



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 Canada 31 July 2019.

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



Title of measure/practice : Plant Breeders' Rights Advisory Committee

Date of submission : July 31st, 2019

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

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

Canadian Food Inspection Agency, Plant Breeders' Rights Office, 59-2E-119 – 59 Camelot Drive, Ottawa, ON, K1A 0Y9. Contact person: Anthony Parker, Anthony.Parker@Canada.ca; phone : 613-773-7188

Canadian Food Inspection Agency, Plant Breeders' Rights Office, 59-2E-122 – 59 Camelot Drive, Ottawa, ON, K1A 0Y9. Contact person: Marc de Wit, Marc.deWit@Canada.ca; phone : 613-773-7198

Type of institution/organization (categories):

Agency of the Federal Government of Canada.

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

The membership on the Plant Breeders' Rights Advisory Committee is based on representation of an organization. Appointment to the Committee is based on employment or interest in the representative organization. These organizations represent different parts of the value chain in the Canadian agriculture, horticulture and ornamental sectors and help direct policy, legislative initiatives, and the administration of the *Plant Breeders' Rights Act* and *Regulations*.

1. Canadian Federation of Agriculture – national farmer led organization to promote the interests of Canadian agriculture farmers (www.cfa-fca.ca)
2. Canadian Horticulture Council – national farmer led organization to promote the interests of fruit and vegetable farmers (www.hortcouncil.ca)
3. Canadian Organic Trade Association – national organic farmer organization to promote and protect the growth of organic trade to benefit the environment, farmers, the public and the economy (www.canada-organic.ca)
4. Canadian Ornamental Horticulture Alliance – national ornamental alliance which represents farmers and various stakeholders in the ornamental value chain (www.coha-acho.ca)
5. Canadian Potato Council – as part of the Canadian Horticulture Council it represents and promotes the interests of potato farmers (www.hortcouncil.ca/en/about-us/canadian-potato-council)



6. Canadian Seed Growers Association- made up of grain farmers and members of the grains value chain representing and promoting the interests of the agriculture grains sector (www.seedgrowers.ca)
7. Canadian Seed Trade Association - is a national trade association that brings together more than 130 members engaged in all aspects of seed research, production, and marketing and trade (www.seedinnovation.ca)
8. Canterra Seeds – Canadian plant breeding company that produce varieties of cereals, pulses, oilseeds, corn, soybeans and specialty crops (www.canterra.com)
9. Grain Growers of Canada – Farmer led organization that promotes the interests of Canadian grain farmers (www.ggc-pgc.ca)
10. Producteurs de Grains du Quebec – A provincial farmer led organization that promotes the interests of Quebec grain farmers (www.pgq.ca)
11. Syngenta Canada – Seed production company that produces varieties of corn, soybeans, potatoes and supporting production products (www.syngenta.ca)
12. University of Saskatchewan, Crop Development Centre – field crop research organization within the University of Saskatchewan (www.agbio.usask.ca/research/centres-and-facilities/crop-development-centre.php)
13. Agriculture and Agri-Food Canada – Canadian governmental department (www.agr.gc.ca)

Description of the example

Mandatory information:

See notes below ¹ ² ³

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

The Canadian *Plant Breeders' Rights Act* (<https://laws-lois.justice.gc.ca/eng/acts/P-14.6/index.html>), which was enacted in 1991, specifically section 73, requires that the Minister of Agriculture and Agri-Food form an Advisory Committee consisting of representatives of various associations and enterprises involved in the value chain (e.g. plant breeders, horticulturists, seed dealers, farmers, and other persons the Minister considers appropriate). The measure is intended to involve the farming community, as well as other representatives, in the administration of the Canadian intellectual property regime for the protection of new plant varieties. It thus ensures that legislative, policy, and procedural decisions surrounding the administration of the *Plant Breeders' Rights Act*, are made respecting interests of all value chain members, including farmers, and benefits the value chain as a whole. The advice comes in various forms; it could be communicated to the Plant Breeders' Rights Commissioner via an annual face-to-face meeting or in written format. The outcomes of this measure/practice are reflected in the impacts of the decisions taken by the Advisory Committee, or the policies implemented; for example, improved access to new plant varieties for Canadian farmers.

