



**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**

**Updated Outline for the Assessment of the State of Implementation of Article 9  
of the International Treaty**

**Note by the Secretary**

*To assist the discussions of the Ad Hoc Technical Expert Group on Farmers' Rights (AHTEG-FR), the Secretariat, in consultation with the Co-Chairs, organized an informal briefing in preparation for the fifth meeting of the AHTEG. Following informal discussions by the participants and further suggestions, the Secretariat, under the guidance of the Co-Chairs, updated the Outline for the Assessment of the State of Implementation of Article 9 of the International Treaty (updated Outline), for consideration by the AHTEG. Consequently, the updated Outline incorporates, where possible, the inputs and suggestions provided by Contracting Parties and stakeholders received as at 27 May 2024. The document, IT/GB-11/AHTEG-FR-5/24/3/Inf.1 Rev.2, Inputs and Comments Received on the Draft Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty, compiles all submissions received.*

**Guidance Sought**

The Expert Group is invited to consider this document when reviewing and agreeing on the Outline. In this context, it may want to consider the inputs and comments received from Contracting Parties, interested stakeholders, and farmers' organizations, presented in the same order as the Outline in document IT/GB-11/AHTEG-FR-5/24/3, *Outline for the assessment of the state of implementation of Article 9 of the International Treaty*, as well as the other information referenced in that document.

# Updated Outline of the Assessment of the State of Implementation of Article 9 of the International Treaty<sup>1</sup>

## Section 1: Executive Summary

This section will present the summary results of the assessment, [covering overall results by region]. It will [have] [start out with] key findings/key messages and [end with] [recommendations] [conclusions] [derived from the results].

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

## Section 2: Background and Introduction [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] [developments], [intersessional work] and the resolutions adopted by the Governing Body, and [brief references to] [this may include noting] the developments or [considerations] [relating to] on Farmers' Rights [from] [in] other relevant [international] fora.

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

## [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 the 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 3: Methodology and Approach [Section 4: 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.

- The approach covers:
  - The measures that have been introduced for the implementation of Farmers' Rights as set out in Article 9 of the International Treaty

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<sup>1</sup> Inputs/suggested texts are provided in square brackets and in red font.

- 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 as set out in Article 9 of the International Treaty
- Prospects and plans for further implementation of Farmers' Rights as set out in Article 9 of the International Treaty
- Gaps and needs with regard to the realization of Farmers' Rights as set out in Article 9 of the International Treaty]

## **B. Criteria [Guiding Questionnaire]**

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

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

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

### *1. [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 Article 9 of the International Treaty.]
  - [How many countries have partially implemented Article 9 of the International Treaty.]
  - How many countries have [adopted] policies and legal measures to implement Farmers' Rights as set out in Article 9 of the International Treaty?
  - How many countries have implemented or linked the implementation of Farmers' Rights as set out in Article 9 of the International Treaty? 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.<sup>2</sup>
  - [What are the most frequently cited [enacted] measures and practices of protecting and promoting Farmers' Rights?]
  - What are the lessons learned from the implementation of Farmers' Rights as set out in Article 9 of the International Treaty?
  - What are the challenges and difficulties encountered in implementing the provisions of Article 9 [9.2] of the International Treaty?
  - Any other supplemental or relevant information from the national reports, shall be included in the summary.

## **[Additional proposals for the Questionnaire]**

The suggested questions have been organized into clusters based on their topic, as follows:

### *(i) About Article 9 and other provisions in the International Treaty*

<sup>2</sup> Such as: Technical, Administrative, Legal, Others. See the Inventory, available at: [www.fao.org/plant-treaty/areas-of-work/farmers-rights/overview-inventory/en/](http://www.fao.org/plant-treaty/areas-of-work/farmers-rights/overview-inventory/en/)

- What is your understanding of Farmers' Rights as set out in Article 9 of the International Treaty?
- What are the achievements in the implementation of the provisions of Article 9 of the International Treaty?
- What are the positive effects and impacts of the promotion and protection of Farmers' Rights as set out in Article 9 of the International Treaty? On the conservation and sustainable use of PGRFA and farmers' wellbeing.

