



**Food and Agriculture
Organization of the
United Nations**



**International Treaty
on Plant Genetic Resources
for Food and Agriculture**

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

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

Rome, Italy, 24 -26 June 2024

**Inputs and comments received on the Draft Outline of the Assessment of the
State of Implementation of Article 9 of the International Treaty**

I. INTRODUCTION

1. At its Tenth Session, through [Resolution 7/2023](#), the Governing Body requested the Secretary to carry out and finalize the assessment of the state of implementation of Article 9 of the International Treaty and present the full report to the Governing Body, in accordance with paragraph 12 of [Resolution 7/2022](#).
2. By the same Resolution, the Governing Body also requested the Secretary “to invite Contracting Parties and other interested stakeholders, especially farmers’ organizations, to submit inputs and comments on the annotated outline contained in Annex 1 to this Resolution, including suggestions on how measures limiting the realization of Farmers’ Rights could be included, and to compile and publish the submissions at least four weeks before the first meeting of the AHTEG-FR”.
3. Through a notification issued on 7 February 2024, the Secretary invited Contracting Parties, relevant stakeholders and farmers’ organization to submit inputs and comments on the annotated Outline.¹ The Secretariat has received multiple responses.
4. As requested in Resolution 7/2023, this document compiles all the submissions received up to 15 April for consideration of the AHTEG.

**II. INPUTS AND COMMENTS RECEIVED FROM CONTRACTING
PARTIES AND STAKEHOLDERS ON THE ANNOTATED OUTLINE
CONTAINED IN ANNEX 1 TO RESOLUTION 7/2023, INCLUDING
SUGGESTIONS ON HOW MEASURES LIMITING THE REALIZATION OF
FARMERS’ RIGHTS**

Contracting Parties

1. Jordan, received on 21 February 2024. *Appendix 1.*
2. Norway, received on 10 March 2024. *Appendix 2.*
3. Madagascar, received 13 March 2024. *Appendix 3.*
4. United States of America, received on 15 March 2024. *Appendix 4*
5. Canada, received on 15 March 2024. *Appendix 5*
6. Panama, received on 15 March 2024. *Appendix 6.*
7. Guatemala, received on 20 March 2024. *Appendix 7.*

¹ www.fao.org/3/cc9648en/cc9648en.pdf

8. Niger, received on 21 March 2024. *Appendix 8.*
9. Argentina, received on 7 May 2024. *Appendix 9.*
10. Switzerland, received on 27 May 2024. *Appendix 10.*

Stakeholders and Farmers' Organizations

1. Sahabat Alam Malaysia (Friends of the Earth) and the Consumers Association of Penang (CAP), received on 13 March 2024. *Appendix 11.*
2. Association for Plant Breeding for the Benefit of Society (APBREBES), received on 13 March 2024. *Appendix 12.*
3. FIAN International, received on 15 March 2024. *Appendix 13.*
4. Malaysian Food Sovereignty Forum (Forum Kedaulatan Makanan Malaysia, FKMM), received on 15 March 2024. *Appendix 14.*
5. International Seed Federation (ISF), received on 15 March 2024. *Appendix 15.*
6. African Centre for Biodiversity (ACB), received on 15 March 2024. *Appendix 16.*
7. International Planning Committee for Food Sovereignty, received on 15 March 2024. *Appendix 17.*
8. Academic Peasant Unit "Tiahuanacu" of the Bolivian Catholic University, received on 16 March 2024. *Appendix 18.*

Other submissions²

- Sudan, received on 5 March 2024. *Appendix 19.*
- Malaysia
 - Department of Agriculture of Sabah, received on 15 March 2024. *Appendix 20.*
 - Department of Agriculture Malaysia, received on 3 April 2024. *Appendix 21.*
- Community Technology Development Organisation (CTDT), received on 14 March 2024. *Appendix 22.*

² No particular inputs and comments on the outline.

*Appendix 1***Jordan****General Comments**

I think it's a major issue in countries of political conflicts and wars to address anything related to human's rights including farmers rights. I think this major limiting measure should be elaborated especially when it happens in major centers of origin of PGRFA

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
I think it is worth also to use the results in the Third Report on the State of the World's Plant Genetic Resources for Food and Agriculture, of the commission.	
2: Information and data analysis, drafting of the first assessment	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region³	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	
update could be done via the inventory forms after modifying them to include measures limiting farmers rights	

³ Seven Regional Assessment Reports shall be part of the Assessment Report

*Appendix 2**Norway***General Comments**

At GB 10 Norway presented a revised outline for the assessment of the state of implementation of Article 9 of the International Treaty, based on the outline presented by the Secretariat, but with some substantial changes. The major proposed changes and reasons for these proposed changes were:

1. Setting out the purpose for the assessment, as we think it is important to have a joint understanding of the purpose before starting up the work.
2. Defining the scope for the assessment, as a joint understanding of this is also important.
3. Expanding the methodology to cover further documents of relevance and approaches to inclusive participation
4. Deleting the criteria, as we think these criteria will be difficult to apply. The definition of a criterion is ‘a standard on which a judgement or decision may be based’, and as we have no defined standards for farmers’ rights, it is also not possible to define precise criteria. The Secretariat was tasked by GB9 to develop criteria, but we realize it was an impossible task.
5. In stead developing an approach addressing what exactly to assess in terms of implementation
6. Simplifying Section 4.
7. Shortening down the timeline to the information that is needed to indicate such a timeline.
8. To illustrate how quantification can be done without the criteria proposed in the draft outline from the Secretariat, we also added a table as an example in an appendix. This was just for illustration purposes.

Taking into account the discussions at GB 10, Norway proposes the following changes to the draft outline:

Section 1: Executive Summary

This section will present the summary results of the assessment, covering overall results as well as results by region. It will start out with key messages and end with recommendations derived from the results.

Section 2: Background

This section will provide a brief summary of the origin, the conceptual foundation of Farmers’ Rights, the provisions on Farmers’ Rights in the International Treaty, intersessional work and the resolutions adopted by the Governing Body, and brief references to developments relating to Farmers’ Rights in other relevant international fora.

Section 3: Introduction

This section will provide the introduction to the assessment, with focus on purpose and scope:

- The purpose of the assessment is to assess the implementation of Article 9 of the International Treaty on Farmers’ Rights with a particular focus on the state of implementation of Article 9 of the International Treaty, experiences in this regard, as well as gaps and needs. The findings will serve as a basis for the Governing Body to consider further work for the realization of Farmers’ Rights.
- The scope of the assessment covers:
 - the implementation of the provisions of Article 9
 - the resolutions on Farmers’ Rights adopted by the Governing Body
 - any activities and measures undertaken among the Contracting Parties with regard to Options for encouraging, guiding and promoting the realization of Farmers’ Rights as published by the Secretariat of the International Treaty upon the request of the Governing Body.

The assessment will be carried out during the biennium 2023-2025 and presented to the Governing Body of the International Treaty at its 11th Session. It may cover implementation since the entry into force of the Treaty, but should emphasize the current status

Section 4: Methodology and Approach

This section will present the assessment methodology and approach:

- The methodology will be inclusive and participatory includes:
 - An assessment of relevant documents (national compliance reports from Contracting Parties with focus on Article 9, Question 19⁴ and other relevant information provided in the National Reports; National reports provided on the implementation the Global Plan of Action on Plant Genetic Resources for Food and Agriculture and the State of World's Plant Genetic Resources for Food and Agriculture, the Inventory of national measures, best practices and lessons learned from the realization of Farmers' Rights⁵, as set out in Article 9 of the International Treaty and any other relevant documents.
 - An assessment of the efforts undertaken by the Commission on Genetic Resources for Food and Agriculture in examining the "Impact of Seed Policies, Laws, and Regulation on Farmers' Ability to Access Seeds and Planting Materials of Diverse, Locally Adapted Farmers' Varieties/Landraces" (CGRFA-19/23/Report) of relevance for the assessment
 - A multistakeholder survey among Contracting Parties in all regions to complement the information at hand, following the example of the 'bottlenecks study'
 - A complementary literature and document review covering literature and documents relevant to assessing implementation at the national level (to be synthesized to the regional level)
 - A selection of country case studies, subject to the availability of financial resources
 - Regional multi-stakeholder consultations for validation of the results and deriving recommendations
- The approach covers:
 - The measures that have been introduced for the implementation of Farmers' Rights
 - The processes that have been carried out in this regard
 - Enabling legal, policy and institutional environments
 - Experiences and lessons learned so far
 - Measures limiting the realization of Farmers' Rights
 - Prospects and plans for further implementation of Farmers' Rights
 - Gaps and needs with regard to the realization of Farmers' Rights

Section 4: The State of Implementation of Farmers' Rights in accordance with Article 9 of the International Treaty

This section will present the state of implementation of Farmers' Rights by region resulting from the analysis, as set out in the methodology and approach. It will summarize quantitative as well as qualitative findings. An example of how to gather quantitative data with regard to Farmers' Rights is attached in Appendix 1.

To complement the analysis, the work of different international organizations and bodies in support of the realization of Farmers' Rights **in accordance with Article 9 of the International Treaty**, such as UN bodies, CG centers, civil society organizations, and public and private sectors, operating at different levels, shall also be included in this section.

This section will be structured by region, accompanied by data and figures, and thematic studies, as appropriate:

- Africa
- Asia
- Europe
- Latin America and the Caribbean
- Near East
- North America
- South West Pacific

Section 5. Summary and Recommendations

This section will present the summary and recommendations

Appendix 1: How to gather quantitative data with regard to Farmers' Rights – an example

Implementation of Article 9.3

Are farmers in the country allowed to...:	... of varieties protected with plant breeders' rights?	... of other varieties registered in official lists?	... of varieties and population that are not registered?	Comments
... save farm-saved seed...				
... use farm-saved seed at their farms...				
... exchange farm-saved seed with other farmers				
... sell farm-saved seed to other farmers				

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
2: Information and data analysis, drafting of the first assessment	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region ⁶	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	

⁴ National Reports (www.fao.org/plant-treaty/areas-of-work/compliance/compliance-reports/en/), Question 19, 19A and B of the Compliance Report

⁵ Inventory of national measures, best practices and lessons learned from the realization of Farmers' Rights, as set out in Article 9 of the International Treaty (www.fao.org/plant-treaty/areas-of-work/farmers-rights/inventory-on-firs/en/)

⁶ Seven Regional Assessment Reports shall be part of the Assessment Report

*Appendix 3***Madagascar****General Comments****1. Application des droits des agriculteurs tels qu'énoncés à l'article 9 à Madagascar**

Bien que Madagascar ait ratifié le Traité en 2006, reconnaissant les droits des agriculteurs, l'application de l'article 9, qui traite de ces droits, constitue toujours un défi majeur pour le pays.

La considération des droits des agriculteurs et de leur rôle dans la conservation et l'utilisation durable des Ressources Phytogénétiques pour l'Alimentation et l'Agriculture (RPGAA), ainsi que pour la sécurité alimentaire nationale, n'est pas actuellement une priorité du gouvernement malgache.