(200 words)

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

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).



Implementing entity and partners

Implementing entity:

- Government of Canada

Implementing partner:

- Canadian Federation of Agriculture
- Canadian Horticulture Council
- Canadian Organic Trade Association
- Canadian Ornamental Horticulture Alliance
- Canadian Potato Council
- Canadian Seed Growers Association
- Canadian Seed Trade Association
- Canterra Seeds
- Grain Growers of Canada
- Producteurs de Grains du Quebec
- Syngenta Canada
- University of Saskatchewan, Crop Development Centre
- Agriculture and Agri-Food Canada

○ **Start year**

1991

○ **Objective(s)**

The measure is intended to involve the farming community, as well as other representatives in the different crop specific value chains, in the administration of the Canadian PBR intellectual property regime. By involving farmers in the decision making process, it ensures their views and interests are taken into consideration with respect to plant genetic resources. The effectiveness of the Advisory Committee is assessed by the impact/outcomes of the decisions taken, or policies implemented, that improve farmers access to innovative new plant varieties.

○ **Summary of core components**

The core component of the measure was to enshrine, in PBR legislation, a voice for farmers and public and private breeders to advise government on how to best administer the intellectual property regime that benefits the value chain as a whole. Inclusion of members of the value chain facilitates consensus based recommendations and advice to government. The role of each committee member is to represent their respective organizations interests on the Advisory Committee. In many cases, information must first be disseminated through the various organizations prior to consensus based advice being given to the Minister of Agriculture and Agri-Food.

○ **Key outcomes**



Various initiatives developed in cooperation with PBR – Advisory Committee have had a positive impact on the accessibility and sustainable use of plant genetic resources for Canadian farmers. Since its inception, the PBR Advisory Committee, in cooperation with government, have developed and successfully implemented the following projects:

1) *Acceptance of foreign “Distinctness, Uniformity, and Stability” Test Reports for filing PBR applications in Canada*

Recognizing that Canadian horticulture and ornamental farmers are highly dependent on accessing varieties from other countries, the Advisory Committee recommended that government broaden a policy to accept international “Distinctness, Uniformity, and Stability” (DUS) Test Reports from UPOV member countries. Implementation of this policy resulted in a 128% increase in the number of foreign DUS Test Reports used to support PBR protection in Canada. This measure has facilitated access to plant genetic resources while reducing administrative and monetary burden.

2) *Ratification of the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV’91)*

The implementation of UPOV’91 has had a positive impact on the Canadian agricultural sector. Over a five year period from 2012 to 2017 there has been a 56% increase in private sector investment in research and breeding for agricultural crops, largely attributed to the ratification of UPOV’91. Canadian farmers are highly dependent on foreign breeders to access new varieties. Over 80% of all new potato varieties entering the Canadian marketplace come from other countries. Since the ratification of UPOV’91, the annual average number of potato applications seeking PBR protection has increased by 68%. In the horticultural sector, the number of fruit and vegetable applications seeking PBR protection in Canada has increased by 130%.

o **Lessons learned (if applicable)**

The purpose of PBR is to encourage investment and innovation in varietal development which benefits both farmers and breeders. Consequently, it is important that farmers and breeders are collaboratively involved in decision making to maximize the benefits of the PBR intellectual property framework. From Canada’s perspective, the inclusion of farmers, breeders (public and private), and other entities in the value chain such as seed growers, ensures the proper balance of views and interests.

