



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 India on 30 July 2019.

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

Template for collecting information on examples

Basic information:

Title of measure/practice: [Protection of Plant Varieties and Farmers' Rights Act, 2001](#)

Name(s) of country: [India](#)

Responsible institution/organization

[Mr R. C. AGRAWAL](#)

[Registrar General, Protection of Plant Varieties and Farmers' Rights Authority](#)

[Ministry of Agriculture, Department of Agriculture and Co-operation](#)

[S-2, A Block, NASC Complex 110012 DPS Marg, New Delhi, India](#)

[Email: rg-ppvfra@nic.in](mailto:rg-ppvfra@nic.in)

Type of institution/organization (categories): [Government](#)

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

- [1. Crop based Institutes of the Indian Council of Agricultural Research \(ICAR\)](#)
- [2. State Agricultural Universities](#)
- [3. Central Agricultural Universities](#)
- [4. Crop based institutes of Council of Scientific and Industrial Research](#)
- [5. Crop based institutes of Defence Research and Development Organizations](#)
- [6. State Departments of Agriculture](#)
- [7. Non- Governmental Organizations](#)

Description of the examples

Mandatory information:

- Brief history (including starting year), as appropriate

[The Protection of Plant Varieties and Farmers Right Act, 2001 \(PPVFR Act\) is an Act of the Parliament of India that was enacted to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders, and to encourage the development and cultivation of new varieties of plants.](#)

[The PPV&FR Act, 2001 was enacted to grant intellectual property rights to plant breeders, researchers and farmers who have developed any new or extant plant varieties. The Intellectual Property Right granted under PPV&FR Act, 2001 is a dual right – one is for the variety and the other is for the denomination assigned to it by the breeder. The rights granted under this Act are heritable and assignable and only registration of a plant variety confers the right.](#)

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

Farmers as per PPV&FR Act means:

- Cultivates the crops by cultivating the land himself
- Cultivates the crops by directly supervising the cultivation of land through other person
- Conserves and preserves, several or jointly with any person any wild species of traditional varieties or adds value to such wild species or traditional varieties through selection and identification of their useful properties

The Act safeguards the interest of farmers/communities/rural/tribal people who are engaged in the conservation and improvement of plant genetic resources. The Act provides the following provisions:

1. A farmer has the provision in the Act to breed or develop a new variety which shall be entitled for registration in the same manner as a plant breeder
2. The farmer is entitled to save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a registered variety under the Act like wise entitled before the enforcement of the Act. Farmers are not entitled to sell branded seeds of the variety of the registered under the Act. The Treaty under article 9 provides rights to save, use, exchange and sell farm-saved seed/propagating material which does not define whether these rights are available on protected material or not.
3. Farmers' variety is the variety which has been traditionally cultivated, evolved and maintained by the farmers in their fields and is a wild relative or landrace of a variety about which farmers possess the common knowledge.
4. Registration of farmers' varieties – farmers are entitled for the registration of the variety which were bred and developed by them or community.
5. Farmers are exempted from payment of any fee in respect of any proceeding inspection of any document or for obtaining any decision/order/document under the Act before the Registrar/Authority/tribunal/High Court.
6. Farmers are entitled to compensation in case of failure of expected performance by registered varieties under the given condition.
7. Any person on behalf of any village community file any claim for compensation if the village or local community has contributed significantly to the evolution of the variety which has been registered under the PPV&FR Act of 2001. The Authority upon receiving objection from the registered breeder shall give an opportunity to breeder and determine the compensation which should be deposited in the Gene Fund within a period of two months.
8. A right established under the Act shall not be deemed to be infringed by a farmers who at the time of such infringement was not aware of the existence of such right and a relief in an infringement suit shall not be granted by court against a farmer who proves at the time of infringement was not aware of the existence of the right so infringed.
9. Benefit-sharing – the claims after due examination and receiving counter-claims will be disposed by the Authority. The benefit claim will be decided after providing proper and fair opportunity to be heard to both the claimer and Breeder.

- Short 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)

- (1) The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture

Section 26 of the PPV&FR Act, 2001 provides for benefit sharing and if any variety is registered then if the genetic material of farmers have been utilized in the development of the registered variety then farmers can claim benefit sharing. Section 41 of the PPV&FR Act, 2001 provides for compensation if in a registered variety any village or local community has contributed significantly in the development of registered variety.

- (2) 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 PPV&FR Authority consists of representatives from farmers/tribal/Women’s organizations dealing with agriculture/ organizations dealing with / representative to protect the interest of farmers and further the said farmer representative is also the member of the standing committee of PPV&FR Authority. The PPV&FR Act, 2001 recognizes farmers as breeders and they are entitled to be awarded, recognized and rewarded every year.

- (3) The right that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.

Section 39(1)(iv) of PPV&FR Act, 2001 provides that a farmer shall be entitled to save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a variety protected under the Act in an unbranded manner. Branded Seed means any seed put in a package or any other container and labelled in a manner indicating that seed of a variety is protected under the Act.