**(ii) *Current and possible future work on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty***

- What awareness-raising and training activities on Farmers' Rights as set out in Article 9 of the International Treaty have been carried out or are planned? What are the activities implemented? Who are the participants (with data disaggregated by sex and age<sup>3</sup>)? What are the results?
- What are the South-South cooperation measures planned and in place to promote and protect Farmers' Rights as set out in Article 9 of the International Treaty? If applicable: What are the activities and results?
- Which countries agree to South-South cooperation to adjust their laws or other legal measures for the real implementation of Farmers' Rights as set out in Article 9 of the International Treaty?
- What are the gender-specific initiatives and achievements (with special attention to women) in relation to Farmers' Rights as set out in Article 9 of the International Treaty?
- Which issues may require particular attention by Contracting Parties to advance the implementation of Farmers' Rights as set out in Article 9 of the international Treaty?

**(iii) *Experienced Limitations***

- Have Contracting Parties taken any measures limiting or restricting Farmers' Rights (partially and/or completely)?
- What are the measures and processes that limit the promotion and protection of Farmers' Rights as set out in Article 9 of the International Treaty?
- Which national measures are limiting completely or partially the implementation of Farmers' Rights as set out in Article 9 of the International Treaty?
- What are the measures in place on access and benefit sharing that affect (positively or negatively) the protection of Farmers' Rights as set out in Article 9 of the International Treaty? If applicable, what are the results?
- What are the most frequently cited measures and practices limiting and restricting Farmers' Rights as set out in Article 9 of the International Treaty?

**(iv) *Human Rights and other international fora of relevance to Article 9 of the International Treaty***

- How does the national legislation apply Article 8 of the Convention on Biological Diversity in addressing the full application of Free Prior and Informed Consent?
- How many/which countries are aware of and translate UNDROP and other human rights instruments?
- How are relevant international human rights instruments and declarations taken into account in the promotion and protection of Farmers' Rights as set out in Article 9 of the International Treaty? If applicable, which instruments and declarations? What are the results?

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<sup>3</sup> This is consistent with the Kunming-Montreal Global Biodiversity Framework].

**(v) Legal and other administrative measures**

- Are there country laws that criminalize (fines, prison) farmers for putting their seeds into circulation?
- How many/which countries have ratified UPOV91 (under pressure)?
- How many/which countries are subject to “harmonized” regional frameworks to adapt their national legal contexts?
- How/how much do incentivized public policies promote commercial industrial seeds under IPR and the chemicals that go with them, kill diversity and poison/destroy agri-food systems and people's livelihood systems?
- How many/which countries have laws that criminalize (fines, prison) farmers for selling their own seed?
- Which countries have drawn their seed law or other seed policies from regional or international frameworks?
- Which (or even percentage) are the countries where the farmers do not have the minimal right to sell their seeds and there is no legal measure that recognizes their seeds.
- 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)?
- 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?
- Is your country subject to harmonized regional frameworks on seed trade to adapt their national legal contexts to the to the UPOV framework?
- Do your country allow the cultivation of Genetically Modified (GM) or New Breeding Techniques (NBTs) varieties? Which measures are implemented to safeguard the contamination of the farmers’ seeds from the GM crops?
- How many/what GM seeds put into circulation risk contaminating farmers' seeds? ]

**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 as set out in Article 9 of the International Treaty will utilize the available information resources, such as the:

- Compliance Reports (Article 9, Questions 19 and other relevant information provided in the National Reports. [A notification to invite Contracting Parties to submit/update FR implementation];
- 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;
- [National reports provided on the implementation of 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 work of 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 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 Thematic country studies, subject to the availability of financial resources;
- [A multistakeholder survey [among Contracting Parties] in all regions];[Regional multistakeholder consultations for validation of the results/feedback solicitations];
- [Outcomes of regional consultations]
- [Other relevant sources of information, as appropriate]
- [All other sources shall be documented]

#### **Section 4: The State of Implementation of Farmers' Rights [Section 5: 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 as set out in Article 9 of the International Treaty 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.] [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.]

