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The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND
AGRICULTURE**

**FIRST MEETING OF THE AD HOC TECHNICAL EXPERT GROUP ON FARMERS'
RIGHTS**

Rome, Italy, 11-14 September 2018

Realization of Farmers' Rights: Experiences, Lessons Learned and Best Practices

I. INTRODUCTION

1. The Governing Body, at its Seventh Session, decided to establish the Ad Hoc Technical Expert Group on Farmers' Rights (AHTEG). The AHTEG was requested to “*produce an inventory of national measures that may be adopted, best practices and lessons learned from the realization of Farmers' Rights*”, and “*based on the inventory, develop options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty*”, and to report back to the Governing Body on its work for consideration at the Eighth Session (Resolution 7/2017).
2. By Resolution 7/2017, the Governing body:

“*Invite[d]* Contracting Parties and all relevant stakeholders, especially farmers’ organizations, to submit views, experiences and best practices as an example of possible options for national implementation of Article 9 of the International Treaty, as appropriate and subject to national legislation, in preparation for the inventory, and *request[ed]* the Secretary to compile and submit this input to the *Ad Hoc* Technical Expert Group on Farmers' Rights”.
3. Similar invitation for the submission of views, experiences, best practices and lessons learned on the implementation of Farmers' Rights have repeatedly been made by the Governing Body since the Second Session, as described in the document, *IT/GB-8/AHTEG-FR-1/18/3*.¹
4. In response to Resolution 7/2017, the Secretary issued a notification to invite Contracting Parties and other stakeholders to submit information on national measures that may be adopted, views, experiences, best practices and lessons learned from the implementation of Farmers' Rights.²
5. In order to assist the AHTEG in undertaking the tasks mandated by the Seventh Session of the Governing Body, the Secretary commissioned a background paper, which reviewed the submissions received between 2012 and 2018 (compiled in document *IT/GB-8/AHTEG-FR-1/Inf.3*).³ The background paper is annexed to this document.

¹ IT/GB-8/AHTEG-FR-1/18/3, Overview of the historical developments and discussion of Farmers' Rights

² NCP-GB8-05 Farmers' Rights, <http://www.fao.org/plant-treaty/notifications/detail-events/en/c/1128388/>

³ IT/GB-8/AHTEG-FR-1/Inf.3, [Compilation of submissions of Contracting Parties and stakeholders.](#)

II. RATIONALE AND STRUCTURE OF THE BACKGROUND PAPER ON “REALIZATION OF FARMERS’ RIGHTS: EXPERIENCES, LESSONS LEARNED AND BEST PRACTICES”

6. The background paper consolidates and synthesizes the views, experiences, best practices, lessons learned and national measures submitted by Contracting Parties and other stakeholders since 2012 including other significant documents, such as national country reports,⁴ proceedings, technical reports and/or studies conducted on Farmers’ Rights. It provides a broad range of material and information, as to how Article 9 and its provisions are perceived, promoted or implemented in different countries and regions across the world.

7. Additionally, other relevant documents, such as proceedings of workshops, symposia, and studies, that have been conducted to address issues of relevance to the implementation of Article 9, including National Reports under the Compliance Procedures,⁵ were taken into account in the preparation of the background paper.

8. The review and assessment of submissions and relevant documents was systematically presented to correspond with the provisions of Article 9:

- Recognition of the enormous contribution that local and indigenous communities and farmers of all regions of the world have made and will continue to make for the conservation and development of plant genetic resources (**Article 9.1**);
- Protection of traditional knowledge relevant to plant genetic resources for food and agriculture (**Article 9.2.a**);
- Equitable participation in sharing benefits arising from the utilization of plant genetic resources for food and agriculture (**Article 9.2.b**);
- Participation in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture (**Article 9.2.c**); and
- Rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate (**Article 9.3**).

9. The background paper, “*Realization of Farmers’ Rights: Experiences, Lessons Learned and Best Practices*”, is structured as follows:

1. Introduction and background (page 13)
2. Objectives of the paper (page 14)
3. Approach and methodology (pages 14-15)
4. Conceptual development, evolution and relevance of Farmers’ Rights (pages 17-23)
5. Summary of views, experiences, and lessons learned (pages 24-65)
6. Synthesis: Contracting Parties’ and stakeholders’ views, experiences and examples of national measures on the implementation of Farmers’ Rights (pages 66-69)

⁴ National Country Reports, <http://www.fao.org/plant-treaty/areas-of-work/compliance/compliance-reports/en/>

⁵ <http://www.fao.org/plant-treaty/areas-of-work/compliance/compliance-reports/en/>

7. Way forward: from sharing views and experiences towards identifying elements of best practices on implementing Farmers' Rights (pages 69-73)
8. Concluding Remarks (page 73)

III. VIEWS, EXPERIENCES, BEST PRACTICES AND NATIONAL MEASURES ON THE IMPLEMENTATION ON FARMERS' RIGHTS EXPRESSED BY CONTRACTING PARTIES AND STAKEHOLDERS

The basic framework

10. The Preamble of the International Treaty states that *“the past, present and future contributions of farmers in all regions of the world, particularly those in centres of origin and diversity, in conserving, improving and making available these resources, is the basis of Farmers' Rights”*.

