

## **Summary Report of the Genetic Resources Policy Committee (GRPC) Meetings Held in 2005**

The Genetic Resources Policy Committee (GRPC) held its 17<sup>th</sup> and 18<sup>th</sup> sessions in 2005, from 28 February - 2 March, and 29 - 31 August, respectively. This summary report provides details concerning nine of the issues considered by the GRPC during those meetings.

**1) Implementing the “Guiding principles for the development of Future Harvest Centres’ policies to address the possibility of unintentional presence of transgenes in *ex situ* collections”.** In 2004, the GRPC developed the first draft of the Guiding Principles following a technical workshop jointly organized by the Science Council and the GRPC. In the lead up to the GRPC’s 17<sup>th</sup> session in Hyderabad, February/March 2005, the draft Guiding Principles were widely circulated for comments from a broad range of interested parties, including farmer’s organizations, NGOs and national ministries of agriculture. During the 17<sup>th</sup> session, taking those comments into consideration, the GRPC revised and finally approved the Guiding Principles. During the 18<sup>th</sup> session, the GRPC focused on plans for follow-up activities, to be lead by individual Centres, to develop crop-specific guidelines that comply with the Guiding Principles. As part of the follow up activities to the 18<sup>th</sup> session, the GRPC will ask the CDC (now Alliance Executive) to request SGRP to convene a meeting of experts to support the development of the crop-specific guidelines, and to make contributions to the updating of a database on the state of development of GM crop technologies.

**2) The development of the Future Harvest Centres’ draft agreement with the Governing Body to place their *ex situ* PGRFA collections under the International Treaty on Plant Genetic Resources for Food and Agriculture.** Article 15 of the International Treaty invites IARCs of the CGIAR to sign agreements with the Governing Body to place their collections under the Treaty’s auspices. Centres gave their approval in principle to a draft text of the agreement with the Governing Body in 2001. That same draft text was considered by the 2<sup>nd</sup> Meeting of the CGRFA acting as the Interim Committee of the International Treaty in November 2004, and a few suggestions for changes were introduced though not finally decided upon (i.e. left as bracketed text). During its 17<sup>th</sup> session, the GRPC analyzed the suggested changes and decided that they were not problematic as far as the CG Centres were concerned. The GRPC further recommended that Centres’ Boards should approve the draft agreements and authorize their DGs to sign the agreements. In the interim between the 17<sup>th</sup> and 18<sup>th</sup> sessions, based on correspondence to the GRPC Secretariat from some Centres, the GRPC decided that it would be useful to develop a document to assist Centres’ Board’s to give their final approval. The GRPC developed such a document, and circulated it to the Centres. That document is attached as Appendix 1 to this report.

**3) Implementation of Article 15.4 of the International Treaty.** Article 15.4 states that “Contracting Parties are encouraged to provide IARCs that have signed agreements with the Governing Body with access, on mutually agreed terms” to PGRFA that is not listed in Annex 1 “and that are important to the programmes and activities of the IARCs.” The GRPC considers it important to take proactive steps to put this article into operation so that Centres’ collections remain dynamic and not frozen at the time that the International Treaty was adopted. During its 17<sup>th</sup> session, the GRPC decided to conduct a survey of CG Centres’ experiences making requests to States for non-Annex 1 materials, and recording the details when Centres have accepted materials under conditions that would not allow them to freely distribute/designate/utilize them. An interim research report was presented at the GRPC’s 18<sup>th</sup> session. It was decided that the GRPC Secretariat should follow-up by increasing the scope of its survey to include data on Centres’ research activities concerning non-Annex 1 materials. A report analyzing the data will be presented at the GRPC’s next session in February, 2006. Based on that report, the GRPC will develop a strategy for a common approach (or approaches) to seeking access from State Parties to the Treaty for non-annex 1 materials.

