



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 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 : Plant Breeders' rights (PBR)
- 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) :

(i) INOV (French national office for plant breeders' rights) for French PBR

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(ii) CPVO (Community plant variety office) for EU PBR

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- Type of institution/organization (categories): **competent authorities for PBR at national level (INOV) or European Union level (CPVO)**
- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))

Description of the examples

Mandatory information:¹

- Short summary to be put in the inventory (max. 200 words) including:
 - Implementing entity and partners: **INOV or CPVO and breeders' organisations applying for plant breeders' rights**
 - Start year :

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



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- **in France 1971 (Decree Law No. 71-454),**
- **at EU level 1994 (regulation 2100/94/EC establishing plant variety rights)**

- **Objective(s): To grant intellectual protection for new plant varieties**
- **Summary of core components**

Intellectual property can be defined as that which is created by the human intellect (“ideas” or “thoughts”), often intangible unlike other forms of property.

These laws confer to the creator exclusive legal rights over the subject matter, which serve as a reward for their achievement and contribution to socio-economic progress as well as an incentive for further innovation. Plant variety protection (PBR) is a sui generis system for plant varieties and are likely to have greater influence on access to technology issues, such as seed of improved varieties.

PBRs are forms of national or regional (such as EU CPVR or OAPI in West Africa and ARIPO in East Africa) legislation for intellectual protection.

- **Key outcomes: Plant variety protection titles to specific variety obtain from crossing and breeding including with plant genetic resources.**
- **Lessons learned (if applicable)**

Plant variety protection titles are a very useful system to grant recognition to breeding activities through intellectual protection :

- To create incentives for investment in the research and development of new plant varieties.
- Holders have the opportunity to exploit their inventions and therefore recoup their investment costs free from the competition of those who have not made such investments and who would, in the absence of plant variety protection, benefit unfairly;
- The rights are territorially limited and therefore apply only within the state, or the group of states, in which they are granted;
- Balance between the public interest and the private interest of the holder.

It can accompany the creation of plant breeding activity in farmers’ cooperative organisation.

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

The French approach to recognise and value traditional knowledge system related to plant genetic resources is various and in many cases in the framework of EU Regulations or Directives:

- The Intellectual property right (IPR) system “Plant breeders’ rights is the adapted type of legal protection for traditional agricultural knowledge leading to crop improvement/plant breeding. In practice, any natural or legal person can be recognized as a breeder of a plant variety. This fact that, a breeder is anybody who breeds, was reflected in the constitution of first official catalogue of wheat in the 1930s. The Paris Convention on the Protection of New Varieties of Plants in 1961 has the same definition.



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- The EU Council *Regulation* (EC) No 2100/94 of 27 July 1994 on Community plant variety rights as well as the national plant breeders' rights legislation (Intellectual protection Code – Chapter III - from article L.623-1 to L623-44) are the legal texts providing such IP protection for plant breeders respectively at EU level or at national level.

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

To be eligible for plant breeder's right, a variety must be

- New,
- distinct, uniform, stable,
- and has a denomination.

Novelty requires that the applicant variety has not been “*sold or otherwise disposed of to others*” for more than one year in the country of application or for four years (six for trees or vines) elsewhere. These requirements assures that the public is not giving away exclusivity rights to something already available, while recognizing that some testing (DUS) are also required prior to granting a right.

A breeder might be a farmer, a company or a scientist.

The plant variety owner can prohibit specific unauthorized uses of its variety.

- 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)

Farmers, which are plant breeders, or farmers' organisations (such as cooperatives) applying for plant breeder's rights.

One example: Plant breeding for potato seed in France - This is done by 4 stations, among which 3 professional (with the status of farmers' organisations) ones are set up at the initiative of the seed potato growers (BRETAGNE PLANTS, COMITE NORD and Comité Centre et Sud). These organisations apply for PBR in France or at EU Level.

- 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	
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.		X
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) _____

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).

⁴ Including seed houses.