11. The Preamble further states that *“the rights that are recognized in this Treaty to save, use, exchange and sell farm-saved seed and other propagating material, and to participate in decision-making regarding, and in the fair and equitable sharing of the benefits arising from, the use of plant genetic resources for food and agriculture, are fundamental to the realization of Farmers' Rights, as well as the promotion of Farmers' Rights at national and international levels.”*

12. These elements form the basis of the measures contained in Article 9 of the Treaty, along with the protection of traditional knowledge relevant to plant genetic resources for food and agriculture (PGRFA). Farmers' Rights as contained in Article 9 of the International Treaty can, accordingly, be illustrated in the following framework (as described in the background paper, Figure 1, page 15).



Views, experiences, best practices and national measures

13. Chapters 5 and 6 of the background paper contain a comprehensive summary and synthesis of the views, experiences, and national measures including lessons learned on the implementation of Article 9.

14. As observed from the submissions⁶ and other available information documents,⁷ Contracting Parties and other stakeholders generally affirmed their recognition of farmers', and local and indigenous communities' contribution to the conservation and development of PGRFA. However, the range of expressed *views, experiences as well as national measures* for the implementation of Farmers' Rights are diverse and vary widely:

- Article 9.1: Some Contracting Parties have created awards for farmers and local communities,⁸ or assign specific roles to individuals or family farmers based on their acquired skills and experiences, e.g. in knowledge sharing activities or as advisors for government programs and other activities.⁹ Other Contracting Parties do not see any specific need for showing recognition explicitly or for creating any special measures under this provision. Another form of recognition submitted by the Contracting Parties is through indirect recognition, for example, by providing funds to support farmers and farmers' organization engage in conservation and sustainable use of PGRFA.¹⁰ Other submissions note the non-recognition of local communities and farmers' seed systems that particularly contribute to the objectives of the International Treaty, or to broader policy goals including food security, adaptation to climate risks or more sustainable biodiverse and resilient farming systems.
- Article 9.2a: With regard to the protection of traditional knowledge related to PGRFA, it has frequently been stated that protection of traditional knowledge entails protection against misappropriation as well as protection against 'erosion' or loss.
 - Many Contracting Parties refer to existing legislations, e.g. plant variety protection, patent and copyright laws.¹¹
 - For the protection of traditional knowledge relating to PGRFA against loss and 'erosion', many Contracting Parties and stakeholders shared experiences such as a national dialogue for the identification of appropriate measures,¹² the creation of databases, catalogues community biodiversity registers and Biocultural Protocols,¹³ knowledge sharing with researchers,¹⁴ e.g. in the form of participatory germplasm evaluation and plant breeding projects, networks of interested individuals, training centres for capacity building,¹⁵ and other related activities.

⁶ IT/GB-8/AHTEG-FR-1/18/Inf.3

⁷ IT/GB-8/AHTEG-FR-1/18/Inf.4, IT/GB-8/AHTEG-FR-1/18/Inf.5, IT/GB-8/AHTEG-FR-1/18/Inf.6, IT/GB-8/AHTEG-FR-1/18/Inf.7

⁸ For example, India; Norway

⁹ For example, Bolivia, Norway

¹⁰ For example, Norway, Switzerland, USA

¹¹ For example, Canada, Germany

¹² Cited by Norway

¹³ Cited by Bolivia, Spain, Madagascar

¹⁴ Cited by Bolivia and others

¹⁵ Cited by Germany

- Based on the submissions, there seem to be two possible approaches to protect traditional knowledge: (i) those focusing on the knowledge itself and on documenting/sharing its contents, and (ii) those focusing on knowledge holders or actors, and on strengthening their respective capacities, activities and networks.
- Article 9.2b: By virtue of their membership of the Treaty, all Contracting Parties have agreed to the benefit sharing provisions of the International Treaty. However, the views and experiences shared with regard to national measures for equitable participation of farmers in sharing benefits arising from the utilization of PGRFA, as set out in Article 9.2b of the International Treaty, vary widely.
- Article 9.2c: National measures for the participation in decision-making at national level are reported in nearly all submissions of Contracting Parties. Some submissions and country reports refer to existing mechanisms or platforms for multi-stakeholders policy dialogue and engagement,¹⁶ where farmers and local communities are encouraged to take part in the processes concerning environmental and agricultural development. In many cases, representatives of farmers and farmers' organizations are also represented in relevant institutions and committees, e.g. variety registration committees or committees focusing on conservation of PGRFA. Most of the submissions do not provide details on how the farmer representatives are selected, how many of them are represented in committees that involve other stakeholders as well, and how much influence they actually have on relevant processes.
- Article 9.3: Several countries reported having taken measures to protect and promote the right to save, use, exchange and sell seed/propagating material.¹⁷ Some submissions emphasized that this particular aspect of Article 9 is not only fundamental for the realization of Farmers' Rights, but also to achieving other objectives of the International Treaty, as well as food and nutrition security, improved livelihoods of farmers and sustainable farming and food systems in general. However, other submissions expressed a different view that "by establishing seed quality standards and plant variety protection that restrict individual farmers' rights to sell and exchange seed, the production yields and incomes of farmers would increase".¹⁸ Another submission suggests it may be useful to improve understanding as to "why farmers cannot agree on legal frameworks that restrict their seed-related practices and rights" are beneficial to them.¹⁹

