



Food and Agriculture
Organization of the
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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 information on best practices and measures of implementing Article 9 of the International Treaty submitted by African Centre for Biodiversity (ACB) on 11 December 2020.

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



Food and Agriculture
Organization of the
United Nations



The International Treaty
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FOR FOOD AND AGRICULTURE

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

Law Establishing the Moratorium on Living Modified Organisms for a Period of 10 years

Law No. 29811

- Date of submission

11th December 2020

- Name(s) of country/countries in which the measure/practice is taking place

Peru

- Responsible institution/organization (name, address, website (if applicable), e-mail address, telephone number(s) and contact person)

Ministry of Environment – National Competent Authority and main implementor

Ministries of Agriculture, Health and Production and the public bodies attached to the Ministry of the Environment, in coordination with the regional and local governments

- Type of institution/organization (categories)

Government institution

- 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)

In 2011 the Peruvian president Ollanta Humala signed the Law No. 29811 which establishes a ten (10) year moratorium preventing the entry and production of living modified organisms (LMOs) including aquatic for the purposes of cultivation or breeding for further release into the environment. (Article). The purpose of this law is to strengthen national capacities, develop infrastructure and generate baselines with respect to native biodiversity, which allow for adequate evaluation of the activities that release LMOs into the environment. The Ministry of Environment is the National Focal point and implementor of the law in

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



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

accordance to the Cartagena Protocol on Biosafety – and is required to ensure that the mechanisms of protection and promotion of native biodiversity is fulfilled in the period of 10 years.

- Brief history (including starting year), as appropriate

The moratorium was the product of collaboration between various stakeholders, beginning in the early 1990s. These included anti-transgenic activists, scientists, non-governmental organizations, farmers and Peruvian political leaders, each of whom played a specific role. Some stakeholders emphasized the scientific risks and merits, others focused on the political risks and merits, while others still homed in on the preservation of Peru's biodiversity and protection of rural, often Indigenous, agrarian lifestyles. On 9 December 2011, under the Presidency of Ollanta Humala (2011–2016), the Peruvian government approved Law No. 29811 enacting a 10-year moratorium on GMOs. On November 14, 2012, Peru passed Supreme Decree 008-2012-MINAM establishing the implementing regulations for enforcing the moratorium on the planting of biotechnology crops. On July 20, 2016, Peru signed Executive Decree N° 006-2016-MINAM with a procedure and plan for surveillance and early detection of genetically engineered organisms. Peru's Ministries of Agriculture and Irrigation (MINAGRI), Environment (MINAM) and Production enforce the ten-year moratorium on biotechnology. On July 24, 2016, Peru listed specific commodities restricted under the biotechnology moratorium (Executive Decree N° 011-2016-MINAM). These regulations do not change any requirements for producers or importers, but operationalize the biotechnology moratorium and related legislation already in place in Peru.

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

Article 1 and 2 define the objective and purpose of the law. These establish the moratorium for a period of 10 years, in the entry and domestic production of LMOs and release into the environment. The aim is to strengthen national capacities, develop infrastructure and generate baselines with respect to native biodiversity.

The moratorium is divided into two main parts:

- a) Regulatory and capacity building – construction of programmes for the knowledge and conservation of native genetic resources, biotechnology and competitive development programmes, and projects to strengthen scientific and technological capabilities.
- b) Creating a multisectoral advisory committee, to develop skills and tools for the management of biotechnology, biosafety and bioethics, the strengthening of monitoring functions and the issuing of technical reports and proposals.

Thus, during the 10-year period, the government and society were to make important actions: establish mechanisms to control the entry of GM, carry out studies of biodiversity and genetic resources in the country, train public officials that would be responsible for the proper control and implementation of the mechanisms provided by law, etc. It also further provides a framework to further debate and generate social and institutional alliances – from a social standpoint.

- 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)

Various events and pieces of legislation throughout the 1990s and the 2000s paved the way for the ban. Governance of transgenic material started with the passing of several laws such as Law 26410 in 1994 and Law 27104 in 1999. Law 26410 created the Consejo Nacional del Ambiente (national Environment Council, CONAM), which included obligations to develop and oversee the National Agrobiodiversity



Program. Law 27104, the ‘Biosafety Law’, established the formal institutions of biotech governance. In 1999 CONAM formed a committee to discuss biosafety. This committee included representatives of the biotech industry and civil society organizations, although the committee’s composition favored bio-tech boosters and marginalized skeptics. The expansion of stakeholder voices in the debate over GMOs in Peruvian agriculture led to a shift in public attitudes towards greater skepticism around biotech. Civil society’s voices picked up momentum, shifting Peru’s approach to biotech governance from a products approach to a process approach. The growing opposition to GMO use in agriculture within civil society and at all levels of the state apparatus peaked in June 2011 when congress adopted Law 29811, declaring a ten-year moratorium on transgene use in Peru except in con-fined laboratory spaces and in pharmaceutical or veterinary cases.

