOR ENCOURAGING, GUIDING AND PROMOTING THE REALIZATION OF FARMERS' RIGHTS AS SET OUT IN ARTICLE 9 OF THE INTERNATIONAL TREATY

10. The Secretariat provided a detailed introduction of the document, IT/GB-9/AHTEG-4/21/2, *Options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty*. It gave an overview of the guidance received from the Governing Body, the work on the *Options* by the Expert Group to date, the linkages between the Inventory and the *Options*, the conclusions of the Expert Group at its third meeting, the structure of the document and its main contents. The Secretariat also explained how the Expert Group may wish to navigate the document by indicating issues that may need further discussion, based on the exchange of views held during the third meeting, and proposals on possible ways to address those issues. Finally, the Secretariat referred to the document, IT/GB-9/AHTEG-FR-4/21/Inf.2, *Options for encouraging, guiding and promoting the realization of Farmers' Rights, as set out in Article 9 of the International Treaty*, which had been prepared for the purpose of facilitating a comparison with the main working document of the third meeting of the Expert Group containing the *Options* (IT/GB-9/AHTEG-FR-3/20/2).

11. The Expert Group revised the introductory part of the *Options* as given in *Appendix 2*, to be finalised from paragraph 13 at the resumption of this meeting.

12. The Expert Group recalled that the *Inventory* is a rolling document, and agreed to recommend to the Governing Body that the *Options* be reviewed periodically.

13. The Expert Group agreed that the Secretariat will include examples of measures for each option that would reflect the diversity of submitted measures.

14. The Expert Group noted the relevance of other international agreements to the *Options* and advised to keep references to such agreements at a general level, in line with the language of the International Treaty.

15. The Expert Group revised the titles of most of the options, as provided in *Appendix 3*, which it will use as the basis for finalising the *Options*.

16. Further work will be needed on the *Options*, especially on the following issues mentioned in the document, IT/GB-9/AHTEG-FR-4/21/2, *Options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty*:

- How to highlight gender in the description of the *Options* (issue B1.3);
- Finalisation of the titles for some of the options in Category 10 (issue D1) due to the diverse proposals from the experts.

17. Furthermore, the Expert Group will need to work on the descriptions of the options, as explained in Part D2 of the document, IT/GB-9/AHTEG-FR-4/21/2, *Options for encouraging,*

guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty.

18. The Expert Group will also need to prepare its report to the Governing Body comprising the *Options* as well as any recommendations it might have.

ITEM 3. ANY OTHER BUSINESS

19. As the Expert Group was unable to complete its task within the currently available time and resources, and having made significant progress, it agreed to reconvene and resume its fourth meeting to finalize its work, tentatively at the end of August 2021. It requested the Co-chairs and the Secretary to identify suitable dates and communicate the dates to the members as soon as possible.

20. The Expert Group thanked the Governments of Italy and Norway for their financial support that enabled the translation of the working documents and provision of interpretation services.

ITEM 4. ADOPTION OF THE REPORT

21. The Expert Group adopted this Report of the first part of its fourth meeting. The Expert Group invited the Secretary to make this meeting report with Appendices available in all relevant languages at least six weeks before the resumption of this meeting.

AGENDA

1. Adoption of the agenda
2. Options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty
3. Any other business
4. Adoption of the Report

Options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty

Part A: Introduction

I. Background and rationale

1. The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA or International Treaty) acknowledges that plant genetic resources for food and agriculture (PGRFA) constitute the basis for food and agricultural production throughout the world. It highlights their importance for developing sustainable and diverse farming and seed systems and plant varieties that are adapted to specific social, economic and ecological conditions, environmental changes, cultures, and future human needs.
2. The International Treaty affirms that the past, present and future contributions of farmers in all regions of the world, particularly those in centres of origin and crop diversity, in conserving, improving and making available these resources, is the basis of Farmers' Rights. Its preambular text further affirms that rights recognized in the International Treaty to save, use, exchange and sell farm-saved seed and other propagating material, and to participate in decision-making regarding, and in the fair and equitable sharing of the benefits arising from, the use of PGRFA, are fundamental to the realization of Farmers' Rights, as well as their promotion at national and international levels. Farmers acknowledged in the International Treaty are also the carriers of traditional knowledge related to PGRFA, and their contributions are based, at their core, on traditional systems of seed exchange.
3. The realization of Farmers' Rights is thus of paramount importance for sustainable agriculture and resilient food and seed systems worldwide but also for farmers themselves to sustain and improve their livelihoods and increase their resilience to external shocks. The Covid-19 pandemic, for example, has affected people around the world and hit farmers hard as their livelihoods and farming activities depend on functioning food systems, markets, transportation and other services.
4. Farmers in all regions of the world contribute to the conservation, development and sustainable use of PGRFA. In many countries, particularly in the centres of origin and crop diversity, small-scale farmers, and among them specifically women, have a prominent role in this regard. It is, therefore, particularly important that women who engage in the conservation, development and sustainable use of PGRFA are recognised in their crucial role as custodians of crop diversity and that their needs are addressed equally when it comes to the realisation of Farmers' Rights.
5. According to Article 9.2 of the ITPGRFA, the responsibility for realizing Farmers' Rights, as they relate to PGRFA, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including the protection of traditional knowledge relevant to PGRFA (Article 9.2.a); the right to equitably participate in sharing benefits arising from the utilization of PGRFA (Article 9.2.b); and the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of PGRFA (Article 9.2.c). Furthermore, it is stated in Article 9.3 that "nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate."
6. There are many examples of measures and practices being implemented for the realization of Farmers' Rights, for example at the local level and by civil society organisations. To assist