La participation des agriculteurs dans la prise de décisions concernant des sujets qui les touchent demeure limitée.

Madagascar ne dispose pas encore de textes juridiques relatifs aux droits des agriculteurs. L'élaboration d'un cadre juridique visant à protéger et renforcer les droits des agriculteurs pour conserver, utiliser, échanger et vendre les semences de ferme constitue un défi à relever. Il est à noter que le pays possède une loi n°94-038 du 05 janvier 1995 relative à la législation semencière.

Selon cette loi, le Service Officiel de Contrôle des Semences et du matériel végétal (SOC) a été créé au sein du Ministère de l'Agriculture et est chargé du contrôle de la qualité et de la certification des semences à l'échelle nationale malgache. Les activités du SOC comprennent la certification des semences et l'homologation des variétés. Seules les variétés homologuées peuvent être multipliées en tant que semences certifiées.

Le processus d'homologation soumet la variété à des tests DHS (Distinction, Homogénéité, Stabilité) et VATE (Valeurs Agronomiques, Technologiques et Environnementales). En cas de résultats satisfaisants, l'homologation conduit à l'inscription de la variété au Catalogue National des Espèces et Variétés (CNEV) cultivées à Madagascar.

Une fois inscrite au CNEV, une variété peut être multipliée pour la production de semences certifiées. Cependant, les procédures complexes et les exigences strictes représentent des défis considérables pour les petits agriculteurs. L'agrément technique est indispensable pour toute personne physique ou morale souhaitant exercer des activités semencières, selon son statut (Paysan Multiplicateur de Semences, Association de Producteurs de Semences, Société Semencière, Centre de Multiplication de Semences, Institution de Recherche sur les Semences).

L'obtention de l'agrément se fait par le biais d'une carte professionnelle appelée "Permis d'Activités Semencières" (PAS), valable trois ans et renouvelable. Cependant, ces conditions posent des difficultés aux petits agriculteurs, confrontés à des obstacles administratifs et financiers les empêchant souvent de satisfaire aux exigences pour devenir des établissements semenciers agréés.

La législation semencière de Madagascar, avec ses textes réglementaires sur la diffusion des variétés et la certification des semences et du matériel de multiplication des plantes, constitue ainsi un obstacle aux droits des agriculteurs d'échanger et de vendre des semences de ferme sur le territoire malgache.

La majorité des agriculteurs éprouvent des difficultés à fournir la documentation nécessaire à l'homologation et à la certification des semences.

Ces réglementations entravent souvent les agriculteurs dans la préservation de leurs semences et dans l'utilisation durable de la diversité génétique des cultures. Les arguments en faveur de la politique semencière mettent l'accent sur la nécessité incontournable de professionnaliser le secteur semencier et d'assurer la qualité des semences et la santé des plantes.

Cependant, en raison de la flexibilité de l'application de la loi semencière à l'égard des paysans, ces derniers parviennent tant bien que mal, pour le moment, à reproduire, vendre et échanger leurs semences traditionnelles à travers les marchés locaux.

Il convient également de noter que Madagascar dispose d'un Registre des Espèces et Variétés dans le "Système des Semences de Qualité Déclarée" dans le Sud de Madagascar, qui prend en compte les variétés traditionnelles et locales. Ce registre classe les variétés issues de la recherche nationale ou internationale dans la liste A, et les variétés locales dans la liste B après validation par le Comité Régional Consultatif d'Inscription des Variétés (CRCIV).

Les outils élaborés pour mettre en œuvre les droits des agriculteurs, tels que les banques de semences communautaires, les registres communautaires de la biodiversité et le Protocole bio culturel, ne sont pas reconnus au niveau régional et restent limités au niveau village/hameau et communal, nécessitant une redynamisation.

2. Commentaires généraux sur l'avancement au niveau des régions/niveau mondial

- Une compréhension partagée de l'importance de l'espace juridique/de cadre juridique émerge actuellement parmi les parties prenantes, alimentée par une reconnaissance croissante de la contribution vitale des agriculteurs à la conservation et à l'utilisation durable des ressources phytogénétiques pour l'alimentation et l'agriculture (RPGAA), ainsi que par une attention accrue portée aux effets néfastes de certaines formes de convention législation aussi bien au niveau national qu'international. Cependant, des divergences d'opinions persistent quant à la portée de l'espace juridique nécessaire pour protéger adéquatement les petits agriculteurs dans ce contexte.
- La reconduction de l'AHTEG pour l'exercice biennal actuel et l'évaluation de l'avancement de l'application de l'article 9 ne sera qu'un "compromis", faisant référence à des accords ou résolutions dans lesquels les parties contractantes impliquées acceptent de faire des concessions mutuelles en vue d'atteindre un consensus. Cette approche peut entraîner un manque de progrès ou des difficultés dans la prise de décisions et le fonctionnement futur de l'AHTEG. En d'autres termes, des inquiétudes subsistent quant à la capacité de l'AHTEG à progresser efficacement en raison des compromis nécessaires.
- Lorsque l'on réfléchit à l'état d'avancement de la concrétisation des droits des agriculteurs, on est amené à penser que le Traité est actuellement confronté à un déséquilibre de droits : des droits exclusifs et individuels pour les multinationales par rapport à des droits inclusifs et collectifs pour les agriculteurs.
- Dans ce contexte, il est tout à fait envisageable de mettre en place, de manière similaire au Système Multilatéral, un Groupe de travail spécial à composition non limitée chargé d'évaluer l'avancement de l'application de l'article 9, en incluant davantage les associations/fédérations paysannes agriculteurs. Ce groupe pourrait déterminer, examiner en détail les mesures susceptibles de restreindre la concrétisation des droits des agriculteurs, tels que les droits de propriété intellectuelle, les Conventions UPOV, etc

Commentaires/Contributions/Suggestions spécifiques

Remarque: Il n'est pas nécessaire de remplir la colonne 2 du tableau 1; le Secrétariat organisera le calendrier.

Tableau 1. Méthodologie et calendrier indicatifs pour procéder à l'évaluation de l'avancement de l'application des droits des agriculteurs à la onzième session de l'Organe directeur

COLLECTE D'INFORMATIONS, COLLECTE ET ANALYSE DE DOCUMENTS	2024-2025
1: Organisation, collecte de ressources d'information et examen de toutes les informations disponibles.	
Collecte et évaluation des informations 2 figurant dans les documents suivants: <ul style="list-style-type: none"> • Rapports nationaux relatifs à l'application du Traité international 3 • Inventaire 4 • Plan d'action mondial, et • Autres documents pertinents 	

<p>Au cours de cette phase, on se servira des critères établis pour recenser, regrouper et organiser les informations disponibles sur l'application des droits des agriculteurs au niveau national, notamment sur les différentes mesures 5 et pratiques mises en œuvre, les difficultés rencontrées et d'autres questions soulevées par la concrétisation des droits des agriculteurs.</p> <p>Les informations pertinentes et utiles qui peuvent figurer dans les rapports seront prises en compte selon qu'il conviendra.</p> <p>Suggestions sur la manière de pouvoir inclure des mesures qui limiteraient la concrétisation des droits des agriculteurs.</p> <p>On pourrait ajouter le questionnaire complémentaire ci-après :</p> <ul style="list-style-type: none"> • Est-ce qu'il y a des lois des pays qui criminalisent (amendes, prison) les paysans pour mettre en circulation leurs semences ? • Combien/quels pays ont ratifiés UPOV91 (sous pression)? • Combien/quels pays sont soumis à des cadres régionaux « harmonisés » pour adapter leurs contextes juridiques nationaux ? • Combien/quelles semences GM mises en circulation risquent de contaminer les semences paysannes ? • Comment/combien les politiques publiques incitées promeuvent les semences industrielles commerciales sous DPI et les produits chimiques qui vont avec tuent la diversité et empoisonnent/détruisent les systèmes agroalimentaires, les systèmes d'existences des peuples ? • Combien/quels pays prennent connaissance et traduisent l'UNDROP et autres instruments relatifs aux droits de l'Homme ? 	
<p>2: Analyse des informations et des données, rédaction de la première évaluation</p>	
<p>Examen des communications reçues par pays, et par région</p> <ul style="list-style-type: none"> • Préparation des études de cas et études thématiques sur la base des dispositions relatives aux droits des agriculteurs (c'est-à-dire le paragraphe 9.1, les alinéas 9.2a à c et le paragraphe 9.3), dans le cadre de l'élaboration des évaluations sur l'état d'avancement par région. . 	
<p>PRÉSENTATION RÉGIONALE</p>	
<p>3: Présentation et validation des rapports d'évaluation, par région ⁷</p>	
<p>Des présentations régionales seront organisées sous forme de webinaires ou de réunions en format hybride dans chaque région. Elles viseront à présenter et à faire valider les évaluations régionales préliminaires et, le cas échéant, à recueillir d'éventuelles contributions supplémentaires.</p> <ul style="list-style-type: none"> • Regroupement et intégration de l'ensemble des retours d'informations recueillis par région. <p>Achèvement de l'évaluation sur l'avancement de la mise en application des droits des agriculteurs</p>	
<p>SYNTHÈSE ET RÉDACTION DE L'AVANCEMENT DE L'APPLICATION DES DROITS DES AGRICULTEURS</p>	
<p>4: Examen des évaluations par région et mise à jour, si nécessaire</p>	
<p>Préparation du (premier) rapport d'évaluation sur l'avancement de la mise en application des droits des agriculteurs</p> <p>Janvier à mars 2025</p> <ul style="list-style-type: none"> • Présentation du rapport d'évaluation sur l'avancement de la mise en application des droits des agriculteurs à l'Organe directeur à sa onzième session 	

⁷ Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 4

United States of America

General Comments

The United States appreciates the opportunity to provide feedback on the Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty. Below please find general comments and feedback on the draft outline:

- We believe that the development of recommendations would be outside the scope of the assessment. The Governing Body did not request for the AHTEG to make recommendations as part of the assessment. Paragraph 1(ii) of the AHTEG Term of Reference refers to “conclusions”, which would be more akin to key findings or key messages. Therefore, any mention of “recommendations” should be struck from the draft outline.
- In all instances where the draft outline refers to Farmers Rights, it should be clarified that these are Farmers’ Rights as set out in Article 9 of the Treaty. As there is no definition of a “farmers’ right” we must be clear about that which the group is speaking.

Specific Comments/Inputs/Suggestions

Section 3B – Criteria

- Under item 1 (*General guiding questionnaire*), bullets 2 and 3, for clarity, we recommend to replace “it” with “Article 9 of the Treaty”, as shown below:
 - How many countries have fully implemented ~~#Article 9 of the Treaty?~~
 - How many countries have partially implemented ~~#Article 9 of the Treaty?~~
- Under item 2 (Supplementary questionnaire), the second bullet could be improved by making it clear that this refers to measures and practices that have been undertaken or implemented to protect and promote farmers’ rights as set out in Article 9 of the Treaty. In this bullet, we suggest to replace the word “cited” with “enacted”.
- In the fourth bullet under item 2, we believe this should focus in on Article 9.2 (as this is the only portion of Article 9 containing provisions that one could implement (i.e., take measures to protect and promote). Alternatively, this point could instead ask more broadly about “challenges encountered in protecting and promoting farmers’ rights” (removing reference to specific “provisions”).

