

## MINUTES OF THE GENETIC RESOURCES POLICY COMMITTEE (GRPC)

22nd Session, World Agroforestry Centre, Nairobi, 12-14 November 2007

- Members present: Carlos Correa (Chair)  
Emile Frison (Committee Secretary)  
Mike Gale (Science Council)  
Carl-Gustaf Thornström (CGIAR member)  
Teresita Borromeo (NARS)  
Chee Yoke Ling (NGOs)  
Shadrack Moephuli (CGIAR member)  
Orlando de Ponti (Private sector)  
Mahmoud Solh (Alliance Executive)  
Dan Leskien (FAO Observer)
- Excused absences: Benito Odala Eliasi (Farmers' Organizations), Tony Gregson (Alliance Board)
- Members of Secretariat: Michael Halewood, Victoria Henson-Apollonio (Bioversity International)
- Additional participants: Dr. Carlos Sere (ILRI DG); Dennis Garrity (World Agroforestry Centre DG); Manuel Lantin (CGIAR Secretariat), Shakeel Bhatti (Secretary, Governing Body, International Treaty); Jojo Baidu-Forson (Director, Bioversity Regional Office for SSA)

### Monday 12 November

#### **A. Welcome, introductions, logistics, and adoption of the agenda**

Dennis Garrity, Director General of the World Agroforestry Centre, welcomed participants to the meeting and to ICRAF. Among other things, he stressed the special nature of forest genetic resources, and challenges associated with their use and conservation.

The committee agreed that in future meetings, one of the first agenda items would be a review of the progress made on the GRPC's rolling workplan. The committee requested the Secretariat circulate background documents as early in advance as possible of future meetings, and to indicate the purpose for which each document is being distributed.

#### **B. Update on the 11<sup>th</sup> Session of the Commission on Genetic Resources for Food and Agriculture, 11-15 June 2007**

Dan Leskien described the meeting, highlighting developments leading up to it and its historical importance. Two of its most significant outcomes of the meeting were the preparations for the First International Technical Conference on Animal Genetic Resource (which is reported on below) and the adoption of the Commission's multi-year

plan of work (MYPOW) for the next 5 sessions, over 10 years. The committee noted that the MYPOW creates important opportunities for the Centres to make technical contributions on a wide range of GRFA policy-related issues, and encouraged the Centres to be proactive in this regard. It also noted that the paper originally requested by GRPC 20 on sectoral/cross-sectoral approaches to access and benefit sharing (ABS) for GRFA could constitute a useful technical contribution to the 12<sup>th</sup> session of the Commission, which will deal primarily with ABS issues. The committee noted with approval the ongoing communication between the Centres and the Commission, and encouraged still closer collaboration.

### **C. Question and Answer session regarding update papers**

#### *Update regarding the 5<sup>th</sup> session of the Ad Hoc Open-ended Working Group on Access and Benefit Sharing (WG/ABS)*

It was noted that the 5<sup>th</sup> session of the WG/ABS did not make much progress. At the end of the meeting, a few countries made it clear that they were not prepared to go ahead with the development of a new substantive ‘self-standing’ regime. It was suggested that the CG Centres could play a role sharing information on how to monitor the use of materials.

Lessons learned from the implementation of the Treaty would be helpful in the ongoing negotiations of the WG/ABS. The committee noted the urgency of countries establishing a ‘track record’ implementing the Treaty, and the urgent need for capacity building to support them in that regard. In this context, the committee expressed appreciation of the Governing Body’s recognition of the joint programme being developed by FAO and Bioversity to provide technical assistance to developing countries implementing the Treaty.

#### *Update on the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), Eleventh Session, 3 -12 July, 2007 (Geneva, Switzerland).*

It was noted that not much progress was made by the IGC during the 11<sup>th</sup> session, particularly with respect to genetic resources. The IGC’s mandate has been extended for another two years.

#### *Update on the enola bean case*

The committee repeated its request for the Secretariat to work with CIAT to publicize the enola bean case and its implications for the CG and public research. It was noted that the case may be close to final resolution and that it would be appropriate to delay awareness raising efforts until it was resolved.

The committee requested an update on the Maca case at its next meeting. This case is particularly relevant in light of CIP’s participation in the national Peruvian commission looking at the issue.