**4) Declining rates of acquisition by Future Harvest Centre Genebanks and future acquisition strategies.** FH Centres' gene banks' rates of acquisition of new materials have generally decreased in recent years. During its 17<sup>th</sup> session, the GRPC decided to conduct a survey of comparative rates of acquisition and distribution of materials by Centre genebanks. In a preliminary survey conducted by the GRPC Secretariat prior to the 18<sup>th</sup> session, most Centres reported that political and legal factors have had a significant impact on their rates of acquisition. In the lead-up to its next session in February 2006, the GRPC Secretariat will deepen its surveys of Centres to obtain more information concerning a) the nature of the particular political situations and laws involved, b) the countries involved, c) the crops or forages involved. The Secretariat will collect additional information regarding what outstanding diversity is a priority for Centres to collect and where it is located (both *in situ* and *ex situ*). Based in part on a report analyzing this data, the GRPC will consider recommendations for Centres' acquisition policies and related activities.

**5) Ethical principles informing how Future Harvest Centres should deal with a) potentially confidential knowledge they develop in private sector partnerships and b) traditional knowledge they access and use.** The GRPC recommended the following position with respect to confidential information: "The Centre will not keep information, materials, of other products of the Centre's research confidential, except in those rare cases when this is needed to facilitate technology transfer or otherwise protect the interests of developing nations." This statement is included in a template Intellectual Property (IP) policy statement (referred to in the next item) that was also approved during the 18<sup>th</sup> session. GRPC forwarded the template to the CDC (Alliance Executive) and the Executive Council. That document is attached as Appendix 2 to this report.

The GRPC agreed that statements of ethical principles to guide Centres' use of traditional knowledge need to be developed. The current CGIAR Statement of Ethical Principles, 1999, does not explicitly mention traditional knowledge. It was agreed that the Statement of Ethical Principles should be amended using text developed by the GRPC during its 18<sup>th</sup> session to address that issue. The GRPC sent the modified text to the Executive Council and AGM with the recommendation to adopt the amended document. That document is attached as Appendix 3 to this report.

**6) Promoting consistency among Centres' Intellectual Property Policy Statements.** The GRPC revised and approved a template for IP Policy statements for use by Future Harvest Centres. The template was developed to address the fact that Centres' IP policy statements need to be more uniform. The template is not designed to replace Centres' previously approved IP policy guidelines but to provide a tool that Centres can use to verify that their existing statements and guidelines address all of the core issues in a consistent and harmonious manner. As stated in paragraph 5 above, this template will be shared with the CDC (Alliance Executive) and the Executive Council. On a related note, the GRPC requested the Central Advisory Service on Intellectual Property (CAS-IP) to conduct a study of Centres' management practices concerning their own and others' IP protected materials. That study will be presented to the 19<sup>th</sup> session of the GRPC and will form the basis of recommendations from the GRPC for FH Centres.

**7) Trends in the appropriation of, and the extension of controls over, genetic resources for food and agriculture that limit their availability for research and breeding.** This issue is an on-going concern for the GRPC. During its 17<sup>th</sup> session, the GRPC considered a number highly controversial patent claims that would have the effect, if accepted, of extending control over an inappropriately wide range of materials. Based on research concerning those claims by CAS-IP, the GRPC concluded that those claims were poorly founded in law and were unlikely to succeed. During its 18<sup>th</sup> session, the GRPC considered recent scholarship that critically addresses the issues of the expanding range of legal controls

over genetic resources. It also heard reports from IPGRI and CAS-IP about efforts across the FH Centres to maintain their commitment to the production of public goods and to promote policies that support accessibility of genetic resources for research and the general improvement of livelihoods. To that end, the GRPC commended IPGRI on its representation of the FH Centres at the meeting of the Contact Group to Negotiate the Standard Material Transfer Agreement under the International Treaty, in Tunisia in July 2005. The GRPC members will consider additional written documents that are being prepared by the GRPC Secretariat for submission to the Ad Hoc Open-ended Working Group on Access and Benefit Sharing, which is currently engaged in negotiations for the creation of a potentially legally binding international access and benefit sharing regime within the framework of the CBD. The GRPC will maintain a watching brief on this issue.

**8) Invasive species and policy issues for the CGIAR.** The GRPC recommended the development of a common approach to the development of Centres' invasive species policies. It recommended that the Inter-Centre Working Group on Genetic Resources (ICWG-GR) should direct SGRP to coordinate efforts in this regard.