Section 3C – Sources of Information

- We recommend striking the final bullet under this section (“other relevant sources of information, as appropriate”). The sources listed are sufficient to take stock of progress that has been made by parties in implementing Article 9 of the Treaty, and we would seek to avoid inviting a debate on appropriateness of alternative sources of information.

Section 5 – Summary and Recommendations

- As stated above, we do not believe that the AHTEG has a mandate to develop recommendations as part of the assessment. We would delete “and recommendations”, or replace this with “ and key findings”.

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

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1: Organizing, gathering information resources and reviewing all the available information.	

2: Information and data analysis, drafting of the first assessment	
<ul style="list-style-type: none"> • Regarding the second bullet in the draft table, we note that provisions of 9.1 and 9.3 do not require “implementation.” Art. 9.1 is a self-executing recognition by the contracting parties of farmers’ contributions. Art. 9.3 is a clarifying clause and bestows no legal rights. Suggested edits below: <ul style="list-style-type: none"> ○ Preparation of Case/thematic studies based on Article 9 Farmers’ Rights’ provisions (i.e., Article 9.1; 9.2a to e and 9.3) while drafting, writing the state of implementation by region. 	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region⁸	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS’ RIGHTS	
4: Review the assessments by region, and update if necessary	

⁸ Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 5

Canada

General Comments
<ul style="list-style-type: none"> • It was unclear whether comments were to include remarks related to the first section of Annex 1 of the Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty. For the Secretariat's convenience, please find below comments on the aforementioned portion of Annex 1. • Request the secretariate to take into consideration the work that the Commission on Genetic Resources for Food and Agriculture is undertaking regarding the "Impact of Seed Policies, Laws, and Regulations on Farmers' Ability to Access Seeds and Planting Materials of Diverse, Locally Adapted Farmers' Varieties/Landraces" (CGRFA-19/23/Report APPENDIX D). • It is important to increase focus on the rights outlined in Article 9.2, particularly emphasizing 9.2(c), which speaks to farmers participation in decisions regarding the conservation and sustainable utilization of plant genetic resources for food and agriculture. In light of the escalating climate crises, the significance of Article 9.2(c) is amplified, especially with the introduction of new policies and legislation aimed at addressing climate change that directly impacts farmers.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
<p>1: Organizing, gathering information resources and reviewing all the available information.</p> <p><u>Text of Annex 1 Table 1 of Resolution 7/2023</u></p> <p><i>Gathering and assessing information contained in the:</i></p> <ul style="list-style-type: none"> • National Compliance Report • Inventory • Global Plan of Action, and • Other relevant documents <p><i>In this phase, the established criteria will help to identify, consolidate and organize the information on the implementation of Farmers' Rights, such as the different measures and practices implemented, challenges, and other issues confronting the implementation of Farmers' Rights, at the national level. Any relevant and useful information indicated in the Reports, shall be included as appropriate.</i></p> <p><u>COMMENTS</u></p> <ul style="list-style-type: none"> • It is recommended to provide the Ad Hoc Expert Group on Farmers' Rights (AHTEG-FR) an opportunity to offer feedback on the criteria outlined in the initial section of Annex 1. This may facilitate the incorporation of differing perspectives and expert insights. • Sending the General Guiding Questionnaire and Supplementary Questionnaire (as mentioned in the first section of Annex 1) to contracting parties for their input would be highly beneficial. Relying on the Compliance Report and the Inventory might impose limitations, as not all contracting members may have provided equal amounts of information/input. • In the following sentence "...other issues confronting the implementation of Farmers' Rights", the underlining tone suggests that any challenge facing the implementation of Article 9 is inherently negative. However, it's crucial to recognize that not all obstacles to implementing Article 9 are negative; some may actually serve to uphold the greater societal good, such as seed laws aimed at ensuring good quality seed. 	

2: Information and data analysis, drafting of the first assessment	
<p><u>Text of Annex 1 Table 1 of Resolution 7/2023</u></p> <ul style="list-style-type: none"> • Reviewing the submission by country, and by region • Preparation of Case/thematic studies based on Farmers' Rights' provisions (i.e., Article 9.1; 9.2a to c and 9.3) while drafting, writing the state of implementation by region <p>COMMENTS</p> <ul style="list-style-type: none"> • Point 1 (Reviewing the submission by country, and by region) has a footnote stating that "Given the regional differences and specificities, a regional approach may be undertaken." This is confusing. Should it read, "Given the regional differences and specificities, should a 'country' approach be taken?" • When discussing Article 9.3, there should be recognition given to the fact that Article 9.3 allows for contracting parties to legislate the scope of the ability of farmers to save, use, exchange and sell farm-saved seed. This could be due to phytosanitary rules under International Plant Protection Convention (IPPC), assurances of high quality seed under the Organisation for Economic Cooperation and Development (OECD) seed systems, intellectual property rights under The International Union for the Protection of New Varieties of Plants (UPOV), or another sui generis form of plant variety protection. 	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region⁹	
<p><u>Text of Annex 1 Table 1 of Resolution 7/2023</u></p> <ul style="list-style-type: none"> • Regional presentation will be organized through webinars, or hybrid meetings, for each region to present and validate the preliminary regional assessment, and gather any additional inputs, if there is. • Consolidation and integration of all the feedback gathered by region. • Finalize the assessment of the state of implementation of Farmers' Rights, by region. <p>COMMENTS</p> <ul style="list-style-type: none"> • Suggest reaching out to contracting parties' focal points when preparing the regional presentations in order to provide an additional step of validation. 	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	
<p><u>Text of Annex 1 Table 1 of Resolution 7/2023</u></p> <ul style="list-style-type: none"> • Preparation of the (first) Assessment of the State of Implementation of Farmers' Rights • Presentation of the Assessment, of "the State of Implementation of Farmers' Rights" to the Governing Body at the Eleventh Session <p>COMMENTS</p> <ul style="list-style-type: none"> • As noted in the comments on Part 1 of Annex 1, it is suggested that the assessment focuses solely on providing an analysis of the current state of Farmers' Rights implementation and refrains from making recommendations. 	

⁹ Seven Regional Assessment Reports shall be part of the Assessment Report

Please find below comments on the first section of entitled Annex 1 Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty

Suggested edits in RED

Comments in BLUE

ANNEX 1

Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty

Section 1: Executive Summary

This section will present the summary results of the assessment. It will have key findings/key messages **and recommendations**.

As per enabling paragraph 12 of Resolution 7/2022:

the Secretary, subject to the availability of financial resources, to make an assessment on the state of implementation of Article 9 of the International Treaty and to present criteria and an outline of the assessment at its Tenth Session and the full report at its Eleventh Session; such assessment should be based on the compliance reports and on submissions in the Inventory as well as on other relevant information;

There is no mention of 'making recommendations' in the enabling paragraph. Therefore, it is proposed to remove this portion from the executive summary as it goes beyond the scope of the enabling paragraph. Furthermore, making recommendations could be interpreted as encroaching on a contracting party's sovereignty regarding the implementation of Farmers' Rights, as this responsibility rests with national governments.

It will provide a brief summary of the assessment of the state of implementation by region.

Section 2: Background and Introduction

This section will provide a brief summary of the origin, the conceptual foundation of Farmers' Rights, developments, and the resolutions adopted by the Governing Body, and this may include noting the developments or considerations on Farmers' Rights from other relevant fora.

This section will also provide the introduction, purpose, scope, and limitations or uncertainties associated with the analysis.

- A. Staying informed about developments in other fora is pertinent, however ensuring adherence to the outlined scope of Article 9 of the Plant Treaty remains imperative.**

Section 3: Methodology and Approach

This section will present the assessment methodology and approach. It will include the following:

A. Methodology and timeframe

General description of the methodology. The detailed methodology and timeframe are provided in Table 1.

B. Criteria

Base criteria: Questions 19, 19A and B of the Compliance Report, and the additional information, as provided by the Contracting Parties.

Support the concept, however, concerned that a lot of the information in the compliance report is out of date. Suggest going back to Contracting Parties and ask for updates on Questions 19, 19A and B to ensure we have the most up-to-date information. This could also feed into future work on Compliance.

Scope of assessment: focus on Article 9 of the International Treaty

The assessment shall use the general guiding and supplementary questionnaire criteria, such as:

General guiding questionnaire

In conducting the assessment of the state of implementation of Farmers' Rights, it will be guided by the following questionnaire criteria:

- Have Contracting Parties taken **any** measures to protect and promote Farmers' Rights?
- ~~○ How many countries have fully implemented it?~~
- ~~How many countries have partially implemented it?~~
What does "fully implemented OR partially implemented" mean? Keeping in mind that the implementation of Article 9 could vary from country to country based on national priorities.
- How many countries have **adopted** policies and legal measures to implement Farmers' Rights?
- How many countries have implemented or linked the implementation of Farmers' Rights to broader national development agenda, action plans or programmes?

2. *Supplementary questionnaire:*

- What are the efforts/ways/means/modes of protecting and promoting the implementation of Farmers' Rights undertaken by the Contracting Parties and stakeholders? The information shall be summarized and presented following the existing typologies in the Inventory.
- ~~○ What are the most frequently cited measures and practices of protecting and promoting Farmers' Rights?~~
Due to the voluntary nature of the inventory, emphasizing the most frequently mentioned measures and practices may introduce a potential bias.
- What are the lessons learned from the implementation of Farmers' Rights?
- What are the challenges and difficulties encountered in implementing the provisions of Article 9?
- Any other supplemental or relevant information from the national reports, shall be included in the summary.

C. Source of Information

This section will explain what information sources were used for the assessment and describe each of them briefly.

The assessment of the state of implementation of Farmers' Rights will utilize the available information resources, such as the:

- Compliance Reports (Article 9, Questions 19 and other relevant information provided in the National Reports.
- The Inventory of national measures, best practices and lessons learned from the realization of Farmers' Rights, as set out in Article 9 of the International Treaty, shall also be used as a data source for the assessment, taking into account the details and information presented by the Contracting Parties and stakeholders.
- other relevant sources of information, as appropriate
All other sources should be documented

Section 4: The State of Implementation of Farmers' Rights

This section will present the state of implementation of Farmers' Rights by region resulting from the analysis. It will summarize the work and initiatives of the Contracting Parties and stakeholders, such as legal and policy measures, technical programmes and other means undertaken to protect and promote the realization of Farmers' Rights.

Lessons learned from the realization of Farmers' Rights, and the challenges encountered by the Contracting Parties and stakeholders in protecting and promoting the realization of Farmers' Rights shall also be summarized.

~~To complement the analysis, the work of different international organizations and bodies in support of~~

~~the realization of Farmers' Rights, such as UN bodies, CG centers, civil society organizations, and public and private sectors, operating at different levels, shall also be included in this section~~

Doing this (above paragraph) really expands the scope of the assessment. This could possibly be reviewed after the completion of the assessment.