#### *Update on FAO activities for Ethics and Agriculture*

The FAO Committee on Ethics and Agriculture’s next meeting is 26-28 November, 2007, during which it will address, *inter alia*, issues associated with bioenergy and biofuels.

Two members of the GRPC are members of the FAO Ethics and Agriculture Committee and the FAO observer of the GRPC provides Secretariat services. The GRPC recommended exploring ways to take advantage of this overlap in membership in the two committees.

#### **D. Guidelines for Centres concerning working with traditional knowledge holders and or obtaining and using information provided by them**

Victoria Henson-Apollonio introduced a ‘Report on the survey of practices for the acquisition and use of traditional knowledge (TK) by CGIAR scientists: a basis for recommendations’. The committee welcomed CAS-IP’s contribution and commended the paper as a useful basis for the development of a policy framework for the Centres. It revised the paper, and adopted two sections of the paper together as a draft framework policy for the Centres. CAS-IP will further revise the paper and circulate it to the GRPC by the end of November 2007 for comments. CAS-IP will make any further necessary changes and then, through the GRPC Secretariat, circulate the guidelines for system-wide consultations. Centres’ comments, and a final revised version of the text, will be considered at GRPC 23.

#### **E. Distributing materials for purposes other than conservation, research or training for food and agriculture.**

The committee considered a draft information paper entitled ‘Distributing materials for biofuel related research and use,’ introduced by Michael Halewood. The committee revised the document and adopted the draft ‘Policy for CGIAR Centres distributing materials for non-food/feed related research or direct use,’ noting that the MTA to be used by the Centres pursuant to the policy still needs to be developed. The policy is included in *Appendix B* to this report. The draft policy and related MTA will be circulated system-wide for comment through a variety of mechanisms, and will ultimately be forwarded to the joint meeting of the Alliance Executive and Alliance Board for consideration/approval. If not approved by the AE in the interim, the 23<sup>rd</sup> session of the GRPC will consider comments received and revise the document accordingly. The committee noted that, ultimately, the Centres’ approach to this issue should be brought to the attention of both the CGRFA and the Governing Body.

#### **F. Draft guidelines for Centres’ germplasm acquisition**

Emile Frison introduced a document entitled ‘Guidelines for Germplasm Acquisition Agreements’. The committee used the document as the basis for developing draft guidelines for the Centres and a draft germplasm acquisition agreement (GAA) to be used by Centres to obtain materials that are not included in the Treaty’s multilateral system. They are included in *Appendix C* to this report. The Committee agreed that the draft guidelines and GAA should be circulated to the Alliance Executive and the ICWG-GR for comments. Ultimately, they will be forwarded to the AE for consideration/approval. An update will be provided to the 23<sup>rd</sup> session of the GRPC.

#### **G. Possible genetic resources-related policy implications of synthetic biology for the CGIAR**

Carl-Gustaf Thornström made a presentation concerning the current state of synthetic biology, and growing controversies concerning related policy issues. Mike Gale agreed that the Science Council, in consultation with the AE, would consider whether a CGIAR position on synthetic biology is needed at the current time.

## Tuesday 13 November

### **H. Revising/developing system-wide policy on intellectual assets**

Emile Frison described activities within the CG system, since GRPC 21, to further develop the ‘draft Policy of the Alliance of CGIAR Centres on Intellectual Assets’. Following the direction provided by GRPC 21, those efforts included developing and revising a ‘think piece’<sup>1</sup> based on consultations with the GRPC, CAS-IP, the Alliance Executive, and the CGIAR Secretariat; surveying the Centres on their current relevant practices; submitting a request for guidance to ExCo; a presentation by the GRPC Chair to ExCo; and gathering comments from ExCo members.

Based on all of these inputs, the committee further revised the ‘draft Policy of the Alliance of CGIAR Centres on Intellectual Assets,’ which is included in *Appendix D*. The committee recommended that the draft policy be circulated for comments through available system-wide mechanisms. The Secretariat, in consultation with CAS-IP, will present a further revised version, based on comments received, to the 23<sup>rd</sup> session of the GRPC. Mechanisms should be put in place to ensure that, and monitor how, the policy is implemented (for example, being included in the terms of reference of EPMRs).