**9) Centres' technology transfers as benefit sharing and Centres' contributions to farmers' rights pursuant to the International Treaty.** In 2004, the GRPC decided to conduct studies on Centres contributions to Farmers' Rights/empowerment and technology transfers as anticipated under the International Treaty. CAS-IP collected data for this study during 2004 and 2005 and presented its preliminary analysis at the 18<sup>th</sup> session of the GRPC. The GRPC recommended further analysis concerning a) what is currently being done by Centres, b) gaps, and c) models for future practices by Centres in the framework of the relevant provisions of the ITPGRFA. A final report, based on that analysis, will be presented at the next meeting of the GRPC in 2006.

The 19<sup>th</sup> session of the GRPC will be held at CIMMYT, in Mexico, during the week of February 20, 2006.

## APPENDIX 1:

### Brief for the Centres on the Agreement with the Governing Body

Developed by the Genetic Resources Policy Committee of the CGIAR<sup>1</sup>

#### 1. The importance of the Treaty

Access to plant genetic resources for food and agriculture (PGRFA) is vital to food security and sustainable agriculture. PGRFA differ from other genetic resources in that they are for the most part man-made<sup>2</sup> and have been widely exchanged throughout the world; as a consequence all countries and regions are now heavily inter-dependent on their continued exchange. The International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty) provides a framework for the conservation and sustainable use of PGRFA. Most importantly, it provides for a Multilateral System that will allow for facilitated access, with minimum transaction costs, to the PGRFA of the crops listed in Annex 1, which are among the most important to food security and in relation to which countries are most interdependent. The Multilateral System also provides for the fair and equitable sharing, through multilateral mechanisms, of benefits arising out of the use of this PGRFA. The Treaty is in harmony with the Convention on Biological Diversity (CBD), and responds to the special nature of PGRFA.

By Article 15 of the Treaty, the Centres and other international institutions holding ex situ collections of PGRFA are called upon to sign agreements with the Treaty's Governing Body with regard to these collections, in accordance with a set of terms and conditions covering both the Annex 1 crops and other PGRFA held in trust by the Centres. (Article 15 is included as an Annex to this paper)

For PGRFA held by the Centres and governed by the agreements with the Governing Body, the conditions established by the Treaty are the only conditions that govern the transfer of the materials, provided the Centres have signed such agreements. They are not to be applied in addition to any other conditions deriving from the implementation of the CBD. The same is the case for materials brought into the Multilateral System by Contracting Parties.

#### 2. Concepts underlying the Treaty (including MS)

The Multilateral System of Access and Benefit-sharing for PGRFA has been set up by the Contracting Parties to the Treaty in the exercise of their sovereign rights over their genetic resources. The Multilateral System constitutes an agreement among the Contracting Parties on the terms to be applied to the exchange of PGRFA in the Multilateral System. Since those terms, which will be reflected in the standard Material Transfer Agreement (SMTA) to be adopted by the Governing Body, are established for all transactions, the Multilateral System avoids the need to negotiate Material Transfer Agreements on a bilateral basis. This makes individual transactions speedier and much less costly. The Multilateral System applies only to the exchange of PGRFA for use for research, breeding and training for food and agriculture.

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<sup>1</sup> The GRPC expresses its gratitude to Gerald Moore for his contributions to the preparation of this brief.

<sup>2</sup> The main exception is of course accessions of wild relatives of cultivated crops.

For PGRFA under the Multilateral System, and in the case of the Centres for both Annex 1 materials and other materials covered by Article 15 of the Treaty, the concept of “country of origin” is of no legal import in governing benefit-sharing. The benefits to be derived from the use of such materials flow multilaterally, through the mechanism established by the Governing Body, to farmers of all countries, rather than on a bilateral basis to an individual provider. In a sense, the origin of Annex 1 PGRFA can be said to be the Multilateral System itself, rather than any single country.

3. Process of negotiation of the Treaty, status of ratification and ongoing negotiations on its implementation

The Treaty was negotiated within the framework of the FAO Commission on Genetic Resources for Food and Agriculture<sup>3</sup> including 167 countries and the European Union. The Treaty was adopted by “consensus”<sup>4</sup> by the FAO Conference in 2001. The text of the Treaty thus reflects the will and understanding of the whole international community. To date some 72 countries and the European Community are Parties. This is a particularly fast rate of ratification, making it appear likely that the Treaty will eventually enjoy almost universal participation, in the same way as the CBD. The ongoing negotiations over the implementations of the Treaty, including the negotiations on the SMTA, at this stage similarly involve all countries and not just those that have already ratified the Treaty. Like the CBD, the Treaty is a framework agreement, and many implementation issues still remain under negotiation. These include the precise content of the SMTA, now being negotiated by the Intergovernmental Contact Group set up for that purpose. Unlike the CBD, which is to be implemented primarily by the individual Contracting Parties, many of the major outstanding issues regarding implementation of the Treaty will need to be settled on a multilateral basis by the Contracting Parties acting as the Governing Body to the Treaty.