This section will be structured by region, accompanied by data and figures, and thematic studies, as appropriate:

- Africa
- Asia
- Europe
- Latin America and the Caribbean
- Near East
- North America
- South West Pacific

****It is important that any region or country specific information included allows for thorough review by the respective country or region prior publication****

Section 5. Summary ~~and Recommendations~~

This section will present the summary ~~and recommendations~~.

Making recommendations was not agreed upon in Resolution 7/2022. The implementation of Farmers' Rights rests with national governments (Article 9.2)

B. Appendices

Glossary of Terms and Definitions Used in this document

Thematic Studies (case studies), produced during the assessment, as appropriate.

Appendix 6**Panama****Observaciones generales**

Son necesarios instrumentos guías para abordar el tema Derechos del Agricultor, de manera más precisa considerando que, las Partes Contratantes tienen diferentes enfoques sobre la implementación de los Derechos del Agricultor a nivel países.

Comentarios/opiniones/sugerencias específicas

Nota: No es necesario rellenar la columna 2 del cuadro 1; la Secretaría organizará el calendario.

Cuadro 1. Metodología indicativa y calendario para la preparación del Estado de evaluación de la implementación de los derechos del agricultor en la Undécima Reunión del Órgano Rector.

RECOPIACIÓN DE INFORMACIÓN Y ANÁLISIS DE DOCUMENTOS	2024-2025
1: Organizar, recopilar información y revisar toda la documentación disponible.	
*Diseñar un instrumento (cuestionarios o formularios) más amigable en el tema de los informes de cumplimiento. *Diseñar un instrumento para poder evaluar inventarios, PAM y otros documentos de interés, con miras de determinar, si la implementación de los Derechos del Agricultor, se cumplen entre las partes contratantes, considerando los desafíos u otros problemas que no permiten su ejecución a nivel de país.	
2: Análisis de la información y datos, redacción de la primera evaluación	
*Diseñar instrumentos (cuestionarios o formularios) que permitan la evaluación de las Partes Contratantes, con respecto a los análisis de documentos.	
PRESENTACIÓN REGIONAL	
3: Presentación y validación de los informes de evaluación, por regiones ¹⁰	
*Realizar reuniones de trabajo virtuales o presenciales, con la finalidad que, en países y regiones, se puedan sugerir, modificar o validar, las evaluaciones presentadas para consensos. *Solicitar que los instrumentos de trabajo (cuestionarios) sean más amigables para complementar, considerando que, algunos agricultores utilizan las nuevas tecnologías informáticas. *Realizar consultas por países y luego regionales, que permitan evaluar el Estado de implementación de los Derechos del Agricultor.	
SÍNTESIS Y REDACCIÓN DEL ESTADO DE IMPLEMENTACIÓN DEL DERECHO DE LOS AGRICULTORES	
4: Revisar las evaluaciones por región y actualizarlas si es necesario.	
*Realizar consultas por países y luego regionales, que permitan evaluar el Estado de implementación de los Derechos del Agricultor, con instrumentos referentes.	

¹⁰ Siete Informes Regionales de Evaluación formarán parte del Informe de Evaluación

Appendix 7**Guatemala****Observaciones generales**

Se debe de asegurar que los cuestionarios sean respondidos por las personas vinculadas al tema del TIRFAA en cada una de las partes contratantes, para asegurar el flujo correcto de la información.

Comentarios/opiniones/sugerencias específicas

Nota: No es necesario rellenar la columna 2 del cuadro 1; la Secretaría organizará el calendario.

Cuadro 1. Metodología indicativa y calendario para la preparación del Estado de evaluación de la implementación de los derechos del agricultor en la Undécima Reunión del Órgano Rector.

RECOPIACIÓN DE INFORMACIÓN Y ANÁLISIS DE DOCUMENTOS	2024-2025
1: Organizar, recopilar información y revisar toda la documentación disponible.	
2: Análisis de la información y datos, redacción de la primera evaluación	
Los estudios de caso deben de vincularse a las medidas jurídicas que se establecen en el inventario publicado; ya que son algunas de estas las que limitan la implementación de los Derechos de los Agricultores.	
PRESENTACIÓN REGIONAL	
3: Presentación y validación de los informes de evaluación, por regiones ¹¹	
SÍNTESIS Y REDACCIÓN DEL ESTADO DE IMPLEMENTACIÓN DEL DERECHO DE LOS AGRICULTORES	
4: Revisar las evaluaciones por región y actualizarlas si es necesario.	

¹¹ Siete Informes Regionales de Evaluación formarán parte del Informe de Evaluación

Appendix 8**Niger****General Comments**

Pour la partie questionnaire nous recommandons que les concernés soient impliqués et interrogés. Cela doit être approfondie en touchant surtout les agriculteurs, les juristes, les points focaux du TIRPAA, la société civile et autres personnes ressources. Toutes ces différentes catégories doivent être impliquées dans la réalisation de cette activité.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<ul style="list-style-type: none"> ✓ Combien/quelles sont les pays dont leurs lois criminalisent (amendes, prison) les paysans pour avoir vendre leur propre semence ? ✓ Quelles sont les mesures prises par les pays qui limitent la réalisation concrète des droits des agriculteurs tels qu'énoncé and l'article 9 du traité ? ✓ Quels sont les pays qui sont d'accord pour la coopération Sud-Sud afin d'ajuster leur loi ou autres mesures juridiques pour la concrétisation réelle des droits des agriculteurs ? ✓ Quels sont les pays qui ont tirés leur loi semencière ou autres politiques semencières auprès des cadres régionaux ou internationaux ? ✓ Quels (voire même pourcentage) sont les pays dont l'agriculteur n'a pas le moindre droit de vendre leurs semences et il n'existe aucune mesure juridique qui reconnaît leurs semences. 	
2: Information and data analysis, drafting of the first assessment	
Impliquer les concernés premiers qui sont les agriculteurs.	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region¹²	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	
Nous souhaiterions que toutes les parties clés soient représentées activement avec une forte participation des agriculteurs	

¹² Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 9**Argentina****Plantilla de propuestas/comentarios/sugerencias****Borrador del informe sobre la evaluación del estado de implementación del Artículo 9 del Tratado Internacional ¹³****Observaciones
generales**

Consideramos que la metodología propuesta es adecuada. Se envían comentarios específicos para cada una de las etapas previstas que se espera puedan ser de utilidad y contribuyan a la elaboración del informe solicitado por el Órgano Rector.

Comentarios/opiniones/sugerencias específicas

Nota: No es necesario rellenar la columna 2 del cuadro 1; la Secretaría organizará el calendario.

Tabla 1. Metodología indicativa y calendario para la preparación del Estado de evaluación de la implementación de los derechos del agricultor en la Undécima Reunión del Órgano Rector.

RECOPIACIÓN DE INFORMACIÓN Y ANÁLISIS DE DOCUMENTOS	2024-2025
1: Organizar, recopilar información y revisar toda la documentación disponible.	
Podrían incluirse además de las fuentes de información mencionadas, información relevante obtenida a partir de los proyectos del Fondo de Distribución de Beneficios del TIRFAA. También podría solicitarse información a los representantes de las organizaciones que agrupan a agricultores que participan en las reuniones del OR y/o en las reuniones de los órganos subsidiarios en los que se tratan temas relacionados a la implementación de los derechos de agricultor.	
2: Análisis de la información y datos, redacción de la primera evaluación	

¹³ El texto completo del Anexo 1 figura en las páginas 4 a 6 de la Resolución 7/2023, disponible en: www.fao.org/3/no031en/no031en.pdf

Sería recomendable poder vincular la información relevada por región con la forma en que ha ido cambiando la misma en el tiempo, de manera de poder observar si se ha mejorado la implementación de los derechos del agricultor en el tiempo por región. Además, sería valioso conocer las contribuciones de información por sector (autoridad aplicación, organizaciones de productores, instituciones estatales, entre otros) y contar con una sección en la que se indique si hubo aporte de información relacionada a medidas que limitan la implementación de derechos del agricultor, por región y por país, con ejemplos, en el caso de que esto sea posible.	
PRESENTACIÓN REGIONAL	
3: Presentación y validación de los informes de evaluación, por regiones ¹⁴	
Se solicita que el cronograma con las fechas en las que se realizarán los webinarios o reuniones para la presentación y validación de los informes regionales sea compartida con suficiente antelación, de manera de garantizar una amplia participación de sectores interesados vinculados a la implementación de los derechos del agricultor. También se podría realizar un diagrama en el que se indique el proceso y plazos previstos para la presentación de los informes, la recepción e incorporación de comentarios y/o sugerencias y quienes serán los participantes en cada instancia del proceso (presentación, aportes, revisión).	
SÍNTESIS Y REDACCIÓN DEL ESTADO DE IMPLEMENTACIÓN DEL DERECHO DE LOS AGRICULTORES	
4: Revisar las evaluaciones por región y actualizarlas si es necesario.	
Sería útil conocer cómo se prevé realizar las actualizaciones necesarias y si para ello se realizarán consultas con expertos regionales.	

¹⁴ Siete Informes Regionales de Evaluación formarán parte del Informe de Evaluación

*Appendix 10***Switzerland****General Comments**

Switzerland appreciates the proposed outline of the assessment of the implementation of the Farmers' Rights as proposed in the Resolution 7/2023.

We would appreciate however that the draft outline would indicate with more details the roles and responsibilities of the Secretariat and the AHTEG for each of the proposed steps.

It is also important that the case studies on the implementation of Farmers' Rights form an integral part of the information to be gathered in order to prepare the regional assessments and should therefore be reflected accordingly.

Finally, Switzerland would propose to add a chapter on the elaboration of a Consolidated Synthesis Report on the implementation of FR globally, and not just per region. Based on the data and analysis gathered, and allowing for the very specific national and regional contexts, global lessons and recommendations are surely also possible.