### **I. Report on the International Technical Conference on Animal Genetic Resources**

Carlos Sere, Director General, ILRI, introduced the main outputs of the International Technical Conference, held in Interlaken, Switzerland, September 3-7, 2007. The main outputs of the conference were the finalized State of the World’s Animal Genetic Resources and the Global Plan of Action for Animal Genetic Resources. He stressed that the most important issue facing developing countries vis-à-vis AnGR was not ‘biopiracy,’ but the replacement of local breeds by exotic breeds from developed countries. In general, developed countries have less interest in tropical AnGR than tropical PGR; south to north AnGR transfers are much less than north to south. South-south transfers will be more important in the future. ILRI has always argued that *in situ* conservation of AnGR must be the priority, but *ex situ* conservation is becoming cheaper and more feasible. Strengthening capacity of developing countries to engage in both kinds of conservation activities is critically important. ABS issues will become more important as *ex situ* collections grow in importance. Discussion concerning ownership over animal breeds and animal genetic resources is pulled between collective rights, individual property rights, and common property approaches. Given the low levels of funding for AnGR conservation work, pragmatic approaches to conservation will continue to be necessary. In this context, the overriding question is: ‘how much and what AnGR should we be working to conserve?’ There is a range of opinions, from focusing on conserving key

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<sup>1</sup> ‘Searching for a line in the sand: issues to consider concerning financial returns from recipients of Centres’ PGRFA under Development,’ available at: <[http://www.cgiar.org/exco/exco13/exco13\\_grpc\\_ip\\_guidelines.pdf](http://www.cgiar.org/exco/exco13/exco13_grpc_ip_guidelines.pdf)>

traits we already know are important, to identifying and conserving representative samples of all existing diversity.

In subsequent discussion, it was noted that characterization, breeding, policy, and *in situ/ex situ* conservation are key actions to be undertaken at national levels. The importance of local breeds' resistance to pests and diseases was emphasized. It was further noted that the influence of AnGR diversity on the spread of zoonotic diseases was an interesting field of enquiry. At the international level, it would be useful to have policy action in support of making AnGR broadly available. At the present time, however, animal health and ABS laws currently present challenges to making these materials available. In closing the session, the committee expressed its appreciation for Sere's presentation.

#### **J. Report of the 2<sup>nd</sup> Session of the Governing Body of the International Treaty.**

Emile Frison and Michael Halewood provided brief reports, highlighting particularly interesting developments of the meeting, and the technical contributions made by the Centres to the meeting.

#### **K. Using the SMTA, including:**

- **The footnote to be included in the SMTA to allow its use by Centres transferring non-Annex 1 materials.**
- **Centres' experiences to date using the SMTA.**
- **Options for additional conditions to be included in an ancillary document to the SMTA for PGRFA under Development, (including consideration of financial compensation for access).**
- **Framework agreements for movements of material under the SMTA in research projects.**
- **Best practices concerning information made available with the SMTA.**

#### *Amendment of the interim MTA by the Second Session of the Governing Body*

The committee noted the decision of the Governing Body that the Centres should use the SMTA for distributions of non-Annex 1 materials, including the footnote set out in IT/GB-2/07/13 Rev.1 (concerning the use of the SMTA for non-Annex 1 materials).

#### *Additional terms to those included in the SMTA for PGRFA under Development*

Michael Halewood introduced a draft template for an ancillary document to the SMTA, including additional legal terms that could be used by the Centres when transferring PGRFA under Development. The committee welcomed the initiative, advising system-wide consultations to identify appropriate terms. It was noted that some options currently included in the draft template would not be acceptable to private sector recipients. The committee recognized that the text concerning financial compensation, exclusivity and intellectual property rights could not be finalized until there is system-wide approval of the 'Policy of the Alliance of CGIAR Centres on Intellectual Assets'. A revised version of the template will be presented by the Secretariat to GRPC 23.

#### *Framework agreements*

Michael also introduced a draft contractual clause to include in framework agreements between Centres and research partners, pursuant to which contracting parties would recognize that the terms of the SMTA apply to all transfers of PGRFA between those parties, and the full text of the SMTA would not need to be reproduced for each transfer. Inventories accompanying each shipment would be deemed to constitute Annex 1 of the SMTA. The draft clause is included on page 15 of the 'Guide for the CGIAR Centres' Use of the SMTA,' at [http://www.sgrp.cgiar.org/Docs/SMTA/Guide\\_SMTA.pdf](http://www.sgrp.cgiar.org/Docs/SMTA/Guide_SMTA.pdf) . The committee endorsed the use of such framework agreements to increase efficiency and streamline procedures using the SMTA.

