



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 African Centre for Biodiversity (ACB) on 14 July 2021.

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



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

Implementation of farmers' rights through the recognition of farmer seed/populations and provisions made for a discreet farmer seed system registration process, not linked to commercial seed and crop value chains

- Date of submission

13 th July, 2021

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

Brazil

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

Brazil – Secretaria de Agricultura Familiar e Cooperativismo, Embrapa (national agricultural research institute), National Crop Agency (CONAB)

- Type of institution/organization (categories)

National and local authorities, agricultural research institutes, farmer associations, NGOs

- Collaborating/supporting institutions/organizations/actors, if applicable (name, address, website (if applicable), e-mail address, telephone number(s))
 - Brazil – Secretaria de Agricultura Familiar e Cooperativismo, Embrapa (national agricultural research institute), National Crop Agency (CONAB)

Description of the examples

Mandatory information:¹

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

A much more progressive Brazilian government in the early 2000s passed a Seed Law- Lei 10.711 Dispõe sobre o Sistema Nacional de Sementes e Mudas e dá outras providências (2003) that recognized farmer's seed emanating from farmer managed seed systems. Together with other policies and laws on family farming, food security and agroecology, the Seed law specifically provides for a unique set of provisions for the implementation of farmers' rights in order to enable farmers' seed to be recognized, protected and

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



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respected as part of the seed sector in Brazil as important and indispensable towards the attainment of food security in Brazil.

The national government's Food Acquisition Programme, launched in 2003, included the purchase and dissemination of farmer seed which was directly purchased from and distributed to farmers. This created a big incentive for local producers. Policy recognised farmer groups, such as family farmers, agrarian reform settlements and indigenous communities and populations, and recognised seed production activities in these communities. The Ministry of Agrarian Development supported seed fairs to promote multiplication of local seed.

Brief history (including starting year), as appropriate

A state law was passed in Brazil in 2002 to allow the government to buy farmers' seed and then support its distribution to the SemiArid Network Paraíba (ASA-PB), the regional branch of the National Agroecology Network, for further distribution through seed bank mediators to farmers for sowing. Further in 2003 the national government passed the seed law, formally recognising 'local, traditional and Creole' seed. Article 48 of the law expressly forbids restrictions on the inclusion of these seeds in publicly funded programmes for family farmers. Small scale farmers in Brazil have organised community seed banks since the 1970s, especially in the semi-arid areas in the North East. The Brazilian government adopted a seed bank policy from the 1990s, but the banks were filled with conventional seed (FAO, 2004), hence changes had to be made to preserve and conserve farmers' seed and ensure its continued sustainable use.

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

According to this law, registration of local, traditional or Creole cultivars used by family farmers, Agrarian Reform settlers or indigenous peoples is not mandatory (Article 11.6) and there are exemptions for those who multiply seeds or seedlings for distribution, exchange or sale among themselves. The exemptions are for all farmers' seed as long as they are traded and exchanged among family farmers (Article 8.3). Where farmers choose to register their seed in Brazil, requirements are as follows (Ministerial Decision 51/2007):

- i. They must be developed, adapted and produced by family farmers, agrarian reform settlers or traditional and indigenous populations and communities;
- ii. They must have phenotypical characteristics that are well established and recognised in these communities;
- iii. They must have been in use by farmers in one of these communities for more than three years;
- iv. They cannot be developed by means of genetic engineering or have evolved from hybridisation processes that are not under the control of local family farmer communities;
- v. They are not eligible for patents, ownership or any form of private ownership, meaning there can only be collective and non-exclusive rights. On the basis of Law 28477, which declares "crops, native breeds and wild species the natural patrimony of the nation, Brazil passed regulations to establish public local registers for farmers' seed and knowledge.
- vi. DUS and VCU are not required on the basis that value has largely been proven by the years of cultivation in farmers' fields.
- vii. This form of farmer-led certification is free of charge and which certification does not have to be renewed.
- viii. The law exempts farmers, indigenous peoples and traditional communities from the obligation to register as seed producers.