IV. SOME OBSERVATIONS ON THE CURRENT SUBMISSIONS OF RELEVANCE TO THE WORK OF AHTEG

15. The background paper attempted to provide a neutral assessment of the information contained in the submissions as well as on the significant documents made available on Farmers' Rights. Also, based on the submissions received, some general observations can be made that may be relevant for further work to be done in the consolidation of best practices as well as on assessing the options for the implementation of Farmers' Rights. The observations can be summarized, as follows, but not limited to:

¹⁶ For example, Bhutan, Canada, Denmark, Ecuador, France, India, Madagascar, Namibia, Norway, Slovenia, Sweden, Switzerland, Sudan, and USA

¹⁷ For example, Bhutan, Canada, Denmark, Ecuador, Madagascar, Namibia, Norway, Poland, and Switzerland

¹⁸ For example, France

¹⁹ Submission of La Via Campesina

- **Assessing options for the realization of Farmers’ rights in relation to broader objectives, needs and priorities:** The submissions show that each element of Farmers’ Rights can be addressed either by specific, targeted measures that aim specifically at the realization of Farmers’ Rights, or by measures that form part of a broader approach and set of objectives.
 - **Broadening the base of evidence:** There were only few submissions from Contracting Parties, and very few from the farmers’ organizations. The range of approaches, activities and practices that are being implemented on the ground can be expected to be much broader than what has been considered in the background paper. It may be useful to broaden the base of evidence upon which views, experiences and national measures are assessed.
 - **Assessing context-related factors systematically:** The submissions vary widely with regard to the level of details provided or the degree of analysis offered. In this regard, a further analysis of the views and experiences through studies or surveys, that would include assessment of context-related factors systematically.
 - **Addressing aspects of socio-economic and cultural diversity:** Farmers tend to be addressed as a group without much differentiation, e.g. farmers operating at different scales, with different production objectives or under different sets of conditions. In many countries, large-scale farms may exist alongside small family farms or women and men may grow different crops, or different varieties of the same crop, under different conditions. Furthermore, some groups of farmers may work based on different sets of cultural values than other farming communities, e.g. indigenous farmers or the organic farming community. Differentiation would be important in order to provide the necessary support to farmers more effectively who play an active role in conserving and managing diversity of PGRFA.
 - **Actively seeking for inclusion of farmers’ perspectives:** Farmers organizations have so far rarely participated directly in discussions on the implementation of Article 9. Even though in some submissions it is stated that farmers organizations have been involved, there are very few independent statements of farmers and their organizations.
 - **Developing ‘quality criteria’ for assessing what can be considered ‘best practices’:** Best practices can only be identified and described based on a set of agreed-upon criteria, against which proposed measures for the implementation of Article 9, Farmers’ Rights, otherwise, anything could be declared as a good practice under some aspect or point of view.
16. These observations are elaborated in Chapter 7 of the background paper, pages 69-73.

V. STRUCTURING THE INVENTORY OF NATIONAL MEASURES ON THE IMPLEMENTATION ON FARMERS’ RIGHTS

17. The background paper attempted to present an overview of national measures as well as the status of their implementation based on the submissions made by Contracting Parties and stakeholders (Appendix, Table 1 of the background paper). While it contains good reference of information and could serve as a basis to review the national measures,²⁰ however, it may be regarded limited and insufficient.

²⁰ Measures, areas or aspects of intervention, status of implementation, countries, region

18. With a perspective to present the *inventory of national measures, best practices, experiences and lessons learned*, more systematically and objectively, a modified structure of information is proposed below (Table 1), for the consideration of the AHTEG.

19. Table 1. Possible structure of the inventory of national measures.

Article 9	Measures				Lessons Learned
	Legal	Political	Technical	Financial	
9.1					
9.2 a					
9.2 b					
9.2 c					
9.3					
Others					

20. On the basis of the range of information provided in this document, and all other information documents, the AHTEG is invited to reflect and take them into account in its discussions to produce the inventory as requested by the Governing Body, and may indicate any additional information and support it might require in so doing.