



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 the African Seed Trade Association (AFSTA), on 31 October 2019.*

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



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## 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; Commercialisation of improved crop varieties and Intellectual property rights/Plant breeders' rights
- Date of submission; 22rd October 2019
- Name(s) of country/countries in which the measure/practice is taking place; All African Countries
- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person); The African Seed Trade Association(AFSTA), P.O box 2428-00202 Nairobi Kenya, [www.afsta.org](http://www.afsta.org), [afsta@afsta.org](mailto:afsta@afsta.org), +254202429017, Justin Rakotoarisaona/Grace Gitu
- Type of institution/organization (categories); Non-profit seed trade association
- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s)); ISF-[www.worlseed.org](http://www.worlseed.org)

#### Description of the examples

##### Mandatory information:<sup>1</sup>

- 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
  - Lessons learned (if applicable)

The African Seed Trade Association(AFSTA) is a not for profit member association that was established in 2000 to spearhead activities that promote trade in quality seed in Africa for the benefit of members and farmers in the continent. AFSTA recognizes the contribution of farmer communities to the conservation and the improvement of plant genetic resources for food and agriculture. This has to be balanced with the important role of the African seed industry in maintaining and improving crop yields through continuous crop breeding to create superior varieties, which benefit farmers and to which they have access. Accordingly, AFSTA fully supports access to genetic resources for breeding purposes by all breeders i.e. farmers themselves, public research institutes and seed companies and is not in favor of any regulations that prevent them from sustainably exploiting available plant genetic resources to add value to their crops. In addition, breeders need to get a reasonable return on their investment in plant breeding so that they can continue developing novel products. Free use of farm-saved seed undermines this principle and would lead to less breeding efforts and eventually prevent the release of new varieties to the detriment of farmers and agricultural development as a whole. Farmers can still have use seeds of varieties that are no longer protected, including landraces, without the consent of the breeder.

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



- Brief history (including starting year), as appropriate

In Africa, plant breeding is predominantly public and low private investment in plant breeding has led to a shortage of improved varieties limiting the choice of farmers. To give incentives to breeders, there is need to protect new varieties using intellectual property rights as provided for under the UPOV 1991 Convention. This Convention gives adequate protection against inappropriate use of protected varieties while having provisions for free access and use for further breeding purposes i.e. breeders' exemption and the compulsory exception of acts done privately for non-commercial purposes (Article 15 (1) of UPOV 1991 Convention) allowing African subsistence farmers to save and use seed from their own harvests, specifically for their own use.

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

As stipulated in article 9 (3) of the International Treaty on Plant Genetic Resources for Food and Agriculture (IT PGRFA), this right is subject to the national law in force in a given country where such acts may be prohibited or subject to specific requirements and/or limitations.

- 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)

Under the UPOV 1991 Convention, national laws may allow farmers to replant on their own farm the seed produced on that same farm without the consent of the breeder of the protected variety. This exception however must remain within reasonable limits and is subject to the safeguarding of the legitimate interests of the breeder (Article 15(2) of UPOV 1991 Convention). This optional exception to Plant Breeders' Rights should be limited to food and feed crops where farm-saved seed has been used traditionally and subject to the obligation that farmers provide information concerning the use to the breeder and to the payment of an equitable remuneration. However, this UPOV Convention has a provision that allows the free use of farm-saved seed of a protected variety for non commercial purposes by African subsistence farmers

- 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 <sup>2</sup>	Also relevant <sup>3</sup>
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 banks <sup>4</sup> , 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)
- Target group(s) and numbers of involved and affected farmers<sup>5</sup>
- Location(s) and geographical outreach

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

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

<sup>4</sup> Including seed houses.

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



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- 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?
- 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

#### **Lessons learned**

- Describe lessons learned which may be relevant for others who wish to do the same or similar measures/practices (max 250 words).
- What challenges encountered along the way (if applicable) (max 200 words)
- 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)

#### **Further information**

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