4. Nature of and process for consideration and adoption of the Agreements between the Centres and the Governing Body

The ex situ collections held in trust by the Centres are important to the Treaty. That importance is specifically recognized in Article 15 of the Treaty. The Centres, however, are international institutions having their own international legal personality. As such, they can be bound only with their own consent. It is for this reason that Article 15 of the Treaty envisages that the Centres will sign agreements with the Governing Body of the Treaty, placing the collections they hold in trust within the purview of the Treaty. The main content of the agreements is already set out in Article 15 of the Treaty. It is envisaged that the final text of the agreements will be agreed upon by the Governing Body during the course of its first session in June 2006. Thereafter the agreements will be submitted to the individual Centres. At that stage it will not be possible to introduce further changes to the agreements. The agreements will then be signed by the individual Centres, presumably by the Directors-General on the authorization of the Boards of Trustees.

5. Implications for Centres of the Agreements with the Governing Body

The Agreements with the Governing Body are very important for the Centres<sup>5</sup>. For one thing, they will settle the issue, left outstanding under the CBD, of the status of the CG collections put together before the entry into force of the CBD. Indeed, this was one of the major reasons

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<sup>3</sup> The CGIAR was represented as an observer at all sessions of the negotiations.

<sup>4</sup> The FAO Constitution requires that conventions and agreements under Article XIV be adopted by 2/3 majority vote. In the final vote, no country voted against the Treaty.

<sup>5</sup> The draft text of the Agreements, as considered by the Second meeting of the CGRFA Acting as the Interim Committee for the International Treaty in November, 2004, is included in Annex 1 to this note.

for the negotiation of the Treaty in the first place. Under Article 15 of the Treaty, which will be made applicable to the Centres' collections through the Agreements with the Governing Body, precise rules are set down for dealing with both Annex 1 and non-Annex 1 PGRFA held by the Centres. Many of the provisions set out in Article 15 of the Treaty are drawn from the provisions contained in the In Trust Agreements, including the provisions relating to the maintenance of the collections and the respective roles of the Centres and the Secretary of the Treaty.

In clarifying the status of the collections, and in recognizing their importance, the Treaty will also help to secure the continued viability of the collections, and the work of the Centres based on those collections<sup>6</sup>.

It is of course up to each Centre to exercise its right to agree or not agree to sign the agreement that would place the collection it holds within the purview of the Treaty. It should however be noted that under the so-called "In Trust Agreements", concluded between the Centres and FAO in 1994, the Centres have recognized that they are not the owners of the PGRFA they hold, and that they hold the germplasm for the benefit of the international community. Under the In trust Agreements, the Centres agreed to recognize the role of the FAO Commission on Genetic Resources for Food and Agriculture in setting policy for the international network of ex situ collections. That policy, and the conditions under which the collections will continue to be held, is now set out in Article 15 of the Treaty.

The In Trust Agreements with FAO were intended at the time to be interim agreements pending the conclusion of the international negotiations on the Treaty. As such, it is envisaged that the In Trust Agreements, which have been extended up to 26 October 2006, will be superseded by the new Agreements with the Governing Body. It is almost inconceivable that the FAO Commission would agree to renew the current In Trust Agreements, or indeed to negotiate new ones with terms different from those contained in Article 15 of the Treaty, should a Centre not sign the agreement with the Governing Body as envisaged in Article 15 of the Treaty. To do so would be to undermine the Treaty precisely at the time when the Commission wishes to encourage its implementation. Where individual Centres seek to remain outside the new agreements with the Governing Body and Article 15 of the Treaty, then the status and future viability of the collections would be very much in question.