#### *Information to be included by the Centres along with the SMTA*

Concerning information to be made available by the Centres with the SMTA, it was noted that Centres' evaluation data are not currently available through SINGER. The committee recommended that the Centres make their evaluation data available through SINGER.

#### *Reporting transfers to the Governing Body*

During the Second Session of the Governing Body there was discussion within the Budget Committee concerning the reporting, to the Governing Body, of transfers of materials under the SMTA. However, no final decisions were taken. There will be further intercessional work undertaken within the adopted work programme on this aspect of SMTA operation. The committee recommended that until further guidance is provided by the Governing Body, each Centre should maintain records of the SMTAs they send out. The Centres should collectively provide a single report to the Governing Body, on an annual basis, including transfer meta-data. These reports should refer to the fact that more details of all of those transfers are available through SINGER.

#### *Annual survey of possible infringements of SMTAs distributed by the Centres*

The committee noted with approval the ICWG-GR's initiative to have the SGRP conduct a yearly survey, across the Centres, of alleged or established infringements of the terms of the SMTA by recipients of materials from the Centres.

### **L. Coordinating representation of the CGIAR at CBD meetings concerning the implementation of the Cartagena Protocol on Biosafety**

Mike Gale provided details of plans for a meeting, supported by the Science Council and hosted by IRRI, with the objective to encourage networking between NARS and Centres concerning biotechnology development and use. The meeting will also focus on system-wide representation at international meetings of the Cartagena Protocol on Biosafety. The committee reiterated its earlier recommendation for coordinated, system-wide coordination representation.

### **M. The position of the GRPC within the CG system**

There are only two system-level advisory committees: GRPC and Science Council. The committee recommended circulating the four page flyer on the GRPC to the ICWG-GR and the AE.

**Wednesday 14 November**

**N. Round table on additional genetic resources policy issues of relevance to the CGIAR**

No new issues were identified.

**O. Review/update of the GRPC work plan**

The Committee adopted Appendix A.

**P. AOB and next meetings**

Tuesday March 18 – Thursday March 20, ICARDA

Tuesday September 9 – Thursday September 11, Bioversity

**Appendix A: GRPC workplan (as amended at GRPC 22)**

<b>Issue</b>	<b>Activity/Input</b>	<b>Outputs</b>	<b>Timetable</b>
Guiding principles for the development of CGIAR Centres' policies to address the possibility of unintentional presence of transgenes in <i>ex situ</i> collections	CIMMYT will continue to coordinate development of crop specific guidelines, through SGRP, in the context of GPG 2	Update on development of crop specific guidelines to GRPC 23	GRPC 23
Guidelines for the Centres' use of the SMTA	The Guide for the Centres' use of the SMTA will be further revised to include work on the template with optional conditions for PGRFA under Development, best practices for associated information, and system-wide policies on distributing materials for non-food/feed, acquiring new materials and intellectual assets if/when they are adopted.	Revised guidelines  Update to the GRPC by Secretariat	Ongoing  GRPC 23
Financial compensation for providing access to PGRFA under Development	Emile will re-circulate the 'draft Policy of the Alliance of CGIAR Centres on Intellectual Assets'  Secretariat will revise the draft, if necessary, based on comments received for consideration by the GRPC  It will be sent to Ex Co for consideration at its next meeting	GRPC approved revised draft	November 2007  GRPC 23  Ex Co 14 (May 2008)

<b>Issue</b>	<b>Activity/Input</b>	<b>Outputs</b>	<b>Timetable</b>
Amending the interim MTA for non-Annex 1 materials	<p>Emile will forward the text of the footnotes to be included in the SMTA to the AE for implementation</p> <p>Bioversity will circulate the SMTA with final footnote to all Centres. It will coordinate efforts with the Centres to translate the footnote into the relevant languages.</p>	<p>Centres start using SMTA with footnote</p> <p>SMTA with footnote (in all applicable languages)</p> <p>Update to the GRPC</p>	<p>February 2008</p> <p>December 2007</p> <p>GRPC 23</p>
Distributing materials for non-food/feed purposes	<p>Emile will forward the GRPC's draft policy document for comments to the ADE, ICWG-GR, IP focal points for consideration/adoption by the AE.</p> <p>Secretariat will revise the policy if necessary and develop the MTA based on comments received for consideration by GRPC</p>	<p>Approved or revised draft policy and draft MTA</p> <p>Report to GRPC 23</p>	<p>December 2007</p> <p>GRPC 23</p>
Guidance for Centres' research involving traditional knowledge	<p>Victoria will circulate revised version of the document</p> <p>Emile and CAS-IP will circulate the draft policy document and background paper for comments to the ICWG-GR, ADE and to for consideration/adoption by the AE.</p> <p>CAS-IP will revise the policy if necessary, based on the comments received, for consideration by GRPC</p>	<p>Approved or revised draft policy</p> <p>Report to GRPC</p>	<p>End of November 2007</p> <p>GRPC 23</p>