The AHTEG would have an important role in reviewing this synthesis chapter.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<p>This chapter also needs to include the in-depth case studies of the implementation of Farmers' Rights.</p> <p>Such case studies will complement the information included in the National Compliance Report, the Inventory, as well as the Global Plan of Action, which were already indicated in the draft Outline to be part of this chapter.</p> <p>As mentioned in the general comments, it would also be important that the draft Outline indicates in detail the different roles and responsibilities of the Secretariat, the AHTEG as well as eventually other experts (consultants) for each step.</p>	
2: Information and data analysis, drafting of the first assessment	

<p>This chapter should include the following steps:</p> <ol style="list-style-type: none"> 1) Review of the National Compliance Reports, the Inventory and the Global Plan of Action as provided by the members states 2) Review the Case Studies by the AHTEG and/or experts (consultants) 3) Establish a regional review and draft an assessment by region, which includes all the information gathered as above. Who will conduct these regional reviews needs to be clearly defined. 	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region¹⁵	
<p>The methodology as proposed in the draft Outline is fine. We particularly appreciate that the regional presentations will be organised virtually.</p> <p>However, Switzerland would appreciate if the draft outline would detail roles and responsibilities of the Secretariat and the AHTEG for each one of the proposed steps. For example, it is the AHTEG or the Secretariat who will finalise the regional assessments? Who will be consulted for each region?</p>	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update	
<p>This chapter should be further elaborated. The review and update of the regional assessments is one important step in which the AHTEG should also be involved. However, we would propose to add another topic which is the elaboration of a global consolidated review which takes draws lessons from all the 7 regional reviews. This step is not yet clearly mentioned in the draft outline, and we would suggest that the AHTEG would have role for this as well.</p>	

¹⁵ Seven Regional Assessment Reports shall be part of the Assessment Report

*Appendix 11***Sahabat Alam Malaysia (Friends of the Earth) and the Consumers Association of Penang (CAP), Malaysia*****General Comments***

Sahabat Alam Malaysia (SAM) and the Consumers' Association of Penang (CAP) welcome the decision of the Governing Body in Resolution 7/2022 for the Governing Body to "make an assessment on the state of implementation of Article 9 of the International Treaty". This assessment, if done correctly can serve as a pivotal source of information, empowering the Governing Body to make informed decisions regarding its future work. Furthermore, it can aid Parties in effectively implementing Article 9 of Treaty, thereby safeguarding the full realization of Farmers' Rights. We note that Resolution 7/2023 is seeking comments on the annotated outline contained in Annex 1 of the Resolution including "suggestions on how measures limiting the realization of Farmers' Rights could be included". With respect to the criteria for assessment, we are of the view that the proposed criteria is too general and vague and thus inadequate for the assessment. For example what is meant by "fully implemented" and "partially implemented". It would be better to be more specific. For e.g. which countries allow farmers the right to freely without restriction to save seeds, which countries allow farmers to freely exchange farm-saved seeds and which countries allow farmers to sell farm-saved seeds. On each of these, if restrictions are placed on Farmers' rights, what are the restrictions. This may also vary according to legislation that is being referred to. With respect to the source of information, it should not be limited to the compliance report or to information only provided by contracting parties. In our view, the question contained in the national compliance report are too general for the above-mentioned assessment. There is a need for Parties to provide additional information. Other stakeholders especially farmer organizations and civil society organizations should also be allowed to provide relevant information for the assessment. And adequate time should be provided for this purpose. Paragraph 12 of Resolution 7/2022 is clear that such assessment should be based on the compliance reports and on submissions in the Inventory as well as on other relevant information". This means that the assessment is not just to be based on information provided by the Contracting parties but should also involve farmers, their organizations as well as civil society organizations. This is especially important for obtaining information on "measures limiting the realization of Farmers' Rights". Farmer organizations and civil society should be asked to provide information on the key measures that in their view are limiting the realization of Farmers' Rights. They should also be asked to elaborate on the actors and organizations involved in limiting/undermining full realization of Farmers' Rights.

Appendix 12**Association for Plant Breeding for the Benefit of Society (APBREBES)****General Comments**

APBREBES welcomes the decision of the Governing Body to undertake an assessment of the State of Implementation of Article 9 of the International Treaty, which is a cornerstone of the International Treaty. Such an assessment could become an important source of information to guide the Governing Body in deciding further work and parties in their implementation of the Treaty to ensure the realization of Farmers' Rights.

However, in order to become so, the outline should clearly define the purpose of the assessment. In our view, the purpose of the assessment should be to assess the state of the implementation of Farmers' Rights, identifying gaps, needs and limiting factors for its realization, with an aim to guide the Governing Body on deciding further work and parties to the Treaty in its implementation that will strengthen implementation of Farmers' Rights.

We believe that the proposed questionnaire criteria are not suitable for providing a good overview of the state of the implementation of Farmers' Rights. By using the criteria "fully implemented" or "partially implemented", the assessment will not be able to establish which measures have been implemented, nor how many and which elements of Farmers' Rights are being implemented, as it is almost impossible to define what "partially implemented" means. We recommend that the criteria, or questions are very specific as to allow for an overview of e.g. how many countries allow farmers' to save seeds, how many countries allow farmers' to sell seeds, how many countries have recognised and safeguards traditional knowledge in their legislations etc.

With regards to gaps, needs and limiting factors, the assessment should include if Contracting Parties have implemented legal measures that support or limit Farmers' Rights. This can be done by collecting country-specific data on how the contracting parties have recognised and protected farmers' rights in seed laws, intellectual property laws, etc. (see category 10 in the options document).

We recommend that the assessment is inclusive and participatory, collecting data, information and views from Contracting Parties, as well as farmers and their organisations, and civil society organisations.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

Note: We inserted in black the indicative methodology as in the annex of Resolution 7/2023 and in red our comments and inputs.

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
I: Organizing, gathering information resources and reviewing all the available information.	
Gathering and assessing information contained in the: <ul style="list-style-type: none"> • National Compliance Report • Inventory • Global Plan of Action, and • Other relevant documents and information provided by parties and stakeholders. To collect this information a Notification should be sent out to invite parties and stakeholders to provide information about the state of the implementation of Farmers' Rights, identifying gaps, needs and limiting factors for its realization, <i>[Comment: The questions raised in the National Compliance Report are too superficial for an assessment. The assessment only makes sense when countries and stakeholders provide additional information compared with the compliance report. There is no need to only re-state what has only been provided in the compliance report.]</i>	

<p>In this phase, the established criteria will help to identify, consolidate and organize the information on the implementation of Farmers' Rights, such as the different measures and practices implemented, challenges, and other issues confronting the implementation of Farmers' Rights, at the national level.</p> <p>Any relevant and useful information indicated in the Reports and the information provided by parties and stakeholders, shall be included as appropriate.</p>	
<p>2: Information and data analysis, drafting of the first assessment</p> <p>Reviewing the submission by country, and by region</p> <p>Enquiries with parties and stakeholders if important information is missing</p> <p>Analysis of state of implementation, including gaps and challenges based on the Farmers' Rights provisions</p> <ul style="list-style-type: none"> • Preparation of Case/thematic studies based on Farmers' Rights' provisions (i.e., Article 9.1; 9.2a to c and 9.3) while drafting, writing the state of implementation by region. 	
<p>REGIONAL PRESENTATION</p>	
<p>3: Presentation and validation of the assessment reports, by region¹⁶</p> <ul style="list-style-type: none"> • Regional presentation will be organized through webinars, or hybrid meetings, for each region (including parties and stakeholders, especially Farmer Groups) to present and validate the preliminary regional assessment, and gather any additional inputs, if there is. • Consolidation and integration of all the feedback gathered by region. • Finalize the assessment of the state of implementation of Farmers' Rights, by region. 	
<p>SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS</p>	
<p>4: Review the assessments by region, and update if necessary</p> <p>Preparation of the (first) Assessment of the State of Implementation of Farmers' Rights January to March 2025 (or slightly later, as GB11 only takes place in November 25)</p> <ul style="list-style-type: none"> • Presentation of the Assessment , of "the State of Implementation of Farmers' Rights" to the Governing Body at the Eleventh Session 	

¹⁶ Seven Regional Assessment Reports shall be part of the Assessment Report

FIAN International**General Comments**

FIAN International is pleased to submit the following comments to the Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty, in accordance with Resolution 7/2023 and the notification Ref. NCP GB11-002 issued by the Treaty Secretariat on 7 February 2024:

Re: Section 3: Methodology and Approach, B. Criteria

- While the focus of the assessment will lie on Article 9, the assessment and its methodology should acknowledge that farmers' rights are also recognized in the Treaty's Preamble and that several articles of the Treaty are relevant for farmers rights, including Arts. 5, 6 and 12.3d).
- We propose not to distinguish between general guiding and supplementary questions, but to use one list of questions that allow conducting a thorough and objective assessment.
- FIAN International considers necessary that clear criteria are developed and made explicit to assess whether or not measures taken by Contracting Parties and other stakeholders have contributed to the implementation of Farmers' Rights. Responding to the questions of whether Contracting Parties have "fully implemented" or "partially implemented" Farmers' Rights will only be possible if it is made clear and explicit what is meant by "implementation of Farmers' Rights". In addition to the existence/absence of legal, policy, administrative and/or technical measures that are supportive of Farmers' Rights, the assessment should also consider the existing institutional frameworks as well as the outcomes of measures. This could be done by putting the measures into relation with the objectives of the Treaty (e.g. a question such as: How have these measures contributed to the conservation and sustainable use of PGRFA and the equitable sharing of the benefits deriving from such use?). Another relevant question is: Has the diversity of PGRFA reduced or increased since the measures and practices have been introduced?
- FIAN proposes to add the following questions to the questionnaire for the assessment:
 - Have Contracting Parties taken any measures limiting or restricting Farmers' Rights (partially and/or completely)?
Rationale: Resolution 7/2023 recommends including measures that may restrict Farmers' Rights. In order to make the question more concrete, it could be added that such measures could include, among others, restrictive intellectual property rules, certification requirements and marketing rules, risks arising from the cultivation of genetically modified or so-called "New Genomic Techniques" varieties etc.
 - What measures taken by the Contracting Parties and stakeholders limit or restrict the implementation of Farmers' Rights?
Rationale: Resolution 7/2023 recommends including measures that may restrict Farmers' Rights.
 - What are the most frequently cited measures and practices limiting and restricting Farmers' Rights?
Rationale: Similar to identifying the most cited measures in support of Farmers' Rights, the assessment should also identify those measures and practices that limit and restrict them. This will also help to identify measures that Contracting Parties should take to remove obstacles to the implementation of Farmers' Rights.
 - Which issues may require particular attention by Contracting Parties to advance the implementation of Farmers' Rights?
Rationale: In order to be action-oriented, the assessment should be as concrete as possible and identify issues that Contracting Parties may want to consider in the future work of the Treaty to promote Farmers' Rights.