## 6. Outstanding issues

As noted above, many important issues relating to the implementation of the Treaty still need to be resolved by the Governing Body. It may be expected that some of these issues may be resolved during the course of the negotiations of the SMTA. The following are some of the outstanding issues:

### a. Transfers of PGRFA under the Multilateral System to non-parties.

The Treaty makes no specific provisions on how transfers to non-Parties should be treated. The Treaty, however, in describing the operation of the Multilateral System, through the SMTA, makes no exception for non-parties, with the implication that SMTAs will need to be issued in all transfers to non-parties. These, of course, provide for benefit-sharing by the recipient, no matter from what country. The Governing Body may in due course provide more specific guidance on this matter.

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<sup>6</sup> To a certain extent, this is recognized in the funding criteria of the Global Crop Diversity Fund, itself an essential element of the Funding Strategy of the Treaty, which will in effect require that individual Centres sign the agreements with the Governing Body if they are to be eligible to receive funding from the Trust.

b. Definition of products triggering benefit sharing under the MS

The Governing Body, within the context of the negotiations on the standard MTA is still to decide on the definitions to be given to the terms “products”, “incorporation” and “commercialisation” in triggering benefit-sharing under the Multilateral System.

c. Other issues related to SMTA

There are, of course, a number of further issues relating to the SMTA that will need to be resolved during the ongoing negotiations on the SMTA, including the issues of the level, form and manner of payments to be made under Article 13.2.d.(ii) of the Treaty, and the scope of what is meant by PGRFA “under development” pursuant to Article 12.3.e.

7. Positions to be taken by the Centres with respect to outstanding issues

Under Article 15 of the Treaty, the Centres will be required to apply the provisions of Part IV of the Treaty to the transfer of Annex 1 PGRFA under the Multilateral System. This will include not only the textual provisions in question, but also the interpretations placed on outstanding issues by the Contracting Parties acting collectively within the Governing Body, including those matters resolved during the course of the negotiations on the SMTA. Interpretations agreed upon collectively within the framework of the Governing Body would as a matter of principle need to be adopted by consensus of the Contracting Parties, like other decisions of the Governing Body. As a general principle, it is strongly suggested that the Centres follow any such interpretations agreed upon by the Contracting Parties, and not attempt to formulate their own interpretations of the Treaty. Indeed, matters of interpretation of an international agreement are always viewed as being within the prerogative of the Parties to that agreement. The Centres would of course be free to adopt their own interpretations on matters within the exclusive purview of the Centres and on which no collective interpretations have been adopted by the Contracting Parties.

8. Specific issues for the Centres

a. Products of Centre research

As noted above, the Contracting Parties have not yet decided on the scope and implications of the concept of “PGRFA under development” or on definition of “products” for the purpose of triggering benefit-sharing under the Multilateral System. If the Contracting Parties do decide, perhaps in the context of the negotiations on the SMTA, on such matters, then the Centres should follow these decisions. Even if the Contracting Parties take no such decision, or decide otherwise, there would be no bar to the Centres voluntarily treating the material as being covered by the benefit sharing provisions of the Treaty. The current policy of the Centres as endorsed by the CBC and CDC in 2004 is to treat “interim” products, such as advanced or elite lines the material as being covered by the benefit sharing provisions of the Treaty.<sup>7</sup> This policy does not exclude Centres from entering into additional agreements for their breeding efforts, consistently with their mandate to generate products and knowledge to benefit the resource poor and the developing world.

b. Restoration of samples collected by the Centres on request

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<sup>7</sup> It should be noted that benefit sharing under the Treaty will be mandatory only where the following four main conditions are met: material has been accessed from the Multilateral System; the material has been incorporated into a product; the product has been commercialized; and restrictions have been placed, through certain forms of patent or otherwise, on the availability of the product for further research, breeding or training. In such cases, a proportion, to be determined by the Governing Body, of the benefits must be paid to the Multilateral System.

#### Non-Annex 1 material

Article 15 of the Treaty, as reflected in Article 2 of the draft Agreement with the Governing Body, provides that Centres should restore samples of the PGRFA of non-Annex 1 crops<sup>8</sup> collected from in situ conditions on request to a Contracting Party in which it was collected from in situ conditions without an MTA. The draft agreement does not deal with the situation of samples being returned to non-parties. This is normal, as the Treaty does not deal in general with relations with non-parties. Since the provisions regarding non-Annex 1 material apply only to the Centres and not to Contracting Parties in general, the Centres will be free to adopt their own interpretation of how they should treat non-parties in this respect. It is proposed that the Centres announce in the statement to be made at the time of adoption by the Governing Body of the Agreement with the Centres, that the Centres will treat non-parties in the same way as Contracting Parties in this respect and will restore samples on request without an MTA.