Contracting Parties in developing and implementing national measures, and to draw from the experiences that have been attained so far, the Governing Body continually invites Contracting Parties and relevant Stakeholders, especially farmers' organizations, to submit views, experiences and best practices as examples of possible options for the national implementation of Farmers' Rights, as set out in Article 9 of the International Treaty. Nevertheless, such experiences and practices should be shared on a larger scale, and the further implementation of Farmers' Rights should be promoted.

7. In this context, at its Seventh Session in 2017, the Governing Body established the Ad hoc Technical Expert Group on Farmers' Rights (AHTEG-FR or Expert Group) with the mandate to produce an Inventory of national measures that may be adopted, best practices and lessons learned from the realization of Farmers' Rights, as set out in Article 9 of the International Treaty (*the Inventory*); and based on *the Inventory*, to develop Options for encouraging, guiding and promoting the realization of Farmers' Rights, as set out in Article 9 of the International Treaty (*the Options*).¹

8. *The Options* are based on measures or practices that have been shared by Contracting Parties and Stakeholders as examples of possible options and that are compiled in *the Inventory*.²

II. Objective

9. The purpose of *the Options* is to encourage, guide and promote the realization of Farmers' Rights as set out in Article 9 of the International Treaty.

III. Nature and scope

10. The word "options" means the act or opportunity of choosing, or a thing that can be or is chosen. It implies that there is a discretion or right to choose, and that several alternatives exist from which a choice can be made.³

11. Options are thus understood in this document as examples of actions or measures that *may be* taken to achieve an anticipated objective. This non-prescriptive and discretionary character of *the Options* distinguishes them from guidelines that are intended to advise on how something *should be* done.

12. Contracting Parties of the International Treaty have committed themselves to take measures to protect and promote Farmers' Rights, in accordance with their needs and priorities, as appropriate and subject to national legislation. The measures taken by each Contracting Party may differ from one another, given the fact that different countries' needs, priorities, legal frameworks and general conditions vary, including to which other international agreements they have adhered to. The International Treaty affirms, in its Preamble, that nothing in it shall be interpreted as implying in any way a change in the rights and obligations of the Contracting Parties under other international agreements.

13. This may include priorities of Contracting Parties to enhance programmes, policies and legislation relating to PGRFA to support the realization of Farmers' Rights as set out in Article 9 of the International Treaty or to establish mutually supportive systems that allow for the implementation of Article 9 in harmony with aims and obligations of other treaties. The Options may thus serve as a source of inspiration and guidance for Contracting Parties to promote the realization of Farmers' Rights in their own specific contexts.

¹ See Appendix A.7 of the Report of the Seventh Session of the Governing Body:
<http://www.fao.org/3/MV606/mv606.pdf>

² The Inventory, available at: <http://www.fao.org/plant-treaty/areas-of-work/farmers-rights/overview-inventory/en/>

³ See IT/GB-8/AHTEG-FR-2/19/4 Rev.1; <https://www.merriam-webster.com/dictionary/option> (18 April 2020)

14. Several options may be related to one another and could be combined to create synergies and develop stronger impact. Examples of such combined measures/practices can be found in *the Inventory*. Farmers' Rights may thus be promoted as a bundle of measures, practices and policies that are mutually supportive. Furthermore, the careful consideration of synergies between options, and how they relate to other rights and obligations that concern rights of farmers, women and men, as well as local and indigenous communities, could be considered a major factor of success.