Re: Section 3: Methodology and Approach, C. Source of information

- FIAN International urges the Treaty to give special attention to receiving inputs by farmers' and Indigenous Peoples' organizations for the assessment, as representatives of rights holders under Farmers' Rights. We propose the following measures to ensure this:
 - The assessment should consider the outcomes of the regional consultations on Farmers' Rights, which were organized by the International Planning Committee for Food Sovereignty (IPC), with the support of the Treaty Secretariat, and whose outcomes were presented to the AHTEG-FR during its first meeting;
 - Issue a call for contributions addressed specifically to farmers' and Indigenous Peoples' organizations as well as CSOs. Such contributions could be gathered through written inputs and/or virtual consultation meetings organized by the Secretariat for different geographic areas and ensuring interpretation into regionally widely-used languages. Depending on the availability of

<p>financial resources, the Treaty Secretariat should assess the possibility of organizing regional consultation meetings.</p> <ul style="list-style-type: none"> ○ Take into account the realities of farmers’ and Indigenous Peoples’ organizations when defining timelines, considering that providing inputs often requires internal consultation processes. ● FIAN International recalls that the measures contained in the Inventory have not been assessed by the AHTEG-FR. Furthermore, several members of the AHTEG-FR have pointed out during AHTEG-FR meetings that the Inventory includes measures that restrict Farmers’ Rights, rather than supporting their implementation. The assessment should therefore be based on clearly defined criteria to evaluate what “implementation of Farmers’ Rights” means (see also comment further above). As said above, this could be done by relating the measures taken to implement of Farmers’ Rights to the achievement of the Treaty’s objectives (how/to what extent have measures taken to implement Farmers’ Rights contributed to achieving the Treaty’s objectives?).
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Specific Comments/Inputs/Suggestions

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers’ Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<i>As said above, special attention should be given to receiving inputs by farmers’ and Indigenous Peoples’ organizations for the assessment, as representatives of rights holders under Farmers’ Rights. We invite the Secretariat to consider the proposals made above.</i>	
2: Information and data analysis, drafting of the first assessment	
<i>As stated above, it is critical that clear criteria are established to assess the state of implementation of Farmers’ Rights. Claiming that certain measures contribute to implementing Farmers’ Rights does not mean that this is actually the case. Similarly, putting in place policy or institutional frameworks alone does not allow to assess their actual impact on the implementation of Farmers Rights (outcomes). The criteria applied should be methodologically sound and focus on the outcome of measures and practices. Moreover, they should be clearly spelled out.</i>	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region	
<i>As in the general section, special attention should be given to receiving inputs by farmers’ and Indigenous Peoples’ organizations for the assessment, as representatives of rights holders under Farmers’ Rights. We invite the Secretariat to consider the proposals made above.</i>	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS’ RIGHTS	
4: Review the assessments by region, and update if necessary	
<i>As already stated, special attention should be given to receiving inputs by farmers’ and Indigenous Peoples’ organizations for the assessment, as representatives of rights holders under Farmers’ Rights. We invite the Secretariat to consider the proposals made above.</i>	

Appendix 14***Malaysian Food Sovereignty Forum (Forum Kedaulatan Makanan Malaysia, FKMM), Malaysia******General Comments***

The methodology for the preparation of the state assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body should include these activities at the country level.

1. Legal Analysis:

- Examine the Plant Variety Law, Biological Resource and Benefit Sharing Law, Biosafety Law and related regulations.
- Investigate how it integrates farmers' rights, particularly the right to equitable benefit sharing.

2. Interviews and Surveys:

Interview relevant stakeholders, including farmers, policymakers, legal experts, and representatives from agricultural organizations.

- Conduct surveys to gather insights on farmers' experiences, challenges, and awareness of their rights.

3. Case Studies:

- Investigate specific cases where farmers' rights have been exercised or violated. Example: - Issues of late and low-quality paddy seed supply in Malaysia
- Explore success stories or challenges faced by small farmers in accessing benefits from plant genetic resources

Appendix 15**International Seed Federation (ISF)****General Comments**

- During the GB 10 session it was decided, as reflected in Resolution 7/2023, that the AHTEG will be charged with reviewing the outline for the assessment as well as the assessment itself before it is presented to GB 11. These tasks of the AHTEG are not yet reflected in the outline and thus, we recommend to include those in the Table 1.
- There is quite a lot of emphasis in the outline on the importance of regional approach, which we fully support. However, we think it would be good to reflect the regional differences also in the recommendations part of the assessment. Therefore, we propose to include also recommendations per region besides the general recommendations of the assessment.
- It is mentioned in the Draft Outline, under Section 4 that work of different international organizations and bodies will also be looked at and reflected in the report to complete the assessment. This might indeed provide a useful complement to the assessment but it would be good to clarify in the outline what information sources will be utilized for this part of the analysis.
- The present notification also requests respondees to provide suggestions on how to include measures limiting the implementation of Article 9. We are of the view that the second part of Question 19 B of the Compliance Report (which asks about any difficulties in implementing Article 9 and the measures taken to implement), provides some hints on eventual measures that may limit the implementation of Article 9 at the national level. In order to learn more about these situations, it could be useful to provide some case studies out of the answers to Question 19 of the compliance reports on what has been perceived as a limiting factor and why.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
<p>1: Organizing, gathering information resources and reviewing all the available information.</p> <ul style="list-style-type: none"> • Before this step, we recommend including Task 1 of the AHTEG, which is “review and agree to the outline of the assessment”. • In the information sources the National Compliance Reports are listed, which should indeed be an important source. However, many Contracting Parties have not completed their reports for the second reporting cycle, which may lead to lack of up to-date information. How is the Treaty Secretariat planning to bridge this information gap? • Another source of information is the Inventory. We agree that the Inventory is a valuable source of information in general, we recommend though that the assessment primarily relies on information that has been submitted by Contracting Parties themselves through the compliance reports. • It is mentioned in Table 1 that the established criteria will help to identify, consolidate and organize the information etc. However, we have a few questions about the guiding questions mentioned in the Draft Outline as supporting the criteria: “How many countries have fully/partially implemented Farmers' Rights?” – Who and how will be able to conclude if a country has fully or only partially implemented Farmers' Rights? On what basis will such conclusions be drawn? We believe that it is very important to be clear on these elements since the questions in the Compliance Report only ask about measures taken to implement Article 9, but the lack of measures might not be an indication of lack of implementation but merely a 	

reflection of the national situation, potentially not requiring any specific measures. The same consideration applies to the question “How many countries have adopted policies and legal measures to implement Farmers’ Rights?”. Yet another reason to organize the assessment as well as the recommendations by regions.	
2: Information and data analysis, drafting of the first assessment	
<ul style="list-style-type: none"> In the Draft Outline it is mentioned that case/thematic studies will be prepared while doing the assessment. As noted before, we are of the view that such case studies can be useful in analysing the situations or measures that might be perceived as limiting the implementation of Farmers’ Rights. However, the purpose of having case studies illustrating measures implementing Farmers’ Rights is not entirely clear. If this is to provide examples, these measures are included in the Inventory and can be referred to easily. 	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region¹⁷	
<ul style="list-style-type: none"> In the Draft Outline it is mentioned that the presentation will be made to each region to “present and validate the preliminary regional assessment”. It is not entirely clear what is meant by “validation” of the preliminary assessment. It would be good to clarify whether the validation by the regions is supposed to be a validation of the factual findings of the assessment and is aimed at correcting eventual factual mistakes or whether this would include also a validation of the assessment (i.e. conclusions/recommendations) as well. 	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS’ RIGHTS	
4: Review the assessments by region, and update if necessary	
<ul style="list-style-type: none"> The Draft Outline states under this point two actions: (i) preparation of the (first) assessment of the state of implementation of Farmers’ Rights; and (ii) Presentation of the assessment of the state of implementation of Farmers’ Rights to GB 11. Task 2 of the AHTEG on Farmers’ Rights though reads as follows: “review the assessment of the state of implementation of Article 9 of the International Treaty and provide conclusions for the Eleventh Session of the Governing Body”. Therefore, we suggest including this step in the Draft Outline Table 1 in between the steps of preparation and presentation to GB 11, in order to reflect what has been decided by GB 10. 	

¹⁷ Seven Regional Assessment Reports shall be part of the Assessment Report

*Appendix 16**African Centre for Biodiversity (ACB)***General Comments**

The ACB is of the view that Article 9 of the Treaty represents a commitment by the Contracting Parties that have ratified the Treaty to implement farmers' rights, as defined in Article 9, in a manner consistent with the preamble and other articles of the Treaty, notably Articles 5 and 6 (conservation and sustainable use respectively). These are not merely suggestions for governments to apply or reject as they see fit.

Areas of contestation should be dealt with, including seeking the views of Contracting Parties and all relevant stakeholders, especially farmers' organisations and indigenous communities, about their views, experiences, and best practices as an example of possible options for national implementation of farmers' rights through legal measures/funded mandates. The assessment should not shy away from dealing with areas of contestation including the legally binding nature of Article 9(2) of the Treaty, which has until now been misconstrued to mean a mixture of technical, administrative, and financial measures, that are ad hoc, project-based, and do not apply to all farmers. In any event, where these practices exist, they are mostly undertaken by farmers and civil society organisations (CSOs) themselves, with donor support. We are therefore left with no implementation and a dominant interpretation of farmers' rights to mean exceptions in mostly draconian seed and Plant Variety Protection (PVP) laws that allow farmers to save and reuse propagating material of protected varieties (for private and non-commercial use) and/or their own seed without any further legal measures having to be taken.

a) Further still, and more disturbing, it has been argued that Article 9 does not confer rights in a legal sense, and therefore the Treaty does not establish legally binding obligations on the Contracting Parties to implement these provisions. Despite the conclusion of the AHTEG-FR's work in 2021, and subsequent decisions by the Governing Body, several issues remain unresolved. To date, the interpretation of Article 9.3 has been pigeonholed into exceptions in intellectual property rights and seed laws, or made to co-exist with such laws, to convey a legal interpretation that Article 9.3 is subject to such laws. In this regard, farmers' rights are thus viewed as subject to commercial seed laws and intellectual property rights laws and not part of a bundle of human rights, which would supersede all corporate law.

While we are not proposing that the assessment provide a legal opinion on the legally binding nature of Article 9, we do believe that the assessment must be honest and acknowledge unresolved and contentious issues that have and will continue to contribute towards the lack of meaningful implementation of farmers' rights. Some of the unresolved issues should be dealt with up front in the section dealing with background and introduction. These unresolved issues include the following:

b) According to Article 9.2 of the Treaty, "responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments". Does this mean that no legally binding responsibility has been created and that it is within the discretion of a Contracting Party to implement these, or does it mean that Contracting Parties are responsible, and therefore have an obligation to realise farmers' rights through enforceable national laws?

c) According to Article 9.2, "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." Does this mean that Contracting Parties can choose to apply only some of the rights contained in Article 9.2 and not others, or not to apply any of them, or does it mean that the Contracting Parties are obliged to apply all the rights contained in Article 9?

d) While Article 9.2. recognises that farmers have rights in relation to PGRFA, can Article 9.3. be read in isolation from the preamble to the Treaty, which defines it as "a fundamental element in the realisation" of these rights?

