



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
Submitted by Contracting Parties and Relevant Organizations**

Note by the Secretary

This document presents the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty submitted by Sweden on 4 July 2018.

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

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Swedish Board of Agriculture

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Views, experiences and best practices as examples of possible option for national implementation of Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture - SWEDEN

This report is submitted in response to **Notification NCP GB8-05 Farmers' Rights of 7 May 2018**. While Sweden has reported earlier on Article 9 in relation to submitting its Country Report on Compliance 26 October 2016, it has been deemed valuable to provide a more comprehensive account on national views, experiences and measures as they relate to Farmer's Rights.

The Swedish government recognises the sovereign rights of all countries with regard to their local genetic resources, their commitment to the protection of traditional knowledge relevant to these resources and the balanced and equitable sharing of benefits arising from the utilisation of these resources. As Party to the Treaty Sweden acknowledges that, in accordance with Art. 9 of the International Treaty, the Contracting Parties are urged, as appropriate, in accordance with their needs and priorities and subject to their national legislation to undertake measures to protect and promote Farmers' Rights.

The following aims at providing complementary information concerning measures that have been taken under Articles 9.2 and 9.3.

"9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:

a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;"

Already in December 2005 the Swedish government launched a national programme - **NAPTEK** - regarding local and traditional knowledge for the conservation and sustainable use of biological diversity, of which plant genetic resources is a part. The programme has since transformed into other assignments and processes. Protection of traditional knowledge relevant to plant genetic resources for food and agriculture is secured through

regulation 2016:858 'on utilisation of genetic resources and traditional knowledge about such resources', complementing Regulation (EU) No. 511/2014¹.

Matters relating to documentation and protection of Sami traditional knowledge relevant to plant genetic resources for food and agriculture are handled by the [Sami Parliament](#), which is both a political assembly and the relevant authority for the Sami as officially recognised indigenous people.

For the time being, Sweden does not regulate access to traditional knowledge relevant for genetic resources, and does not plan to do so. This is in line with the so-called [Right of Public Access](#), regulated through Chapter 7 of the Environmental Code, which guarantees free access of citizens to nature on the condition of respectful behaviour. Use of traditional knowledge of relevance for genetic resources shall, however, be declared according to the regulatory framework on due diligence (Regulation (EU) No. 511/2014, Article 4).

The Board of Agriculture has reported earlier (2013) as part of a national survey on measures taken to implement articles 8(j) and 10(c) of the Convention on Biological Diversity. These include, among others,

- activities within the Rural Development Programmes (measures directed towards outdoor life - landscape, cultural heritage, and biodiversity)
- documentation of cultural heritage aspects within the national plant genetic resources programme (Programme for Diversity of Domesticated Plants, Pom)
- outreach towards farmers with particular focus on plant nutrition and health, and
- international activities within, *inter alia*, Baltic Compass-HELCOM (2009-2013), collaboration with the Nordic Genetic Resource Center (NordGen), and the New Nordic Food Programme (funded through the Nordic Council of Ministers).

Sweden has a very long tradition in collecting, compiling and making public, through books and other means, traditional knowledge associated with farming, horticulture, crop varieties, raw materials, food, etc. from different parts of the country. Publications worth mentioning, in particular, include the three-volume work *Ethnobiology in Sweden* (2001-2007) as well as a large body of books prepared and published within the national programme for PGRFA. Recently published websites building upon comprehensive compilations of such traditional knowledge include [Smaka Sverige](#) ('Taste Sweden'; only in Swedish) and [Matkult](#) ('FoodCult'; only in Swedish).

"b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and"

Sweden is Party to the Nagoya Protocol and, as such, fully recognizes and complies with internationally agreed ABS principles, incl. through the earlier mentioned EU regulation. Sweden holds the position that free and unlimited access to genetic resources for all users, incl. farmers, is a form of (non-monetary) benefit-sharing in itself. This is laid down in the so-called [Kalmar Declaration](#) of 2003, which clarifies the joint Nordic position as

¹ 'on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union'

regards access and rights to genetic resources. The Declaration establishes that all plant genetic resources, and not only those that are part of the Multi-Lateral System, and held in the public domain, is freely available to all users and also for purposes other than food and agriculture. This means that seed maintained *ex situ* at NordGen and propagative material held by the National Genebank for Vegetative Plants in Sweden can be accessed and grown without restrictions other than those to prevent users from exercising exclusive rights on to the material.

As Party since 1971 to the UPOV Convention, and thus one of its earliest members, Sweden has long cherished the possibility of breeders, and farmer breeders, to safeguard their intellectual achievements in the form of granting Plant Variety Rights. Historically, Swedish plant breeding emerged and developed as a mutual undertaking by breeders and farmers to provide improved seed and propagative material for farming and gardening. Today, commercial plant breeding in Sweden is truly in the hands of the farmers' agricultural cooperative, i.e. Lantmännen Lantbruk. Sweden holds the opinion that crop varieties, that under a Plant Variety Right is freely available for further breeding and improvement, represent a major and undisputable non-monetary benefit for users globally, fully in line with Article 13(1) of the Treaty.

The Commission Directives 2008/62/EC and 2009/145/EC concerning so-called conservation varieties are implemented in relevant Swedish legislation. Today, 62 conservation varieties and 11 amateur varieties are registered on the National List of Varieties. While, as previously mentioned, there are no restrictions as regards access to genetic resources held by the genebanks, the amounts delivered are limited. Some farmers have, therefore, established networks to multiply and keep such seed in cultivation. Discussions between NordGen and farmers, for the sake of multiplying heritage or redundant seed, are currently underway.

Commission Directive 2010/60/EU, providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment, apply for Sweden as well.

"c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture."

The Federation of Swedish Farmers, LRF is an interest and business organisation for the green industry in Sweden, and serves as the national policy association for Swedish farmers. As such, LRF has the opportunity to influence decision-making and development of relevant domestic legislation. Individual members of LRF represent the organisation at various levels (regional, local, and relevant governmental agencies) in a broad range of forums and committees as part of the Swedish 'consensus tradition'. LRF Horticulture is member of the advisory committee of the national programme for PGRFA.

“9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.”

In addition to what has been stated regarding conservation and/or amateur varieties, and the option for and interest of farmers of re-introducing genetically diverse or otherwise valuable material, Swedish farmers are authorized according to Article 14 of Council Regulation (EC) 2100/94 on Community plant variety rights to use part of their harvest for propagation on their own holdings. Article 8 of Council Regulation (EEC) No 1765/9, which establishes a support system for producers of certain arable crops sets, however, limitations to this exemption. A farmer may keep enough planting material to sow an area equivalent to the annual production of not more than 92 tonnes of cereals, or 185 tonnes of potato.

The Federation of Swedish Farmers is active through the Swedish Seed Trade Association in collecting royalties from those farmers whose production units (farms) are larger than specified by the derogation (see above). The percentage of farm-saved varies with crop and ranges from 0,6 % (Brassica oil crops) to 22 % (spring wheat; figures from 2016). There is broad and common understanding among Swedish farmers that their businesses will profit from re-investing royalties into further plant breeding.

Sweden welcomes and supports the on-going discussions between UPOV and the Treaty concerning possible interrelations between the two global instruments. Sweden wishes to underline the fact however that, while both conventions are mutually supportive regarding sustainable agriculture and food security, they fill two very different purposes.