#### Annex 1 material

Article 15 of the Treaty, as reflected in Article 2 of the draft Agreement with the Governing Body, provides that Centres should make Annex 1 PGRFA available in accordance with the conditions of the Multilateral System, and thus subject to the SMTA. In principle this would apply also to the restoration of samples of the PGRFA collected from in situ conditions, whether they are held by Centres or Contracting Parties to the Treaty, since the countries that negotiated the Treaty did not consider it necessary to make any special exception for this situation.

As noted above, the notion of the pooling of Annex 1 PGRFA under the Multilateral System, wherever they come from and the sharing of benefits derived from their use on a multilateral basis are at the very heart of the Multilateral System. These are the rules that have been adopted by consensus as applicable to the transfer of Annex 1 PGRFA by Contracting Parties as well as by the Centres from the In Trust collections: no country has expressed any concern over this matter during the negotiations of the Treaty, or in subsequent negotiations on its implementation.

As noted above, the Governing Body may well provide more specific guidance on the subject of the transfer of PGRFA to non-parties. If the Contracting Parties do provide such specific guidance, then the Centres should naturally follow it. If the Contracting Parties take no decision at all on the matter, then the Centres would be free to adopt their own practice in this respect. In this context, it is suggested that the Centres may in any case wish to use the SMTA for transfers to non-parties, to simplify transfers and to avoid discrimination against Contracting Parties to the Treaty.

If the Contracting Parties decide to address the question of restoration of samples of Annex 1 PGRFA collected from in situ conditions, the CGIAR observer should work to ensure that clarification is provided about the general rule and possible exceptions, if any.. It is to be noted that the decision will be applicable to Contracting Parties as well as the Centres.

#### c. Requests for material for non-food or agriculture uses

It is to be noted that the terms and conditions of the Multilateral System are applicable only to transfers of Annex 1 PGRFA for the purpose of research, breeding and training for food and agriculture. Transfers for other purposes is outside the scope of the Treaty.

#### d. Methods of expressing acceptance of SMTA (shrink-wrap approach)

The Contracting Parties still have to take a decision on whether written signatures will be required on all SMTAs. At present it is possible that the SMTA will provide, on an optional basis, for either written signature or some other way of expressing consent to be bound,

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<sup>8</sup> At this time, principally groundnuts, soya, tropical forages and some species of cassava.

such as the shrink-wrap approach currently used by the Centres. The CGIAR observer should continue to make known the strong preference of the Centres in favour of the shrink-wrap approach for the transfer of materials held by the Centres, at future meetings of the Contact Group charged with the negotiation of the SMTA.

e. The status of ‘designated’ accessions under the International Treaty

Under the International Treaty, Centres will no longer ‘designate’ accessions to be held “in trust” as they currently do pursuant to the In Trust Agreements of 1994. Article 15 of the International Treaty provides that the in trust collections, i.e. those PGRFA that have already been designated as being held “in trust”, should be brought within the purview of the Treaty by means of agreements signed with the Governing Body by the Centres concerned. It is important, therefore, as the date for signing the agreements with the Governing Body approaches (probably in June, 2006), that Centres are absolutely clear about which of their materials are designated and held in trust and which are not.

9. Benefit-sharing under Article 13.2.d(ii) and UPOV

UPOV has already made known its views that the provisions of the UPOV 1991 Act regarding essentially derived varieties would not constitute a restriction on availability of protected varieties for further research and breeding. National laws implementing either UPOV 1978 or UPOV 1991 would thus not have the effect of triggering mandatory benefit-sharing in terms of Article 13.2.d(ii) of the Treaty.

10. Conclusions

**The Centres are invited to consider the above points in reaching their decisions regarding signature of the Agreement with the Governing Body. Should the Centres wish for further clarification on any particular points, the Secretariat of the GRPC will be happy to oblige. Meanwhile, the CGIAR representative to ongoing negotiations concerning the implementation of the Treaty should continue to keep the Centres fully informed on any developments of relevance to these issues.**

## APPENDIX 2:

### Intellectual Property Policy Statement [a template]

MISSION (Mission and principles/mission and core activities/mission and values)

The Centre's mission is, #####. (Assumption that the Center's mission statement includes a reference to the CG's mission statement.) Two key premises underlie the Centre's mission.

