



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 the information on best practices and measures of implementing Article 9 of the International Treaty submitted jointly by African Centre for Biodiversity (ACB) and Acción Ecológica on 13 June 2022.

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

Court ruling confirming the implementation of the Constitutional measure as contained in Article 401 of the Ecuadorian Constitution, a legal measure that protects and enforces farmers' rights to seeds and crops that are GM-free.

- Date of submission

13 June 2022

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

Ecuador

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

Name of the organization: Acción Ecológica
Address: Alejandro de Valdez N24-33 y La Gasca
Website: www.accionecologica.org
Contact person: Elizabeth Bravo
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- Type of institution/organization (categories)

Civil Society Organisation

- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))

Centro Agrícola de Quevedo and Federación de Centros Agrícolas del Litoral) in collaboration with the Ecuadorian Ombudsman's Office and Acción Ecológica, as a witness.



Description of the examples

Mandatory information:¹

- Short summary to be put in the inventory (max. 200 words) including:

Article 401 of Ecuador's 2008 Constitution declares that the country be free of transgenic crops and seeds and prohibits the cultivation of GM crops. This constitutional measure is intended to protect farmers' rights to access GM-free seeds and crops and ensure that their farmer seeds and seed systems are not contaminated.

In 2018, the presence of transgenic soybean crops was verified in several farms in the Province of Los Rios – by non-governmental and peasant organizations which revealed the lack of control by environmental authorities to enforce what is provided for in the Constitution of Ecuador. Two campesino organizations (Centro Agrícola de Quevedo and Federación de Centros Agrícolas del Litoral) in collaboration with the Ecuadorian Ombudsman's Office and Acción Ecológica as a witness, filed an action for protection against the presence of GM crops which were derived from GM soybean seeds. On 18 January 2019, the criminal judicial unit based in the canton of Quevedo issued a judgment in case no. 2012283201802414 and declared that Ecuador's constitutional right to remain a territory free of transgenic crops and seeds had been violated and thereby confirming the legal measure contained in Article 401 of the Constitution.

Further, on June, 1 2017, Ecuador's National Assembly approved the "Organic Law on Biodiversity, Seeds, and Promotion of Sustainable Agriculture". However, Article 56 of the Organic Law, sidestepped the constitutional ban on the cultivation of GM crops as outlined in Article 401 in that it permitted GM cultivation for research purposes. As a result, social movements in Ecuador lodged an appeal to the Constitutional Court. At least six lawsuits were filed to challenge the unconstitutionality of the Organic law on Biodiversity Seed and Promotion of Sustainable Agriculture by FECAOL, Acción Ecológica, Ecuarunari CONAIE, a group of lawyers, and a group of social organizations including the Coordinadora Ecuatoriana de Agroecología, the Colectivo Agroecologico, and the Red de Guardianes de Semillas.

In January 2022, the Constitutional Court of Ecuador further declared Article 56 of the Law on Seed, Agrobiodiversity, and Sustainable Agriculture unconstitutional through Judgment No. 22-17-IN. unconstitutional.

- Brief history (including starting year), as appropriate

In 2008, a change in Ecuador's Constitution banned GM seeds and crops through specific provisions. This was a first of its kind, in that unique and explicit national legal measures to protect and implement farmers' rights to GM free seed and crops were articulated by the Constitutional Court. Article 401 of Ecuador's 2008 Constitution declares the country to be free of transgenic crops and seeds, and prohibits the cultivation of GM crops. However, this article also grants the President sole authority to authorise the entry of GM agricultural products and seeds. Section two of Article 401 affirms that the state reserves for itself the right to regulate the use and development of biotechnology and its products, as well as its experimentation, use, and commercialization. It prohibits the use of dangerous, experimental biotechnology. Guidelines however do not exist for defining what constitutes dangerous or experimental biotechnology.

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



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After the adoption of the new Ecuador constitution, non-governmental and peasant organizations proceeded to carry out constant field monitoring to verify the presence or not, of genetically modified crops in the field. For the case of corn, no evidence of illegal entry of seeds was found. However, in 2018, the presence of transgenic soybean crops was verified in farms in the Province of Los Rios, which accounts for the lack of control by environmental authorities to enforce what is provided for in the Constitution of Ecuador. Two campesino organizations (Centro Agrícola de Quevedo and Federación de Centros Agrícolas del Litoral) in collaboration with the Ecuadorian Ombudsman's Office and Acción Ecológica, acting as a witness that provided evidence, filed an action for protection against the presence of these crops. The courts ruled in favor of the farmers in two instances, an important precedent for the country. Subsequently, the Constitutional Court selected this ruling to create binding jurisprudence in the country. On 18 January 20, 2019, the criminal judicial unit based in the canton of Quevedo issued a judgment in case no. 2012283201802414, declaring that Ecuador's constitutional right to remain a territory free of transgenic (GM) crops and seeds had been violated.