<b>Issue</b>	<b>Activity/Input</b>	<b>Outputs</b>	<b>Timetable</b>
Licensing agreements	CAS-IP will develop data base, decision making tool, templates	Draft tool, including criteria  Update to GRPC by Secretariat	Ongoing  GRPC 23
Centres' policy on acquiring new germplasm	Emile will forward the GRPC's draft policy document and GAA for comments to the ICWG-GR and to for consideration/adoption by the AE.  If necessary, the Secretariat will revise the policy and GAA based on comments received	Approved or revised draft policy and GAA  Report to GRPC 23	December 2007  GRPC 23
System-wide policy on intellectual assets	Emile will re-circulate the 'draft Policy of the Alliance of CGIAR Centres on Intellectual Assets'  Secretariat will revise the draft, if necessary, based on comments received for consideration by the GRPC  It will be considered to Ex Co's next meeting	GRPC approved revised draft	November 2007  GRPC 23  Ex Co 14 (May 2008)
Assessment of Centres' impact concerning: 1. technology transfers as benefit-sharing, and 2. contributions to the implementation of Farmers' Rights	CAS-IP will draft paper for presentation to the GRPC	Draft paper	GRPC 23
Alleged or established Infringements of Centres MTA by recipients	Survey of the Centres concerning alleged or established infringements by recipients of materials by SGRP	Update too GRPC by ICWG-GR	GRPC 24

<b>Issue</b>	<b>Activity/Input</b>	<b>Outputs</b>	<b>Timetable</b>
Demand driven GRPC agenda setting process	Secretariat will continue to consult systematically with the ICWG-GR, AE, AB	Update papers GRPC by Secretariat	GRPC 23
Developments at CBD, WIPO, WTO, other bodies	Secretariat will prepare short update paper(s) summarizing relevant developments  CGIAR Centres will be represented in relevant meetings	Update papers	GRPC 23
Cartagena Protocol on Biosafety	Secretariat will coordinate development of collective submission from the Centres to COP/MOP 4 and assist in coordinating side event.  Workshop on biotechnology network, IRRI, March 2008	Submission to COP/MOP 4  Side event at COP/MOP 4  Secretariat report to the GRPC	COP/MOP 4  GRPC 23
(Cross)-sectoral approaches to ABS	Secretariat will explore development of a background paper analyzing the need for approaches to ABS regulation for GRFA to be submitted to the CGIAR and CGRFA  The Secretariat will explore collaboration with FAO on these issues, particularly with respect to ‘targeting’ contributions to the 12 <sup>th</sup> session of the CGRFA, 2009  Secretariat may hire consultants to develop portions of the papers.  Terms of reference or early draft submitted to GRPC for consideration.	Terms of reference or early draft presented to GRPC	GRPC 23

<b>Issue</b>	<b>Activity/Input</b>	<b>Outputs</b>	<b>Timetable</b>
Patents	Emile will write message to CIAT recommending publicizing impacts on research once case is finalized. CAS-IP to follow-up.  CIP and or CAS-IP to provide an update on the Maca case	Paper, public awareness materials  Report to GRPC	January 2008  GRPC 23
GRPC at AGM	Chair to report to business meeting	Chairs report	

## ***Appendix B: Draft Policy for the Alliance of CGIAR Centres distributing materials for non-food/feed related research or direct use***

The question of legal terms and conditions under which CGIAR Centres may distribute materials for non-food/feed-related research or direct use has been raised in several fora in recent years.

After considerable deliberation, taking into account inputs from the Centres and a background paper produced by the GRPC Secretariat<sup>1</sup>, the GRPC has developed this draft policy for further consideration system-wide.