- Target group(s) and numbers of involved and affected farmers⁵ : farmers and farmers' organisations (such as cooperatives, producers' organisations) applying for PBR.
- Location(s) and geographical outreach : France, EU
- Resources used for implementation of the measure/practice.
Farmers resources.
- 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)

PBR allows an increased added value for plant genetic resources through breeding activities. French farmers take advantage of a steady and cumulative genetic progress present in the varieties released on the market. For example the yield of soft wheat, which was around 1ton/ha until the 1950s, has risen by 700% in 40 years; half of this increase, at least, is due to genetic progress. Another INRA study shows that over the past 25 years the progress due to plant breeding is of 1.23q/ha/year in untreated conditions.

In addition benefit sharing is also ensured by the breeder's exemption in PBR, which means that any progress obtained by breeding is immediately available for anyone for further breeding. This exemption may be used by anybody, and especially farmers-breeders who are organised through few networks to perform some "traditional" breeding.

Thirdly the optional exception provided under PBR for farmers in order to reuse, on their own farm, the result of their harvest obtained from protected varieties of certain agricultural species (Regulation 2100/94 and French IP code) is also benefit sharing, even if farmers have to provide an equitable remuneration to the breeders, taking into account that the amount is lower than a normal royalty.

- Other national level instruments that are linked to the measure/practice
France has explicitly maintained this breeders' exemption for breeding for all plant varieties including those carrying biotechnological patented inventions.
This exemption is also reflected in the unified patent court agreement (article 27.c) in relation to the EU Regulation n°1257/2012 on the unitary patent.

- 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

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



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

Individual farmers are usually not recognised as plant breeders but nevertheless in France it is largely common that farmers' organisations such as cooperatives of farmers or farmers's organisations (status recognizes at EU level) are frequently involved in plant breeding and apply for plant breeders' rights.

Among 73 companies involved in plant breeding in France, some are cooperative of farmers, such as Bretagne plants innovation, Comité centre et sud, Comité Nord (*with a common breeding station on potato seed between Bretagne plants, Comité centre et sud, Comité nord*), Centre français du riz, CIREF (strawberry), Coop chanvre Hemp-it, coop du Haricot tarbais, Terre de Lin, Limagrain Group, Euralis, Maïsadour semences, Eurosorgho, Organisation bretonne de selection-OBS, Semences de France, from small size producers' organisations to large size cooperatives.

Example 1: Local plant breeding - Breton vegetable producers have created the OBS to access genetics that meets their specific needs, their unique terroir and their market. According to their strategic orientations, the OBS creates varieties, produces seeds and thus ensures them a genetic independence which is one of the strengths of Breton organized producers.

Example 2: A large breeding cooperative Limagrain - As the fourth largest seed company worldwide, the cooperative group is founded and managed by farmers in the Massif Central. This is a particular model of governance among the leaders. They breed, produce, and distribute field and vegetable seeds, and they have built unique integrated cereal chains.

- What challenges encountered along the way (if applicable) (max 200 words)
 - (i) It requires knowledge in variety description.
 - (ii) It requires times in order to fix the characteristics.
 - (iii) Not all plant varieties meet conditions for protection.
- 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 involvement of the Ministry of agriculture is necessary in order to develop plant breeders' rights, as well as internal consultations with representative stakeholders' groups.

The investment in infrastructure, trainings and awareness raising will increase the knowledge of various stakeholders' group with regard to plant breeding and thus capacity to cope with adaptation to climate changes in particular.

Regional collaboration may reduce the cost of plant variety protection system. Furthermore wherever possible putting up and running a single plant variety protection office for a region is cost effective and appropriate; it can increase foreign investment in the region due to increased market size.

Further information

- Link(s) to further information about the measure/practice
<https://cpvo.europa.eu/en/>
<https://www.geves.fr/apply-for-plant-variety-protection/>
<http://frenchseedpotato.com/index/france-the-country-for-high-quality-seed-potatoes>
<https://www.o-b-s.com/?lang=en>



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https://www.limagrain.com/data/medias/3352/style/default/Limagrain_Essentials_2018.pdf

<https://www.aripo.org/wp-content/uploads/2018/12/Establishmentofplantbreedersright2002.pdf>