In addition, on June, 1 2017, Ecuador's National Assembly approved the "Organic Law on Biodiversity, Seeds and Promotion of Sustainable Agriculture". This came after Ecuador's Minister of Agriculture announced that the National Institute for Agricultural Research (INIAP), the country's main agricultural research body, would start field trials of GM corn from major seed companies for research purposes.

Article 56 on Seeds and transgenic crops, states that,

"Transgenic seeds and crops are allowed to enter the national territory, only to be used for research purposes. In cases when entry is required for other purposes, the procedure established in the Constitution must be followed for that purpose. Very serious special infractions are the unauthorized entry or use of genetically modified seeds and crops for any purpose other than scientific research."

The Organic Law on Biodiversity, Seeds, and Promotion of Sustainable Agriculture, sidestepped the constitutional ban on the cultivation of GM crops by permitting GM crop cultivation for research purposes.

Six lawsuits were filed to challenge the unconstitutionality of the law to the Ecuador's Constitutional Court by FECAOL, Acción Ecológica, Ecuarunari CONAIE, a group of lawyers and a group of social organisations such as the Coordinadora Ecuatoriana de Agroecología, the Colectivo Agroecológico and the Red de Guardianes de Semillas. These were accompanied by numerous national and international Amicus Curiae briefs.

In January 2022, the Constitutional Court of Ecuador further declared Article 56 of the Law on Seed, Agrobiodiversity and Sustainable Agriculture unconstitutional through Judgment No. 22-17-IN which also contains provisions related to farmers' rights and in this regard please see the submission by Red de Guardianes de Semillas and Colectivo Agroecológico.

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

Article 401 of the Ecuador 2008 constitution, has provided the safeguards for the protection of native seeds and enabled non-governmental and peasant organizations to defend their seeds collectively, through several actions since its adoption. These are:



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1. Constant monitoring to verify the presence or not, of genetically modified (GM) crops in the field – wherein 2018, the presence of transgenic soybean crops was verified in farms in the Province of Los Rios and triggered a lawsuit.
 2. Two Campesino organizations (Centro Agrícola de Quevedo and Federación de Centros Agrícolas del Litoral) in collaboration with the Ecuadorian Ombudsman's office filed an action for protection against the presence of these crops – where the constitutional courts ruled in favor of the peasants.
 3. Action against the Organic Law on Biodiversity, Seeds, and Promotion of Sustainable Agriculture, adopted in 2017 which sidestepped the constitutional ban on the cultivation of GM crops by permitting GM crop cultivation for research purposes – where social movements in Ecuador embarked on a range of strategies including:
 - Appeals to the Constitutional Court,
 - Since the entire country is GM-free, the groups worked in the provinces where soyabean and industrial corn are produced.
 - Manifestations in front of federal and provincial institutions.
 - Six lawsuits filed to challenge the unconstitutionality of the law to the Ecuador's Constitutional Court by FECAOL, Acción Ecológica, Ecuarunari CONAIE, a group of lawyers and a group of social organisations such as the Coordinadora de Agroecología, the Colectivo Agroecológico and the Red de Guardianes de Semillas. These were accompanied by numerous national and international Amicus Curiae briefs.
- 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)

In 2008, a new constitution was applauded by farmers and activists as it banned genetically modified organisms. This was because of the country's major rural environmentalists and indigenous movements who formed, among other networks, a coalition called La Mesa Agraria that worked together to obtain this legal provision as well as interrelated provisions concerning food sovereignty.

The constitution includes several sections that address food sovereignty e.g., Article 281 states that “food sovereignty constitutes an objective and strategic obligation of the State to guarantee that people, communities, pueblos, and nationalities achieve self-sufficiency with respect to health and culturally appropriate food on a permanent basis”. Article 281 then enumerates fourteen specific responsibilities of the state, including supporting small farmers, promoting organic food production, and protecting domestic food production over food imports.

Additionally, Article 401 declares Ecuador to be a country free of GM seeds and crops, except in the interest of national security.

- 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 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		
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 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		X
10	Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.	X	
11	Other measures / practices		X

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.