The Centre strives to generate products and knowledge (Center could make this list more specific.) that are accessible to all and that can be widely disseminated and used to benefit the resource poor and the developing world. The Centre holds as its basic Intellectual Property Policy, the pursuit of publication and full disclosure into the public domain and actively encourages the sharing of materials, data, and information generated by the Centre.

The Centre encourages recipients and users of products and knowledge generated by the Centre, publicly acknowledge the Centre as the provider of the original information, material or research product. (As a responsible partner, the Centre respects the rights of others and will seek permission to use products to the extent this is required).

#### PREAMBLE

The Centre's Policy on Intellectual Property has been developed to assist the Centre in achieving the aims stated above, in particular by providing:

- i clear objectives and principles of conduct in the management of intellectual property;
- ii guidelines as to how and when intellectual property protection will be sought and exercised;
- iii mechanisms concerning the use of intellectual property and protected material by recipients to ensure that this use is consistent with furthering the Centre's mission.

#### GENERAL OPERATING PRINCIPLES

The Centre generates products and knowledge through the research carried out by the scientists working in the Centre and in partnership with others. The Centre believes that access to its outputs should be fair and equitable, with as few restrictions as is possible.

The Centre will encourage partners to seek assurance that research knowledge and products developed in partnership with the Centre are actively disseminated, adopted and utilized by and for the benefit of resource poor and developing world.

The Centre abides by all relevant international laws and treaties concerning intellectual property rights and genetic resources. As a matter of practice the Centre adheres to the national laws in the States in which it operates. The Centre endorses the CGIAR's "Ethical Principles Relating to Genetic Resources."

(The Centre has entered into agreement with the Governing Body of the ITGPRFA, which will apply to the exchange of certain plant genetic resources.)

Where appropriate, the Centre will participate in “Open source” initiatives.

#### Intellectual Property Policy

The Intellectual Property policy adopted by the Centre is designed to aid the Centre in the pursuit of its mission and help maintain its continued responsibility to the resource poor. The Centre will manage intellectual property issues with:

- i integrity;
- ii equity;
- iii responsibility, and;
- iv accountability.

The Centre does not regard Intellectual Property protection as a mechanism for securing funding upon which it may depend. CENTRE will only seek to protect the products of its research by obtaining intellectual property protection when necessary to serve the resource poor. Intellectual property protection will only be sought in situations such as:

- i. to engage in public and private partnerships which pursue mission-based research;
- ii. to assure ready access;
- iii. to avoid possible restrictions arising from "blocking" patents and to ensure CENTRE's ability to pursue its research without undue hindrance;
- iv. to ensure the effective transfer of technology, research products and other benefits to the resource poor.

The Centre will disclose the reasons for seeking protection.

The Centre respects the rights of others when using their materials, data, information and other intellectual property.

The Centre will be responsible in the management of intellectual property associated with all the products of its research by providing the necessary resources for this activity.

Intellectual property for products and knowledge that are collected, accumulated, created, generated or improved on by an (employee, trainee, or consultant or other) in the course of his or her employment or engagement rests with the Centre. The Centre will acknowledge the contribution of originators through appropriate attribution.

In agreements between the Centre and its partners, the Intellectual Property Rights provisions will be consistent with this Policy. The Centre will not keep information, materials, of other products of the Centre's research confidential, except in those rare cases when this is needed to facilitate technology transfer or otherwise protect the interests of developing nations. In all such cases, the Centre Director General will be responsible for such decision after using a rational decision-making process to ensure the balance of access opportunities and benefits, to the poor.

This policy applies to all the Centre's activities. Responsibility for implementing the policy rests with the Director General of the Centre. The Director General shall decide on, clarify and interpret any matter not expressly stated in this document.

This policy is effective from xxxx 2005, and shall remain in force until superseded, cancelled or suspended by the authority of the Board of Trustees for the centre.