IV. Intended users/target groups

15. Contracting Parties of the International Treaty are the primary target group of *the Options*, based on the obligation they have to implement the International Treaty and comply with its provisions, including Article 9.

16. Farmers, indigenous and local communities are rightsholders that can make legitimate claims for the implementation of their rights. Farmers and their organizations may thus want to use *the Options* as a source of information in pursuit of their cause.

17. Other Stakeholders aiming to support the realization of Farmers' Rights, including NGOs, civil society and the private sector operating at various levels and scales, as well as international organizations, research and academia, may also find inspiration for possible partnerships, programmes or initiatives.

18. A further target group includes donors, such as governments, foundations and international financial organizations, who may be inclined to support the realization of Farmers' Rights as set out in Article 9 of the International Treaty, for example by providing financial and/or non-monetary resources.

19. Furthermore, Non-Contracting Parties and all other types of organizations working towards the realization of Farmers' Rights could also use *the Options* as a source of inspiration and guidance.

V. Guide to the document

Categories

20. A set of eleven categories was used to structure *the Options*, so that several options are presented under each category. The same categories were also used in *the Inventory*:⁴

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;
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 banks⁵, 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;

⁴ See IT/GB-8/AHTEG-FR-2/19/Report

⁵ Including seed houses.

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.

21. For each category, the reference to relevant provisions of Article 9 of the International Treaty is provided, with explanation of why measures under this category can be regarded as options to encourage, guide and promote the realization of Farmers' Rights. An overview table is also provided at the end of the document. However, any references that are made to sub-articles of Article 9 in *the Options* are not meant to provide any specific interpretation of their legal content.

Options

22. The presentation of each option follows a uniform pattern. An explanation is given of what the option is about, and what types of measures may typically be involved. Gender is likely to be relevant for some options; in such cases, a brief explanation is included in the description to support a gender-responsive approach. Some illustrative examples from *the Inventory* are given for each option.

Type(s) of measures

23. The description of each option includes information on type(s) of measures that may be involved. Measures are classified here into "technical", "legal", "administrative" and "other" types of measures, based on the following criteria:

- Technical measures refer to initiatives/programmes/project activities that strengthen individual farmers' or farming communities' contributions to on farm, *in situ* and *ex situ* conservation and/or sustainable use of PGRFA (e.g., documentation of PGRFA and related traditional knowledge, training and capacity development, community seed banks, seed-saver networks and seed fairs, participatory plant breeding and variety selection, farmer field schools);
- Administrative measures refer to executive orders, ministerial, inter-ministerial, departmental instructions/circulars/memoranda, awards/recognition, establishment of protocols, codes, guidelines, etc.;
- Legal measures refer to national/regional laws, policies and any other legal instruments (act, law, bill etc.);
- Other measures refer to all other measures or practices, including studies, advocacy work, financial instruments.

The same criteria were also used to classify the type(s) of measures in *the Inventory*.

Relation with the Submissions and the Inventory

24. The submissions of Contracting Parties and Stakeholders, through which they have shared their experiences from the realization of Farmers' Rights in various countries, form the basis of both the *Inventory* and *the Options*.

25. In *the Inventory*, measures/practices that have been proposed by Contracting Parties and Stakeholders as examples of possible options are listed, each with a link to the original submission, where they are described in detail, including with specific information on history and context, core components, key outcomes, and lessons learned. The Expert Group did not evaluate or assess these measures and practices as to whether or not any specific measure and practice contributes to the realization of Farmers' Rights.

26. *The Options* present this information in a more general and summarized form, based on the examples from *the Inventory*. For empirical experiences related to each option, the reader is encouraged to consult *the Inventory*.

Use of the Options

27. Article 9 of the International Treaty states that the responsibility for realizing Farmers' Rights rests with national governments. Contracting Parties are thus invited to consider the full range of options for the implementation of Farmers' Rights at the national level, in accordance with their needs and priorities and as appropriate; however, no particular option should be understood as being specifically required under Article 9 of the International Treaty.

Updated titles of options under each category

Category 1: Recognition of local and indigenous communities' and farmers' contributions to the conservation and sustainable use of PGRFA, such as awards and recognition of custodian/guardian farmers.

Option 1A: Establish prizes and awards to honour custodian/guardian farmers, farming communities and their organizations who contribute to the conservation and sustainable use of PGRFA in an outstanding manner.

Option 1B: Highlight the role and expertise of farmers, farming communities and their organizations in the conservation and/or development of PGRFA by mentioning their names and further details in official records.

Option 1C: Designate locally, nationally or Globally Important Agricultural Heritage Systems sites for the conservation and sustainable use of PGRFA and support farmers and their organizations in the sustainable management and governance of such sites.