e) Are farmers' rights interconnected and mutually reinforcing, and therefore need to be implemented in a coherent, holistic and systematic way, recognising that Contracting Parties may prioritise certain elements of farmers' rights according to their specific context? Surely all rights encompassed by Article 9 must be implemented in a holistic and interconnected way.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
We are of the view that this assessment should not repeat the mistakes of current compliance reports which are superficial and that it must seek to provide additional, substantive information which may entail a combination of extraction from existing documents such as the Inventory Inventory of national measures, best practices and lessons learned from the realization of Farmers' Rights, the Global Plan of Action. Additional and more substantive information must be collected from Contracting Parties regarding the economic, practical, legal and political limitations and impediments faced by Contracting Parties to fully and meaningfully implement farmers' rights. When we refer to practical impediments, we are here thinking about specifically the inability of farmers to realise farmers' rights because of practices emanating from industrial agriculture such as the use of agrochemicals and genetically modified seed. Farmers organisations and civil society are important stakeholders and should also be included in the gathering of substantive information, data, and case studies.	
2: Information and data analysis, drafting of the first assessment	
There are numerous Parties to the Treaty, the challenge of ensuring that each Party's experience is properly and truthfully reflected will have to be overcome. Some common themes may be evident from data analysis and assessment for example, commercial seed and plant variety protection laws, phytosanitary standards, import and export controls etc, may emerge as key themes militating against the meaningful implementation of farmers' rights for example. A further key theme may be the dominance of industrial agriculture and its links to the current global food systems that have marginalised and eroded farmers' seed systems and eroded farmers' rights with the passage of time. Such key themes may be a common thread that may run through most if not all the Parties to the Treaty. Consequently, a further theme may well be that farmer rights vis-a vis their own seed and genetic resources, have mostly been implemented as a combination of non-legally binding measures where there are no funded mandates by Contracting Parties. Further to this, the assessment should be alive to elite projects that are showcased as examples of implementation of farmers' rights and that these are not typical examples especially for the global South.	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region¹⁸	
Africa comprises of 54 countries, where connectivity to the internet is unstable for both Parties and farmers, making online meetings not only cumbersome but difficult. It would be important for a few days to be set aside to convene a regional meeting, in Africa, that is inclusive of all relevant stakeholders, where a good draft of the assessment report is presented. The objective of such a meeting must not be to validate the report but to present the report and solicit feedback. Such feedback must be considered the production of the final report.	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	
The final draft of the assessment can then be sent to Parties for their written feedback, on the proviso that sufficient time is given for such feedback. Feedback must then be considered in the production of the final report, which should be presented to the Parties at GB 11 for its further consideration and decisions.	

¹⁸ Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 17

International Planning Committee for Food Sovereignty

General Comments

This input is a collection of views and inputs by ten global farmers and Indigenous Peoples' organizations (International Federation of Rural Adult Catholic Movement (FIMARC); Habitat International Coalition (HIC); La Via Campesina (LVC) ; International Indian Treaty Council (IITC); Mouvement International de la Jeunesse Agricole et Rurale Catholique (MIJARC); URGENCI – The international network for Community Supported Agriculture); World Alliance of Mobile Indigenous People (WAMIP); World Forum of Fish Harvester & Fish Workers (WFF); World Forum of Fishers People (WFFP); World March of Women) and eight regional farmers and Indigenous Peoples' organizations (Australian Food Sovereignty Alliance (AFSA); Coordinadora Andina de Organizaciones Indígenas (CAOI); Coordinadora de Organizaciones de Productores Familiares del Mercosur Ampliado (COPROFAM); Enlaces Continentales de Mujeres Indígenas de las Américas (ECMIA); Movimiento Agroecológico de América Latina y el Caribe (MAELA); Plateforme Sous-Régionale des organisations Paysannes d'Afrique Central (PROPAC); Réseau des organisations paysannes et de producteurs de l'Afrique de l'Ouest (ROPPA); US Food Sovereignty Alliance).

In general, we agree with the questions present in the outline. However, we suggest adding questions into the outline for the assessment of Article 9, which ask specifically about measures that limit farmers' rights or prevent their implementation.

The assessment should look at how many Contracting Parties have taken pro-active measure to implement Farmers' Rights. Here below we would like to provide some examples of questions that could address these issues.

The assessment should also allow for the adequate and effective participation of peasant and Indigenous Peoples' organizations, providing space and enough time to send the responses to the assessment. This would be helpful to collect how those organizations propose to allow the full implementation of the Treaty at national and regional level.

Specific Comments/Inputs/Suggestions

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<p><i>The information to be collected from the Contracting Parties and other actors should contain also answers from the following questions:</i></p> <ul style="list-style-type: none"> - <i>Which national measures are limiting completely or partially Farmers' Rights implementation?</i> - <i>Are there forms of intellectual property rights that are allowed on materials, parts and components of seeds supplied by farmers (for example from the genebanks)?</i> - <i>Are there any measures or legal frameworks that prevents or limit the exchange and sale of seeds from farmers to farmers? If yes, how those measures are limiting the exchange?</i> - <i>How does the national legislation apply the Article 8 of the Convention on Biological Diversity in addressing the full application of the Free Prior and Informed Consent?</i> - <i>Is your country subject to harmonized regional frameworks on seed trade to adapt their national legal contexts to the to the UPOV framework?</i> - <i>Do your country allow the cultivation of GM or NBTs varieties? Which measures are implemented to safeguard the contamination of the farmers' seeds from the GM crops?</i> - <i>What is your understanding of Farmers' Rights?</i> 	
2: Information and data analysis, drafting of the first assessment	
<p><i>It should be allowed also to farmers' organizations and civil society organizations to submit documents and inputs by region or national level.</i></p>	

REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region	
<i>The regional presentations should be in an open format where also actors from CSOs can contribute. The webinar format does not allow enough time to discuss and to present different visions.</i>	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	

Appendix 18**Academic Peasant Unit “Tiahuanacu” of the Bolivian Catholic University****General Comments**

The “Assessment of the State of Implementation of Article 9 of the International Treaty” needs to take into account different aspects related to the implementation of Farmers' Rights, meaning, relevant and complementary articles of the International Treaty, including Art. 1 on consistency with the Convention on Biological Diversity --and thus with the Kunming-Montreal Global Biodiversity Framework-- as well as to the consideration of relevant and substantive aspects of GB9 and GB10 resolutions on Article 9. The following comments follow this reasoning.

Specific Comments/Inputs/Suggestions

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers’ Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<p>The comprehensiveness of the conceptual basis on Farmers' Rights will benefit from a pluralistic and transdisciplinary approach. This involves: (i) including, in the information gathering process, input from farmers and other grassroots actors, such as indigenous peoples, through, for example, an online session for direct dialogue and/or the request of guided written submissions; and (ii) using a diversity of sources, including relevant "grey" literature, reflecting farmers' and indigenous peoples' own views on their rights related to plant genetic resources for food and agriculture and the conditions necessary to realize them. The conceptual basis on Farmers' Rights will be more comprehensive and applicable if the provisions of Article 9 are analyzed through the lens of other relevant articles, such as Article 5 (Conservation, Exploration, Collection, Characterization, Evaluation and Documentation of Plant Genetic Resources for Food and Agriculture), Article 6 (Sustainable Use), Article 13 (Benefit Sharing in the Multilateral System), Article 12 (on Facilitated Access, i.e. 12.3d) and Article 15 (Ex situ Collections).</p>	
2: Information and data analysis, drafting of the first assessment	
<p>It is suggested to have a single set of questions without differentiating between "General Guidance Questionnaire" and "Supplementary Questionnaire", since the latter refers to substantive aspects. This is especially relevant considering that the questions related to the quantification of countries according to specific criteria provide limited information in relation to the effective promotion and protection of farmers' rights. Other important aspects of the evaluation are:</p> <ul style="list-style-type: none"> - What are the achievements in the implementation of the provisions of Article 9? - What are the positive effects and impacts of the promotion and protection of farmers' rights? On the conservation and sustainable use of PGRFA and farmers' wellbeing. - What are the measures and processes that limit the promotion and protection of farmers' rights? - What are the measures and processes that limit the promotion and protection of farmers' rights? - What are the measures in place on access and benefit sharing that affect (positively or negatively) the protection of farmers' rights? If applicable, what are the results? - What are the South-South cooperation measures planned and in place to promote and protect farmers' rights? If applicable: What are the activities and results? - How are relevant international human rights instruments and declarations taken into account in the promotion and protection of farmers' rights? If applicable, which instruments and declarations? What are the results? - What awareness-raising and training activities on farmers' rights have been carried out or are planned? What are the activities implemented? Who are the participants (with data disaggregated by sex and age*)? What are the results? - What are the gender-specific initiatives and achievements (with special attention to women) in relation to farmers' rights? * This is consistent with the Kunming-Montreal Global Biodiversity Framework. 	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region	

<p>Following the answer to question 1, it is suggested to hold two sessions differentiated by region: one aimed at farmers and indigenous peoples. The other, aimed at all stakeholders, including civil society organizations. In this way, a more meaningful participation of farmers will be possible. In the sessions with farmers and indigenous peoples, it is suggested to ensure an equitable participation of women and youth.</p>	
<p>SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS</p>	
<p>4: Review the assessments by region, and update if necessary</p>	
<p>Following the above response, the review and update would need to consider the particular circumstances, concerns, views and participation of farmers and indigenous peoples, including women and youth.</p>	

Appendix 19

Sudan

General Comments

In Sudan Farmers' Rights is partially implemented of as set out of in the International Treaty on Plant Genetic Resources for Food and Agriculture due to many limitations and channels.

In Sudan although there are many draft legislations has been developed in order to attain the conservation use of PGR ,sustainable access to PGR for food security, equitable and fair sharing of benefits arising from the use of the PGR, and Protection of farmer and community rights related to PGR. But the steps to approve the legislation through the legislative authority are slow. Therefore Sudan not adopted legal measures and policies to implement of Farmers' Rights.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
<p>1: Organizing, gathering information resources and reviewing all the available information.</p> <p>In this phase , practices implemented, challenges, measures ,and other issues confronting the implementation of Farmers' Rights, at the national level.</p> <p>The limitations and channels in Sudan for implantation of Farmers' Rights</p> <ol style="list-style-type: none"> 1- 1. not adopted legal measures and policies to implement of Farmers' Rights; 2- 2. Lack of awareness about of Farmers' Rights among the policy maker or farmers; 3- 3. limited Participate in decision-making at the national level in relation to the conservation of plant genetic resources due to un stability of farmers organization due to stability of government; 4- 4 Limited access to equitable sharing of benefits arising from the use of plant genetic resources due to most of farmers in Sudan is poor and less educated and use their own seeds ; 5- 5. Lack of policies and legal frame work support for enhancement and marketing of farmers, varieties in Sudan; <p>Measures limiting the realization of Farmers' Rights</p> <ol style="list-style-type: none"> 6- Adopt legal measures and policies to implement of Farmers' Rights; 7- Increase the awareness of the decision makers through work shop seminar ad others; 8- Facilitate Participatory plant breeders for Release farmer developed varieties ; Facilitate Community-based Seed Growers Groups (SGGs) to produce certified seeds of improved and traditional varieties; 9- Established of community Seed banks ; 10- develop mechanisms to support farmers to produce their own seeds, and to save, sell, share, and exchange seeds; 11- Strengthen the benefit-sharing mechanism to support farmers more directly; 12- promote continuous sharing of experiences, best practices, and lessons learned from the realization of Farmers' Rights 	
<p>2: Information and data analysis, drafting of the first assessment</p>	
REGIONAL PRESENTATION	
<p>3: Presentation and validation of the assessment reports, by region¹⁹</p>	

¹⁹ Seven Regional Assessment Reports shall be part of the Assessment Report

SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	

Appendix 20**Department of Agriculture of Sabah, Malaysia**

General Comments
<p>1. Activities/programs carried out by Department of Agriculture Sabah (DOA Sabah):</p> <ol style="list-style-type: none"> a) Germplasm collection. b) Germplasm conservation. <ul style="list-style-type: none"> • Note: Implemented by Research and Innovation Division and Sabah Agricultural Park (under the management of DOA Sabah). <p>2. Types of plant germplasm (indigenous to Sabah)</p> <ol style="list-style-type: none"> a) Food crops (e.g. Fruit trees, grains and cereals, nuts, tuber, vegetables, herbs and spices). b) Ornamental plants (e.g. orchids, rafflesia, aroids, etc.). <p>3. Departmental procedures of germplasm collection:</p> <ol style="list-style-type: none"> a) Active collection: Collection programs on-site/farmers' field. b) Passive collection: Submission of planting material by farmers to DOA Sabah. <ul style="list-style-type: none"> • Note: Documentation is done through standard forms that contains basic information regarding the plant collection (i.e. crop type, location, coordinate, farmer's name, quantity, material collected, etc.). <p>4. Activity/program monitoring indicators:</p> <ol style="list-style-type: none"> a) Quarterly implementation reports. b) Annual reports.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
<u>Comment:</u> The department is currently implementing collection and conservation of plant germplasm. However, the documentation that indicates farmers' rights (traditional knowledge, access-benefit sharing, free prior-informed consent, etc.) within the state is recorded and managed by the Sabah Biodiversity Centre (under the Sabah Biodiversity Enactment 2000). There has yet to be any dispute of farmers' rights regarding plant genetic resources in Sabah.	
2: Information and data analysis, drafting of the first assessment	
None.	
REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region²⁰	
None.	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	
None.	