## The CGIAR's Ethical Principles Relating to Genetic Resources

### Introduction

The CGIAR was founded on the ethical imperative of eliminating hunger and starvation and has, since its inception, followed certain ethical principles. Increasing food security<sup>†</sup> and alleviating poverty have long been central to the system's science-based humanitarian mission. With the growing complexity of the problems being addressed by the research of the Centres, the expanding number of partners with whom they work and the rapidly evolving scientific, social and economic environment within which they operate, an increasing need has been felt for a clearer enunciation of the System's underlying ethical principles. Greater transparency about what the CGIAR really stands for is important in enabling strong and unambiguous relationships to be forged with a wide range of partners.

The main ethical principles are presented under four headings: Equity; Trusteeship of Genetic Resources; Respect, Responsibility and Integrity in Science; and Social Benefits. These are intended to encapsulate the essential principles followed by the CGIAR in relation to its work on genetic resources and in the pursuance of its goal: to contribute through agricultural and natural resources research and partnerships to sustainable food security and the alleviation of poverty.

### Equity

- The CGIAR works for the attainment of equity in the conservation, sustainable use and the sharing of benefits derived from genetic resources. This commitment to fairness requires that emphasis be given to the needs of resource poor communities and to disadvantaged members of society.
- The CGIAR recognizes the contribution of many different communities and individuals, especially of women, to the conservation and enhancement of genetic diversity of potential use for food and agriculture, and will strive to ensure they benefit from such contributions. The CGIAR will avoid situations where a foreseeable reduction of local communities' access to, and benefits from, genetic resources might occur.
- The CGIAR recognizes that its major strength lies in its partnerships with national agricultural research systems and other organizations, and is committed to sharing credit in an equitable manner.

### Trusteeship of Genetic Resources

- The CGIAR Centres hold genetic resources in trust for the international community. In the case of plant genetic resources for food and agriculture this is, to a great extent, recognized through agreements with FAO. As trustees of genetic resources the CGIAR Centres recognize their responsibility to be impartial, transparent and fair in their administration of the trust; to respect and observe national regulations and international conventions, in particular the Convention on Biological Diversity; to be accountable for their actions; and to exercise due care and diligence in conserving the material for the use of present and future generations and in making it readily available for use for the public good.

### Respect, Responsibility and Integrity in Science

- The CGIAR's work on genetic resources respects the general scientific principles of good faith and the search for truth. However, the CGIAR is guided by its particular humanitarian and equity-based concerns, and not the pursuit of knowledge for its own sake.

- The CGIAR's scientific work, including that on biotechnology, is based on the principles of accountability, responsibility and precautionary action. For any undertaking, potential benefits shall clearly outweigh foreseeable risks, emphasizing broad societal interests such as food security, poverty alleviation and environmental sustainability.
- The CGIAR recognizes and respects the integrity of culture, tradition and the relationship of local people with their natural environments. Likewise, the CGIAR respects the aspirations and culture of partner institutions and the societal context within which they operate.
- The CGIAR values traditional knowledge and will endeavor to work with the holders of traditional knowledge through participatory research. Furthermore the CGIAR will respect the rights of traditional knowledge holders and will seek their consent for the use and publication of their traditional knowledge.
- The CGIAR adheres to national regulations and to relevant internationally accepted codes of behaviour and conduct in areas of plant and animal biology; the collection and transfer of genetic resources; biosafety; animal welfare; and intellectual property.

#### Social Benefits

- The CGIAR aims to promote lasting social benefit through its research and partnerships for the international public good. In its activities on genetic resources the CGIAR strives to increase individual, local and national food and livelihood security in developing countries through sustainable advances in productivity, nutritional quality, stability and through promoting biological and food diversity. For this purpose, it is accountable for the dimensions of social and gender equity and environmental sustainability in its research, human resource development and capacity building programmes. The CGIAR aims to support the building of national capacity and institutions to manage, develop and conserve genetic resources.

#### Conclusion

The above principles, while not exhaustive, are intended to provide an overall statement of ethical principles relating to the CGIAR's work in genetic resources. They are also intended to provide a basis on which individual Centres can further elaborate their own guiding ethical principles or codes of conduct, and set up monitoring mechanisms, as appropriate. In implementing the above principles, the CGIAR Centres will work in partnership with national systems and other relevant organizations.

Adopted by the CGIAR, May 1998

<footnote>

† According to the definition in the World Food Summit Plan of Action, food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.