- To which provision(s) of Article 9 of the International Treaty does this measure relate

- Art. 9.1 X
- Art. 9.2a X
- Art. 9.2b
- Art. 9.2c X
- Art. 9.3 X

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		X
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		

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).



5	In-situ/on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites	X	
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 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	X	
9	Training, capacity development and public awareness creation		
10	Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.	X	
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)

The law establishes a ten (10) year moratorium preventing the importation and domestic production of living modified organisms (LMOs) including aquatic to be released into the environment, excluding those organisms used for research, and in pharmaceutical and veterinary product. The law goes beyond prohibiting and sanctioning; in addition, its secondary mandatory functions aim to strengthen and develop national capacities for biosafety.

- Target group(s) and numbers of involved and affected farmers⁵

The law helps to protect the country's 2.2 million small-scale farmer families who provide approximately 75% of the country's produce.

- Location(s) and geographical outreach

Peru

- Resources used for implementation of the measure/practice

⁴ Including seed houses.

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



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture?

The moratorium has contributed to the protecting of Peru which is one of the twelve countries with the greatest biodiversity in the world and the centre of origin of various genetic resources that contribute to the world's food supply – from contamination. This is through establishing mechanisms for monitoring and detection of genetic engineered organisms and listing specific commodities restricted under the biotechnology moratorium. In addition, the Ministry of Environment under Decree 008-2012 is aimed at developing a nationwide inventory of animals, plants, insects (target and non-target) and soil micro-organisms (fungi and bacteria) that could be affected by genetically engineered crops. This also includes a survey of organic farms and biodiversity areas. At the same time, farmers, indigenous and local communities to continue conserving Peru's native biodiversity while at the same time use it sustainably for economic and cultural development.

- Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words)

The moratorium on GMOs contributes to protecting family agriculture, which represents 97% of the country's total agricultural units. This is especially relevant considering Peru's food supply is in the hands of the 2.2. million small-scale farmer families who provide approximately 75% of the country's produce.

Exports of native biodiversity products (including 43 different species) have grown steadily (+40 from 2013 to 2019) reaching a value of US \$485 million in 2018, which represents 4% of total non-traditional exports.

Also, during the covid-19 pandemic, exports of organic products increased by 13% according to Pomperu

- Other national level instruments that are linked to the measure/practice

Law 26410 in 1994

Law 27104 in 1999

Law 26410

Law 27104, the 'Biosafety Law'

- Are you aware of any other international agreements or programs that are relevant for this measure/practice?

Cartagena Protocol for Biosafety

Convention for Biological Diversity

Nagoya Supplementary Protocol on Liability and Redress

- 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).



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



The International Treaty
**ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

There is importance in the protection of biodiverse systems which promotes protection and conservation of biological diversity including agrobiodiversity. For Peru, the need to protect the country as a centre of origin of various genetic resources was key and in turn, this protected also their cultural heritage and economic aspects of particular, small holder farmers, local and indigenous people. Additionally, the political context for the realisation of the adoption of the moratorium law together with the role of civil society, farmer organisations and the media played a crucial role in the debate, mobilisation and passage of this law. Thus, democratic spaces which provide public debated and discourses are important to ensure that key laws and policies are taken on board to conserve, protect and promote sustainable use of genetic resources.

- What challenges encountered along the way (if applicable) (max 200 words)

After two years of the adoption of the Law no. 29811, progress in the implementation of its provisions was minimal. This was because of the Multisectoral nature of the Advisory committee which includes proponents of GMOs, and the change in the political context of 2010-2011.

There have also been challenges in the implementation of the moratorium. This is due to

- 1) Lack of clear objectives and performance indicators to measure progress on building capabilities and developing infrastructure
 - 2) Lack of some implementing clauses e.g. undefined risk assessment processes for the three exceptions on laboratory research, use in pharmaceuticals and veterinary products and use in food, animal feed and in food processing
 - 3) Lack of definition of sampling size of clarification of sampling procedures or adventitious presence to enforce compliance for Decree 008-2012 MINAM on declaration of non- GMO imported seed
 - 4) Lack of provisions in regulations on funding of agencies responsible for oversight and enforcement
- 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)

Need for political will, to be able to implement and successfully operationalise this moratorium. Adequate funding is also required to ensure that there is full implementation and support for the objectives set to be met.

Further information

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

Link to the Peru Law No. 29811 <http://bch.cbd.int/database/attachment/?id=17424>

Link to other laws related to Biosafety and biotechnology in Peru
<https://bch.cbd.int/database/results?searchid=790573>

Moratorium on the Entry of GMOs to Peru

<http://www.dhan.org/abcwebsite/files/Moratorium%20on%20the%20Entry%20of%20GMOs%20to%20Peru.pdf>



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The International Treaty
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FOR FOOD AND AGRICULTURE

How Peru is keeping GMOs out of its soils <https://www.organicwithoutboundaries.bio/2020/08/14/peru-fights-to-keep-gmos-out-of-its-soils/>

Moratorium non fully operational Six years after passage

https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Agricultural%20Biotechnology%20Annual_Lima_Peru_11-17-2017.pdf