²⁰ Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 21**Department of Agriculture, Malaysia****General Comments**

As a department with a vision aimed at fostering a competitive agriculture industry that produces high-quality, environmentally friendly products for export, farmers play a vital role in our efforts.

The Department of Agriculture acknowledges and honours farmers for their essential role in genetic conservation, demonstrated through their longstanding practices of seed management, utilization of traditional knowledge, and culture of seed exchange. This deep seated commitment, passed down through generations, embodies values of life, love, friendship, and aspiration, while simultaneously driving continuous improvement in crop production for the benefit of society. The widespread respect earned by farmers worldwide underscores their significant contribution to safeguarding genetic diversity.

Recognizing that farmers, as custodians of the nation's food security, face numerous challenges in modern agriculture, including land scarcity, limited access to inputs, and climate variability, the Malaysian Department of Agriculture, alongside other ministries, ensures that farmers' interests are prioritized in policy planning and development programs.

Among these efforts, the department have undertaken the following actions:

- i. Drafting the Seed Quality Act to ensure farmers' right to access high-quality seeds.
- ii. Revising the Protection of New Plant Varieties Act 2004, removing provisions that previously provided shorter periods of protection for varieties bred by farmers compared to breeder-developed varieties. The revised act also includes limitations on breeder's rights, allowing farmers to save seeds for subsequent cultivation on their own land and utilize protected varieties for non-commercial purposes, including rituals and cultural practices. This initiative aims to offer farmers greater seed choices and the freedom to select crops according to their preferences.
- iii. Establishing a registry for varieties of common knowledge, allowing farmers or communities to report varieties that have been traditionally maintained or commercially disseminated. These varieties will be inventoried under the Registry of Common Crop Varieties.
- iv. Providing technical assistance and quality education to farmer groups by agriculture officers, covering aspects such as identification of cultivated varieties, cultivation techniques, grafting methods for genetic conservation, and farm management with good agriculture practices.

Government stewardship in ensuring seed accessibility for farmers must acknowledge the invaluable contributions of breeders to agricultural innovation. Upholding farmers' rights entails recognizing their role as stewards of genetic resources while fostering an environment conducive to breeders' continued innovation and existence. Embracing this symbiotic relationship underscores our shared commitment to sustainable agricultural development and equitable human rights for both farmers and breeders. The government remains dedicated to bridging all relevant components for a healthy agrarian landscape.

Specific Comments/Inputs/Suggestions

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS	2024-2025
1: Organizing, gathering information resources and reviewing all the available information.	
2: Information and data analysis, drafting of the first assessment	

REGIONAL PRESENTATION	
3: Presentation and validation of the assessment reports, by region²¹	
SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS	
4: Review the assessments by region, and update if necessary	

²¹ Seven Regional Assessment Reports shall be part of the Assessment Report

Appendix 22**Community Technology Development Organisation (CTDT)****General Comments**

The implementation of Farmers' Rights in Zimbabwe is an on-going exercise being carried out by various stakeholders who include: Government, Civil Society Organizations, the Private sector, Farmers, Women and Youth. Government has taken some policy and legislative measures to promote farmers Rights and farmer managed seed systems at national level. The policy and legislative measures include the enactment of the Constitution (sections 13(4); 15(c) and section 33 which requires the State to take measures to preserve , protect indigenous knowledge systems of plants and animals possessed by local communities; the National Agriculture policy Framework which recognizes and supports the contribution of smallholder farmers in the conservation and sustainable use of genetic resources and the need to mainstream and protect farmers rights; Zimbabwe national Strategy and Action Plan for Plant Genetic Resources for Food and Agriculture whose main objective is to create an enabling legal and institutional environment that promotes management , research and capacity development for conservation and sustainable use of plant genetic resources for food and agriculture ; The National Development Strategy 1 which recognizes the contribution of smallholder farmers in addressing food and nutrition security of the country

There are however existing pieces of legislation such as the Seed Act[Chapter 19:13] and the Plant Breeders Rights Act [Chapter 18:16] which limit the full realization of Farmers' Rights in Zimbabwe through the protection of specified seed varieties (DUS) and prohibiting the commercial sale of farmers' seed. Currently Farmers' seed in the Community Seed Bank (CSB) is not recognized in any form. The Plant breeders Rights Act grants a breeder of a new plant variety the exclusive rights to perform certain activities in relation to its propagation. However, section 17.3(c) allows farmers with less than 10 ha to save, use, sale and exchange in their localities only. There is need for policies and legislation to ensure recognition of farmers seed in CSB and the right of farmers to commercialize the seed.

Realizing the importance of farmer contributions towards the fulfilment of food and nutrition security of the country, CTDO, over the last decades and in collaboration with relevant stakeholders, continue to champion for the implementation of Farmers' Rights at national as shown below.

Specific Comments/Inputs/Suggestions**CTDO Practices and experiences :****Community Seed Banks**

CTDO has established over 20 community seed banks in 12 Districts of the country. The organization work in close collaboration with the national Gene bank of Zimbabwe and farmers in carrying out joint germplasm collection across the country districts. The CSBs are a critical component in the protection, preservation and perpetuation of crop genetic heritage among local communities in the everchanging climatic environment. The CSB offer local practices to conserve local diversity and also make seed readily available to farming communities. CSB play a significant role in increasing seed diversity in farmers' hands, thus maintaining a viable, effective system of seed conservation and sustainable use by farmers.

CTDO is in the process of developing an online seed bank management system to link all CSBs to a central server. The information captured include: accession records, crop types, variety , district, GPS of farmer plots and seed regeneration timelines among others.

The Government is making efforts in creating a conducive policy and legal environment for the sustainability of the CSB. A National Strategy and Action Plan for Plant Genetic Resources for Food and Agriculture has been put in place and its specific objectives include the following:

To promote conservation and sustainable use of plant genetic resources for food and agriculture;

To promote farmer participation, decision making and contributions to pgr conservation and sustainable use

To develop capacity, coordination, monitoring mechanism for all national pgrfa units;

To establish a legal and institutional framework for the management of of pgrfa inline with the international Treaty on Plant Genetic Resources for Food and Agriculture

In its efforts to share its vast experiences on Community Seed Banking, CTDO produced a number of publications which include the Community Seed Banking Technical which highlights the evolution of CSB in Zimbabwe, the governance and management systems and data management systems among other issues.

Legal Framework and Regulations for the Registration of Farmer Varieties in Zimbabwe

CTDO in partnership with NIRAS and the Research Institute of Organic Agriculture (FiBL) is implementing the Markets And Access to Seed Project (MASAP) in Zimbabwe and Zambia whose main goal is to improve resilience in food security of smallholder households (especially women and Youth) by increasing adoption and utilization of improved open and self-pollinated varieties of small grain (sorghum and pearl millet) and legumes (cowpeas and groundnuts) through strengthening the seed and commodity value chain. CTDO is implementing component 3 of the project which focuses on Policy engagement and action learning research which will lead to creation/development of an enabling policy environment supportive of small grains and legumes sectors' needs. The key problems to be addressed is to establish a legal framework which recognizes the efforts of farmers in the development and selection of their own farmer varieties of the traditional crops which constitute 70-80% of their planting material.

The current national seed law (Seed Act (Chapter 19:13)) in Zimbabwe and its enabling regulations do not recognize the farmers' efforts in crop variety development, production and trade. The project therefore seeks to establish a separate legal framework which formalizes the farmer managed seed systems which will set conditions for the registration, release, production, certification, compliance to quality standards and procedures. The enactment of such policy and legislation will enable smallholder farmers to produce freely and commercialize their seed. This proposed framework will set standards for seed quality of farmer varieties which will lead to quality assurance of seed to both the farmer and consumers of the seed. As part of the fulfilment of the project, a national Seed Analysis working group has been established and under this working group there has been established a research subcommittee and the subcommittee on policy review. The research subcommittee is already carrying out a baseline study on requirements for registration, seed quality control and management, varietal maintenance breeding, seed sales and benefit sharing at community and national levels. This will facilitate and allow the free trade and selling of seed of farmer varieties under a known and trusted seed quality scheme while expanding the income sources of the households for the benefit of youth and women. The policy review subcommittee is carrying out review of existing legislation on seed and plant varieties and also carrying out wider consultations among key stakeholders at different levels.

Seed and Food fairs

CTDO and likeminded organizations continue to carry out seed and food fairs with farmers. The seed and food fair provide a platform for interaction of different stakeholders. The fairs provide a platform for knowledge sharing among policy makers, farmers, extension staff and other development agencies. The seed fairs also promote seed exchange practices and improved access to a wide range of seed among farmers. Seed fairs provide improved access to seed, leading to recuperation, restoration and enhancement of local crop genetic resources.

Farmer Field Schools

As part of implementation of Farmers' Rights, CTDO continues to promote the concept of farmer field schools (FFSs) approach across various districts of the country. The FFSs continue to strengthen and improve the farmers' knowledge and skills in sustainable agriculture practices. The farmers get the opportunity to share practical experience using different learning methods which they replicate in their own field. Farmers work together in groups to learn and experiment with various farming techniques, crop management practices, pest and disease control methods, soil conservation techniques, water management strategies, and assist each other to solve social challenges either at home or in the community.

Note: Column 2, Table 1 does not need to be filled out; the Secretariat will organize the timeline.

Table 1. Indicative methodology and timeframe for the preparation of the State of Assessment of the Implementation of Farmers' Rights at the Eleventh Session of the Governing Body

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