- 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)

Brazil has a diversity of agricultural systems, which include agro-business, family farming, indigenous and other traditional farming systems. Two Ministries are responsible for agricultural and agrarian development policies; the Ministry of Agriculture, which is dedicated to policies supporting agro-business and the Ministry Agrarian development which is responsible for the implementation of policies aimed at strengthening family and small-scale farming. Even though both ministries are part of the Federal public administration, they frequently contradict each other in policy development since they represent the political and economy and interests of every different stakeholder in systems of production.

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

Art. 9.1 X

Art. 9.2a X

Art. 9.2b X

Art. 9.2c X

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		X
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		X
5	In-situ/on-farm conservation and management of PGRFA, such as social and cultural measures, community biodiversity management and conservation sites		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).



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	X	
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? _____ Legal measures to implement farmers' rights in accordance with Article 4, 5 and 9 of the Treaty, including and especially the recognition of farmer seed/populations, farmer led registration processes and farmer managed seed systems not linked to commercial seed and crop value chains

- _____
- Objective(s)

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

Family and smallholder farmers, indigenous populations and communities nationally

- Location(s) and geographical outreach

Brazil – National

- Resources used for implementation of the measure/practice

Public funding, NGO and farmer contributions

- 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)

⁴ Including seed houses.

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



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The Brazilian case highlights a very impressive and successful model that responds to two key constraints facing farmers in producing their own seed for widespread dissemination:

- 1) the lack of recognition of farmer seed, or restrictions on their sale if they are not registered in accordance with commercial seed law regulations; and
- 2) the lack of organised and secured markets for farmer seed, supported by the state, and thus ensuring that the seed makes a valuable contribution to food security beyond the locality in which they have been produced.

Based on sustained and long-term mobilisation and activities by civil society organisations (CSOs) and farmers, over time the Brazilian government legally recognised farmer seed and integrated them into provincial and national food security programmes through public procurement and distribution of these seeds. The combined efforts of the promotion of family farmer seed and exemptions from registration, their recognition and incorporation into wider agroecology, family farmer and food security programmes resulted in significant improvement in food security and livelihood strategies on the part of farmers nationally by 2013.

- 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?

Convention on Biological Diversity (CBD)

- 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).

In order to address the non-implementation of farmers' rights in Brazil, the government ensured that local, traditional and creole cultivars are part of the socio-cultural heritage of local farming/peasant communities and are thus not eligible for patents, ownership of any form of private protection for individuals, businesses or organisations. Again, the political will on the part of the Brazilian government was key in the protection of farmers' rights matched by the strong pressure by social movements.

The law recognises the fundamental differences between farmers' and indigenous peoples' seeds and their seed/seed systems vis-à-vis industrial/commercial seed in as much as it exempts farmers and indigenous peoples from the commercial rules that are made for the industrial seed sector. Although such exemptions are important measures to allow farmers and indigenous peoples to manage their seeds and enjoy their (farmers') rights, they are not enough and specific legally binding frameworks for farmers' and indigenous peoples' seeds and their seed systems should be put in place that require funding, resource and institutional support from the state.

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



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- 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)
 - There should be national programmes with financial resources for on-farm seed production by small scale/peasant farmers;
 - Programmes should coordinate and promote multi-institutional cooperative projects that recover and conserve local seed and those developed through participatory methodologies;
 - provide technical assistance and training to local seed multipliers;
 - Provide and training on procurement and equitable distribute through alternative and innovative market channels;
 - Funds should be made available for joint public sector research and appropriate technology exchange and sharing and farmers;
 - Use should be made of the existing public sector skills base in teaching, research and extension;
 - Key institutional factors for successful interventions are multi-actor partnerships incorporating farmers, NGOs, researchers, and extension; and public sector buy-in and participation.

Further information

- Link(s) to further information about the measure/practice
 - http://www.planalto.gov.br/ccivil_03/LEIS/2003/L10.711.htm