Brief history (including starting year), as appropriate

In 1991 Canada enacted (PBR) legislation based on the *1978 Act of the International Convention for the Protection of New Varieties of Plants* (UPOV). The Canadian government recognized the



importance of having farmer representation in decisions made related to the administration of the PBR Act. This ensures that farmers views are heard and that the intellectual property regime is advanced in a way that it benefits their interests (e.g. stimulate greater investment in breeding, access to more crop kinds and varieties, production efficiencies through improved genetics, such as; early maturity, higher yields, improved quality characteristics, and disease/pest resistance).

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

The core component of the measure was to enshrine, in PBR legislation, a voice for farmers and public and private breeders to advise government on how to best administer the intellectual property regime that benefits the value chain as a whole. Inclusion of members of the value chain facilitates consensus based recommendations and advice to government. The role of each committee member is to represent their respective organizations interests on the Advisory Committee. In many cases, information must first be disseminated through the various organizations prior to consensus based advice being given to the Minister of Agriculture and Agri-Food.

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 the late 1980’s, when Canada decided to become a signatory to UPOV and enacted a domestic plant breeders’ rights law, the government recognized the need to provide a mechanism for farmers (and other members of the value chain) to be part of the decision making process. When the *Plant Breeders’ Rights Act* was enacted (1990), it contained legal provisions for stakeholder representation in the administration of the legislation. Section 73 of the Act states:

Constitution

73 (1) The Minister shall constitute an advisory committee on any terms and conditions determined by the Minister.

Composition

(2) The advisory committee shall be composed of persons appointed by the Minister from among representatives of organizations of breeders of plant varieties, dealers in seeds, growers of seeds, farmers, horticulturists and of any other interested persons considered appropriate by the Minister.

Function

(3) The function of the advisory committee is to assist the Commissioner in the application of this Act

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

Article 9.1	
Article 9.2 a	



Article 9.2 b	
Article 9.2 c	X
Article 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	Also relevant
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		X
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.		X
7	Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection		X
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?

⁴ Including seed houses



NA

- **Objective(s)**

See above Objective(s)

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

Canadian Farmers

- **Location(s) and geographical outreach**

Canada

- **Resources used for implementation of the measure/practice**

Canadian Plant Breeders' Rights Act

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

The measure is intended to involve the farming community, as well as other representatives in the different crop specific value chains, in the administration of the Canadian PBR intellectual property regime. By involving farmers in the decision making process, it ensures their views and interests are taken into consideration with respect to plant genetic resources. The effectiveness of the Advisory Committee is assessed by the impact/outcomes of the decisions taken, or policies implemented, that improve farmers access to innovative new plant varieties.

In 2002, an Impact Study on PBR in Canada was tabled in Parliament. This impact study articulated: 1) increased investment in domestic plant breeding; 2) greater access for farmers to foreign crop kinds and varieties; 3) increased range and diversity of plant varieties available in the marketplace, and 4) facilitated access for Canadian breeders to foreign markets

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

Refer to section "key outcomes" listed above

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

NA

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



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

The United States Plant Variety Protection Act, Section 2327, provides a legal mechanism for the establishment of a Plant Variety Protection Board that must have farmer representation.

- **Other issues you wish to address, that have not yet been covered, to describe the measure/practice**

NA

Lessons learned

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

The purpose of PBR is to encourage investment and innovation in varietal development which benefits both farmers and breeders. Consequently, it is important that farmers and breeders are collaboratively involved in decision making to maximize the benefits of the PBR intellectual property framework. From Canada's perspective, the inclusion of farmers, breeders (public and private), and other entities in the value chain such as seed growers, ensures the proper balance of views and interests.

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

NA

- **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)**

It is important that the PBR legislation include legal provisions for the establishment of an Advisory Committee or board. It is also useful if the legislation defines specifically who can be appointed to such a committee or board (i.e. farmers, breeders, seed growers, etc.) to ensure the balanced representation from the value chain.

Further information

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

<https://laws-lois.justice.gc.ca/eng/acts/P-14.6/page-10.html#h-23>

<http://publications.gc.ca/site/eng/9.805528/publication.html>