- 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 ¹	Also relevant ²

¹ Please select only one category that is most relevant, under which the measure will be listed.

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		Y
2	Financial contributions to support farmers conservation and sustainable use of PGRFA such as contributions to benefit-sharing funds		Y
3	Approaches to encourage income-generating activities to support farmers' conservation and sustainable use of PGRFA		Y
4	Catalogues, registries and other forms of documentation of PGRFA and protection of traditional knowledge		Y
5	In-situ/on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites		Y
6	Facilitation of farmers' access to a diversity of PGRFA through community seed banks ³ , seed networks and other measures improving farmers' choices of a wider diversity of PGRFA.		Y
7	Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection		Y
8	Farmers' participation in decision-making at local, national and sub-regional, regional and international levels		Y
9	Training, capacity development and public awareness creation		Y
10	Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA.	Y	
11	Other measures / practices		

Objective:

- a) To provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants.
 - b) To recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of the new plant varieties.
 - c) To accelerate agricultural development, and to stimulate investment for research and development for the development of new plant varieties.
 - d) To facilitate the growth of the seed industry which will ensure the availability of high quality seeds and planting material to the farmers.
- Target group(s) and numbers of involved and affected farmer: [Farmers and farmer-breeder](#)
 - Location(s) and geographical outreach: [National](#).

² Please select one or several categories that may also be relevant (if applicable).

³ Including seed houses.

- Resources used for implementation of the measure/practice: The grants from the Central Government. For testing of the farmers varieties , the facilities of Crop based Institutes of the Indian Council of Agricultural Research (ICAR); State Agricultural Universities; Central Agricultural Universities; Crop based institutes of Council of Scientific and Industrial Research; Crop based institutes of Defence Research and Development Organizations are utilized.

How has the measure/practice affected the conservation and sustainable use of plant genetic resources for food and agriculture? Please describe the achievements of the measure/ practice so far (including quantification) (max 200 words):

The PPV&FR Authority, under the provision of section 45 of PPV&FR Act, 2001 Rule 70 (2) (a) [PPV&FR Rules, 2003] has instituted Awards, Rewards and Recognitions from the Gene Fund. These awards have created awareness amongst the farmers and farming communities about the importance of the conservation and sustainable use of PGR. Many farmers have also commercialized their protected varieties which has helped them not only for the improvement of economic conditions but also sustainable use of their varieties and conservation through use.

- Other national level instruments that are linked to the measure/practice
Biological Diversity Act of India, 2002, which has sufficient provisions for the benefit sharing with farmers if their genetic resources are accessed for the commercial purpose.
- Are you aware of any other international agreements or programs that are relevant for this measure/practice?
TRIPS, CBD
- Other issues you wish to address, that have not yet been covered, to describe the measure/practice

Government of India in their National Intellectual Property Rights Policy announced in 2016 has sought to provide support to various stakeholders for increased registration of new, extant and essentially derived varieties of plants. It has further emphasised to establish links between the Authority and Agricultural Universities, Research Institutions, Technology Development & Management Centers and Krishi Vigyan Kendras and facilitate development of seeds and their commercialization by farmers. It makes the Authority more responsible to focus on strategies for mainstreaming of registered farmers' varieties and to take breeders rights as envisaged in PPV&FR Act, 2001.

Out of about 16,000 applications received for the protection, about 2/3rd have been submitted by the farmers which shows the interest of the farmers in protection of their varieties.

Lessons learned

- Describe lessons learned which may be relevant for others who wish to do the same or similar measures/practices (max 250 words):

For protection of farmers' varieties, clear guidelines needs to be developed for verifying the ownership as most of the farmers' varieties belongs to communities and not to individual farmers. For testing of the farmers varieties, certain relaxations in uniformity needs to be incorporated as

these varieties have some mixtures. The farmers should be provided protection without any kind of fee before the registration or after the registration (Annual/renewal fee).

- What challenges encountered along the way (if applicable) (max 200 words):
 - (1) The biggest challenge is to mainstream the protected farmers varieties.
 - (2) Another challenge is to make awareness amongst the farmers about the benefits of the registration of their varieties.
 - (3) Verification of the ownership on the Farmers Varieties.

- 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):

A well drafted national legislation to provide protection to farmers on their traditional varieties. The legislation should clearly define the farmers, their rights on protected varieties, farmers varieties, benefit sharing, compulsory declaration by breeders about the use of Farmers 'varieties, compulsory licensing, participation of the farmers in decision making bodies, and provisions for recognition to farmers and their communities for their conservation efforts.

Further information

- Link to further information about the measure/practice

Submitted by India

http://www.fao.org/fileadmin/user_upload/faoweb/plant-treaty/submissions/FRs_India.pdf

<http://www.plantauthority.gov.in/>