



**Views, Experiences and Best Practices as an example of possible options for
the national implementation of Article 9 of the International Treaty
Submitted by Contracting Parties and Relevant Organizations**

Note by the Secretary

This document presents the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty submitted by Eswatini on 20 July 2018.

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

Possible options for National Implementation of Article 9 of the International Treaty:

Views and experiences:

Experiences:

1. Farmers still freely practice the long tradition of seed saving and germplasm exchange either through bartering (swapping). They also participate in seed fairs where they exchange seeds amongst themselves.
2. Seed fairs enable farmers from other regions to sell or source seeds from other farmers from other communities. This is because, it has been observed in most instances that farmers within or from the same locality tend to have the same crop diversity. Hence exchange tends to be between different localities or regions.
3. Exchange is also very common between relatives who due to area preference or other reasons such as for marriage may have relocated to reside in another region or location.
4. Depending on the quantity of the seeds, some farmers may be reluctant to share their consignment.
5. Indigenous knowledge associated with PGRFA is mostly shared through free will.
6. The practices and the genetic resources involved are however at risk due to changing governments' priorities and inappropriate or lack of agricultural legislative frameworks or policies.
7. Agricultural development projects which are normally financed by international organizations including FAO and IFAD, have negatively affected conservation and sustainable use of PGRFA, thus infringing on farmers' rights. These projects have completely disregarded the efforts and role that farmers have played in the past for over many decades now.
8. Environmental Impact Assessments and their Mitigation plans have also been disregarded in these projects, and fake reports that do not accurately reflect what has happened on the ground have been produced and accepted without any verification.
9. Consequently some genetic resources that play a major role in cultures and traditions are slowly being lost which now also threaten the culture.

Views:

1. Unfortunately, many farmers are still not very much aware of such rights.
2. Such a right to freely continue saving and exchanging seed needs to be promoted and all forms of support provided to farmers.
3. Awareness on such rights needs to be strengthened so that they become fully aware of their right.
4. It is our view that this tradition and practice of exchanging germplasm among farmers have massively contributed not only to conservation of PGRFA and exchange of associated IK

or TK, but have and will always play a major role to food and nutrition security and income generation at household level. Hence it is a practice worth promoting or enhancing as it can help pass on PGFRA to future generations for years to centuries to come.

5. National policies should ensure that farmers and farmers organizations are at the forefront in advocating for their rights as farmers and demand support from their governments and the respect of their rights.
6. Such a right to freely continue saving and exchanging seed need to be promoted and all forms of support provided to farmers.
7. Awareness on such rights needs to be strengthened.
8. While the farmers conservation and exchange practices benefit many consumers even beyond country borders, these still exploits them as the major beneficiaries are breeders and/or companies who have immensely benefited most in monetary form. Unfortunately, there is an imbalance on the benefits since not all farmers of or around the world have been rewarded for their efforts even from the funds accrued or contributed from seed sales.
9. Hence there is a need to ensure that all farmers especially subsistence farmers are rewarded for the efforts and contributions they make towards conservation and exchange of PGRFA as it is because of their financial status which do not enable them to afford buying seed that they have without choice had to save and exchange traditional seed varieties.
10. Farmers' representative(s) should be part of the Ad Hoc Technical Expert Group on Farmers' Rights.
11. Realization of Farmers' rights at national level should not be the sole responsibility of national governments since this may results in farmers' right being not fully realized in some countries due to challenges with governments' priorities. International organizations including the ITPGRFA Governing Body and Secretariat should also shoulder this responsibility
12. The GB and the Treaty Secretariat should ensure that all farmers around the world, especially those from contracting parties directly benefit from the Benefit Sharing Fund of the Treaty as a way of motivating them to continue promoting conservation and sustainable use of PGRFA and genetic diversity in totality.

Whilst there is no national legislation yet to guide the implementation of Article 9 of the ITPGRFA, ABS National Guidelines which also consider Article 9 of the International Treaty have been developed with the following provisions:

That:

1. A community shall be the lawful users and custodians of the genetic resources on land on which the community has rights, as well as knowledge and innovation related to the use of genetic resources on their land.

2. Communities shall exercise their inalienable right to use, exchange or share their genetic resources in sustaining their livelihood systems.
3. The genetic resources and the intellectual and cultural knowledge and practices and any innovations arising from these shall not be sold, assigned, transferred or dealt with without the prior informed consent and effective participation of the communities/cultural clans concerned.
4. Communities have the right to refuse consent or access to their genetic resources, innovation, practices, knowledge or technologies if such access will be detrimental to the integrity of their natural and cultural heritage.
5. No genetic resource, intellectual and/or cultural knowledge and practices related to genetic resources or innovations arising out of them shall be sold, assigned, transferred or dealt with in any way which shall adversely affect the resource rights of the community.
6. A community shall have the right to enforce, monitor and further its innovations and any matters in relation to the utilization or exchange of genetic resources.

The Guidelines further provide for the “Recognition and protection of the rights of farmers to benefit from their traditional knowledge collectively, and to receive compensation for the conservation of genetic resources. (Outlined under section 5.3 of the guidelines).

The guidelines also adopt the prior informed consent (PIC) principle, coupled with mutually agreed terms (MAT). This recognizes and involves PGR custodians in the decision making process regarding their PGRs.