Category 2: Financial contributions to support farmers' conservation and sustainable use of PGRFA such as contributions to benefit-sharing funds.

Option 2A: Provide funds for farmers, farming communities and their organizations who conserve, develop and sustainably use PGRFA, including to capacity development.

Option 2B: Contribute voluntarily to the Benefit-sharing Fund (BSF) of the International Treaty.

Category 3: Approaches to encourage income-generating activities to support farmers' conservation and sustainable use of PGRFA.

Option 3A: Conduct and/or support promotional activities to strengthen sustainable consumption for products derived from the conservation and sustainable use of PGRFA.

Option 3B: Develop value-chains for local crops, varieties and evolutionary populations with specific adaptation, nutritional value, uses or other benefits.

Option 3C: Create and support markets for products issued from farmers' varieties/farmers' seed systems.

Category 4: Catalogues, registries and other forms of documentation of PGRFA and protection of traditional knowledge

Option 4A: Recognize, collect and document Traditional Knowledge on PGRFA, including knowledge relating to cultivation and use.

Option 4B: Conduct and/or support activities for conserving, sharing and disseminating traditional knowledge relating to PGRFA.

Option 4C: Support farmers and farming communities to develop instruments to govern access to PGRFA over which they have established rights and traditional knowledge associated with PGRFA based on their local practices, procedures and community protocols.

Category 5: In situ on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites.

Option 5A: Support and safeguard community biodiversity management and/or other practical activities of farmers and farming communities for in situ/on-farm management of PGRFA.

Option 5B: Strengthen the role and identity of custodian/guardian farmers and communities through social and cultural activities.

Option 5C: Conduct and disseminate studies on the participation of farmers and communities in in situ/on-farm conservation, management and sustainable use of PGRFA, including technological, ecological, socioeconomic and cultural aspects.

Category 6: Facilitation of farmers' access to a diversity of PGRFA through community seed banks, seed networks and other measures improving farmers' choices of a wider diversity of PGRFA.

Option 6A: Establish and/or support community seed banks, seed clubs, seed houses, seed-saver networks or similar approaches.

Option 6B: Organize and/or support farmers' seed festivals and fairs.

Option 6C: Facilitate farmers' access to material from genebanks, research institutes, universities and the private sector.

Option 6D: Support farmers' seed systems and innovation.

Category 7: Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection.

Option 7A: Involve farmers in the characterization, evaluation and selection of PGRFA, including landraces/farmers' varieties, and/or new varieties, populations and genebank accessions.

Option 7B: Develop participatory plant breeding programmes or projects.

Option 7C: Conduct participatory research on other aspects of PGRFA.

Category 8: Farmers' participation in decision-making at local, national and sub-regional, regional and international levels.

Option 8A: Ensure representation and effective participation of farmers and/or their organizations in national advisory committees, commissions, councils or working groups addressing issues relating to the conservation, management and sustainable use of PGRFA.

Option 8B: Organize policy dialogue processes with participation of farmers and/or their representative organizations.

Category 9: Training, capacity development and public awareness creation.

Option 9A: Promote understanding and raise awareness of the importance of Farmers' Rights.

Option 9B: Strengthen farmers' and their organizations' capacities to effectively participate in policy dialogue and decision-making processes.

Option 9C: Enhance farmers' and their organizations' technical and/or organizational capacities, systems of knowledge and management that foster biodiverse systems, conservation and sustainable use of PGRFA.

Category 10: Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.

Option 10A: Recognize, protect and promote Farmers' Rights within the national legislative, administrative and policy framework relevant for the conservation and sustainable use of PGRFA.

Option 10B: Recognize and address elements of Farmers' Rights, such as the protection of Traditional Knowledge, fair and equitable sharing of benefits and participation in decision-making, and/or farmers' seed systems within national legislation.

Option 10C: Protect and promote Farmers' Rights through reviewing and, as appropriate adjusting legislation on intellectual property rights

Option 10D: Protect and promote Farmers' Rights through reviewing and, as appropriate, adjusting regulations concerning variety release and seed distribution

Option 10E: Use and/or enhance existing legislation to protect and promote Farmers' Rights in relation to other international agreements relevant to the Treaty (that should be mutually supportive with a view to sustainable agriculture and food security)

Option 10F: Study national and international policies and laws regarding their contributions to the realization of Farmers' Rights.

Category 11: Other measures/practices.

Option 11A: Support farmers' conservation, management and sustainable use of PGRFA through targeted emergency assistance

Appendix 4

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