



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 Philippines on 27 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: Provision for Small Farmers' Rights under Republic Act No. 9168 of 2002, "An Act to provide Protection to New Plant Varieties, Establishing a National Plant Variety Protection Board and For Other Purposes" and Department of Agriculture's Administrative Order No. 7. 2003, Implementing Rules and Regulations of the Philippine Plant Variety Protection Act of 2002.
- Date of submission: July 2019
- Name(s) of country/countries in which the measure/practice is taking place : Philippines
- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person):

Office of the Plant Variety Protection Office

Contact Person:

Ms. Elvie Morales

National Seed Quality Control Services Division

Bureau of Plant Industry, Department of Agriculture

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- Type of institution/organization (categories) : Government
- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s)) : National Plant Variety Protection Board, c/o Office of the Plant Variety Protection Office

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:
 - Lessons learned (if applicable)

The Plant Variety Protection Act of 2002 provides exclusive rights to plant breeders over the propagating material of their protected variety, ie., the right to authorize the production or reproduction, conditioning for the purpose of propagation, offering to sale, selling or other

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



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marketing strategies, exporting, importing and stocking of the plant variety. However, “the Certificate of Plant Variety Protection does not extend to the traditional right of small farmers to save, use, exchange, share or sell farm produce of a variety protected under the Act.

The National Plant Protection Board determines the condition under which the small farmer exception shall apply. The Board is chaired by the Secretary of the Department of Agriculture, co-chaired by the Secretary of the Department of Science and Technology and vice-chaired by the Director-General of the Intellectual Property Office. Members include the (i) Director of the Bureau of Plant Industry; (ii) the Director of the Institute of Plant Breeding of the University of the Philippines; (iii) the President of the Philippine Seed Industry Association; (iv) a representative from the federation of small farmers; and (vi) Registrar. A Plant Variety Protection Office under the Department of Agriculture has been established.

There have been no reports of infringement of the small farmers’ rights under the PVP .

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

The informal system of small farmers’ practice to save, use, exchange, share and sell farm produce is maintained in the Plant Variety Protection Act of 2002 and its Implementing Rules and Regulations in 2003. This provision was expressly provided in the legislation by farmers groups and supported by the Department of Agriculture during the deliberations in Congress.

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

Small farmer means any natural person dependent on small-scale subsistence farming as his primary source of income.

The Certificate of Plant Variety Protection shall not extend to the traditional right of small farmers to save, use, exchange, share or sell farm produce of a variety protected under this Act, except when a sale is for the purpose of reproduction under a commercial marketing agreement. The Board shall determine the condition under which this exception shall apply, taking into consideration the nature of the plant cultivated grown or sown. This provision shall also extend to the exchange and sale of seeds among and between said small farmers, provided that small farmers may exchange or sell seeds for reproduction and replanting on their own land.

In addition, the Act encourages farming communities and bona fide farmers’ organizations” to build an inventory of locally-bred varieties. The application for a PVP requires a detailed origin and breeding history of the variety including the source of germplasm.

- 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 number of farm households in the Philippines is 5.56 million farms covering 7.19 million hectares. The average farm size is 1.29 hectares. Thirty (30.83) percent of the total farm households are under .5 hectares with an average of 0.13 hectares (Census of Agriculture 2012) and are considered small farms.

- 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	*	
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		

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.



	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) To maintain the informal system of small farmers to save, exchange, use, share or sell their farm produce (of variety protected under the PVP Act).
- Target group(s) and numbers of involved and affected farmers⁵ : small farmers
- Location(s) and geographical outreach : National
- Resources used for implementation of the measure/practice: Appropriations for the Philippines Plant Variety Office
- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture? It has helped the maintenance of the informal system of small farmers to enable them to save, exchange, use farm saved seeds, and under this Act, of the protected variety. In addition, the measure also protects farmer rights by requiring a disclosure of breeding history, i.e., upon application of a PVP, the applicant shall submit exhibit A – Detailed Origin and Breeding History of the Variety, including the source of germplasm and the results of other plant tests or trails that have already been done
- Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words) : Since implementation of this Act, there have no reports on infringement by small famers of PVP certificates granted and neither have there been reports of infringement of the small farmers' rights in the PVP.
- Other national level instruments that are linked to the measure/practice relevant for this measure/practice: Republic Act 7308, “ An Act To Promote and Develop the Seed Industry in the Philippines and Create a National Seed Industry Council and For Other Purposes” ; Republic Act 7607 An act Providing a Magna Carta of Small Farmers
- 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). The small farmers' rights provision in the PVP should form part of the legislation.
- What challenges encountered along the way (if applicable) (max 200 words) : Small farmers need to organize themselves into a national association. So far, there had been no small farmer representative to the PVP Board as there is no official representative of small farmers.

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



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- 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 small farmers' rights provision should be legislated to be enforced.

Further information

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

<http://www.pvpo.bpinsicpvpo.com.ph/>