In case you selected ‘other measures’, would you like to suggest a description of this measure, e.g., as a possible new category? Legal constitutional measure that protects and enforces farmers’ rights to seeds and crops that are GM-free.

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

In Ecuador, peasant agriculture represents 55% of the productive units and small peasant economies participate in 60% of the food production that is consumed at local level. Any significant loss in the produce of this valuable agricultural sector particularly with GMOs will have an impact on the country’s peasant agriculture and particularly seed systems.

- Location(s) and geographical outreach
National territory of Ecuador
- Resources used for implementation of the measure/practice
 - Human resources for monitoring genetically modified crops including ELISA tests kits for detecting the presence of GMO
 - Resources for public awareness and lobbying policymakers
- How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture?

With its judgment, the court reaffirmed and reinforced the fundamental rights enshrined in Ecuadorian law and international agreements which are inextricably linked to the exercise of farmers’ rights, among them:

- The right of peasants and indigenous peoples to choose and maintain their production and management models, particularly those that are diverse and socially and environmentally sustainable;
- The right of peasants and indigenous peoples to keep their seeds and to be protected against contamination of their seeds by transgenics;
- The precautionary principle;
- The human right to health;
- The human right to adequate food;
- The human right to a healthy environment;
- The rights of nature and the natural cycles of life.

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



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

Keeping the farming population aware of the care and constant monitoring of their agrobiodiversity.
Created a legal and constitutional precedent to demand the enforceability of national regulations to keep the country free of transgenic crops.

- 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?
 - United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
 - United Nations Declaration on the Rights of Indigenous Peoples,
 - Additional protocol to the American convention on human rights in the area of economic, social, and cultural rights "protocol of san Salvador" Article 10, 11 And 12 (Right To Health, To A Healthy Environment And To Food))
 - Universal Declaration of Human Rights. Art. 25
 - Convention on Biological Diversity,
- 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).

As we can see, social movement actions involving court lawsuits have led to judgments to declare a violation of the legal measures, namely those contained in the constitution to protect farmers' rights. It is thus important to track different laws, processes, and government decisions that attempt to implement and potentially impede farmers' rights.

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

The main difficulty is the lack of full implementation of the judgment by the relevant authorities.

- 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)

Maintain permanent vigilance in the territories to ensure that the territories remain free of transgenic crops, and file lawsuits in the courts in case of finding violations of the country's legal safeguards.



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Further information

- [Link\(s\) to further information about the measure/practice](#)

In Defense of their Food, Ecuadorians Protest Unconstitutional Entry of GMOs

<https://www.agroecologyfund.org/blog/2017/7/9/in-defense-of-their-food-ecuadorians-protest-unconstitutional-entry-of-gmos>

USDA, GAIN Report, Ecuador. Court Challenge to Ecuadorian Proposal to Permit Field Trials of Genetically Engineered Crops

https://apps.fas.usda.gov/newgainapi/api/report/downloadreportbyfilename?filename=Agricultural%20Biotechnology%20Annual_Quito_Ecuador_11-2-2018.pdf

The Intersection Between Food Sovereignty and Law

https://law.uoregon.edu/sites/law1.uoregon.edu/files/fakhri_intersection_of_law_and_food_sovereignty.pdf

Ecommerce in Ecuador: Farmers Oppose the Pandemic. Spotlight on: Urban-Rural Linkages

<https://www.urbanet.info/agricultural-sector-ecuador/>

National Constitution of Ecuador 2008 (rev. 2021).

https://www.constituteproject.org/constitution/Ecuador_2008.pdf

From the legal sphere, from everyday practices, we will continue to defend seeds- the principle of life and the source of our livelihood. <https://www.accionecologica.org/la-corte-constitucional-se-pronuncia-sobre-el-ingreso-de-semillas-y-cultivos-transgenicos/>

Constitutional Court rules in favour of peasant seeds in Ecuador. <https://redsemillas.org/wp-content/uploads/2022/01/pdf-Sentencia-Corte-Constitucional-semillas.pdf?fbclid=IwAR3JpKWhx0H2W-HLErEkrNGwlKD3EiRsDKLcd0jUmrQXzB4Iz6CVnysUGQ>

<https://www.corteconstitucional.gob.ec/index.php/boletines-de-prensa/item/1344-sentencia-22-17-in-22-y-acumulados-inconstitucionalidad-de-actos-normativos.html>

http://sacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3RyYW1pdGUnLCB1dWlkOicwM2I5ZWJjOC02ZjU5LTQxNzYtODczMS1lZGY0ODA5YzE0YzkucGRmJ30=