[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 in accordance with Article 9 of the International Treaty, such as UN bodies, CGIAR 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] [Section 6: Summary and Key Findings] [Conclusions]**

This section will present the summary and [key findings] [recommendations] [conclusions].

#### **Appendices**

Glossary of Terms and Definitions Used in this document

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

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

<b>INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS</b>	
<b>[Ad Hoc Technical Expert Group on Farmers' Rights (AHTEG-FR, Expert Group):</b> Review and agree to the Outline of the assessment of the State of Implementation of Article 9 of the International Treaty]	June 2024
<b>INFORMATION GATHERING, COLLECTION AND DOCUMENT ANALYSIS</b>	
<b>1:</b> Organizing, gathering information resources and reviewing all the available information.	July to December 2024
<p>Gathering and assessing information contained in the:</p> <ul style="list-style-type: none"> <li>• National Compliance Report.<sup>4</sup></li> <li>• 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<sup>5</sup></li> <li>• Global Plan of Action, and [State of the World's Plant Genetic Resources for Food and Agriculture]</li> <li>• Other relevant documents [and information provided by Contracting Parties [and stakeholders]].</li> <li>• [Survey results based on the Guiding Questionnaire]</li> </ul> <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<sup>6</sup> 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 Contracting Parties and stakeholders] shall be included as appropriate.</p>	
<b>2:</b> Information and data analysis, drafting of the first assessment	
<ul style="list-style-type: none"> <li>• Reviewing the submission by country, and by region<sup>7</sup></li> <li>• Preparation of Case/thematic studies based on [Article 9] [Farmers' Rights' provisions (i.e., Article 9.1; 9.2a to c and 9.3)] while drafting, [and] writing the state of implementation by region.</li> </ul> <p>[Note: Clarify the purpose, is it for illustration of the implementation of Article 9, or the limitation to the implementation?]</p>	
<b>REGIONAL PRESENTATION [AND FEEDBACK SOLICITATION]</b>	

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

<sup>5</sup> 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-frs/en/](http://www.fao.org/plant-treaty/areas-of-work/farmers-rights/inventory-on-frs/en/))

<sup>6</sup> [Administrative, legal, technical, and other measures]

<sup>7</sup> Given the regional differences and specificities, a [regional] [country] approach may be undertaken

3: Presentation and [solicitation of feedback on] [validation of] the assessment reports, by region	[September to November 2024] [January to March 2025]
<ul style="list-style-type: none"> <li>Regional presentation will be organized through webinars, or hybrid meetings, for each region [including parties and stakeholders, especially Farmer Groups] to present and validate [and solicit feedback] the preliminary regional assessment, and gather any additional inputs, if there is. [in an open format where also actors from CSOs can contribute] [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]</li> </ul>	
<ul style="list-style-type: none"> <li>Consolidation and integration of all the feedback gathered by region.</li> </ul>	
<ul style="list-style-type: none"> <li>Finalize the assessment of the state of implementation of Farmers' Rights as set out in Article 9 of the International Treaty, by region.</li> </ul>	
<b>SYNTHESIS AND WRITING THE STATE OF THE IMPLEMENTATION OF FARMERS' RIGHTS</b>	
4: Review the assessments by region, and update if necessary	April to May 2025
<ul style="list-style-type: none"> <li>Preparation of the (first) Assessment of the State of Implementation of Farmers' Rights as set out in Article 9 of the International Treaty, [to share with Contracting Parties for feedback, if any].</li> </ul>	[January to March 2025]
<ul style="list-style-type: none"> <li>[Review the assessment of the state of implementation of Farmers' Rights as set out in Article 9 of the International Treaty, and provide conclusions for the Eleventh Session of the Governing Body, by the Expert Group].</li> </ul>	June 2025
<ul style="list-style-type: none"> <li>Presentation of the Assessment of "the State of Implementation of Farmers' Rights as set out in Article 9 of the International Treaty" to the Governing Body at the Eleventh Session</li> </ul>	November 2025

### [Appendix 1

How to gather quantitative data with regard to Farmers' Rights as set out in Article 9 of the International Treaty – 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]				