### General considerations

Non-food/feed related research or direct use (eg concerning biofuels) falls outside the explicitly listed purposes for which recipients may use materials received under the standard material transfer agreement (SMTA) that the Centres use to distribute materials<sup>2</sup>;

Centres may not redistribute, for non-food/feed research or direct use, materials they have received under the SMTA;

Nonetheless, the Treaty and the Agreements signed between the Governing Body of the Treaty and the Centres in October 2006 do not preclude the Centres from distributing materials outside the context of the International Treaty, and for other purposes;

For materials obtained after 1993, the Centres must ensure that they have permission to do so consistent with the Convention on Biological Diversity and national law;

For materials obtained before 1993, the CBD does not apply. Of course, Centres must respect any other conditions placed on the availability of such materials that suppliers made explicit (though there are relatively few such cases);

Pursuant to the 1994 FAO-In Trust Agreement, Centres were able to distribute ‘designated’ materials for a wider range of purposes than under the SMTA, including for non-food/feed related research and production.

### Policy

Based on the foregoing considerations, the GRPC recommends that when a request is made to Centres for materials to be used for non-food/feed-related research or direct use, the Centres should use the MTA for non-food/feed purposes (MTA-nff):

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<sup>1</sup> GRPC Secretariat, 2007. ‘Distributing PGRFA for purposes outside the International Treaty’

<sup>2</sup> The Second Session of the Governing Body decided that the Centres should use the SMTA for distributions of non-Annex 1 materials (with a footnote added to the SMTA noting that language in the SMTA referring to Annex 1 materials and the MLS should not be interpreted to preclude the use of the SMTA for non Annex 1 material) [NB: the official report of the Second Session of the Governing Body is not available as of the finalization of these minutes, so an exact record of the decision cannot be included. ]

1. for materials accessed by the Centres prior to the Convention on Biological Diversity coming into force (1993);
2. for materials accessed by the Centres after 1993 that have been designated under the 1994 CGIAR-FAO In Trust Agreements;
3. for materials accessed by the Centres after 1993 that have not been designated under the 1994 CGIAR In Trust Agreements, when they have the consent of the provider to distribute the materials for non-food/feed research and direct use, consistent with the CBD and national law;
4. for materials accessed by the Centres after 1 January 2007 when they have the consent of the provider to distribute the materials for non-food/feed research and direct use, consistent with the CBD and national law.

Annex 1 (to Appendix B): The MTA for non-food/feed purposes (MTA-nff)  
(to be developed)

## ***Appendix C: Draft Guidelines for the Alliance of CGIAR Centres acquiring germplasm***

### *Background*

These guidelines and attendant model germplasm acquisition agreement are concerned with the acquisition by the Centres of new materials to be included in their ex situ collections, and to be subsequently made globally, publicly available. It does not cover material acquired by the Centres for research or breeding purposes and that is not intended for further distribution in the form received.

#### **Acquiring germplasm for redistribution under the SMTA**

Where the following conditions are met:

- the country from which the germplasm is to be acquired is a Contracting Party to the Treaty; and
- the germplasm is PGRFA of a crop listed in Annex 1 of the Treaty; and
- the PGRFA is under the management and control of the Contracting Party and in the public domain, or has been placed voluntarily in the Multilateral System;

then the acquisition of the germplasm will fall under the Multilateral System established by the Treaty, and the PGRFA should be acquired by the Centres under the SMTA.

When any of these conditions are not fulfilled, germplasm should be acquired under the 'germplasm acquisition agreement for materials not included in the Treaty's multilateral system' (included in Annex 1 to this document).

Non Contracting Parties may choose to make materials available using the SMTA.

Access to materials in *in situ* conditions will be obtained subject to national law, and, for Annex 1 materials, or in the absence of such law, pursuant to standards as may be set by the Governing Body. So far, the Governing Body has not set any such standards. It is therefore recommended to follow the International Code of Conduct for Plant Germplasm Collecting and Transfer, adopted by the FAO Conference in November 1993.

#### **Acquiring germplasm to be distributed for non-food/feed purposes (under the MTA-nff)**

Where Centres want to be able to redistribute any material for non-food/feed research or direct use, including materials otherwise in the MLS, they should obtain it using the 'Germplasm Acquisition Agreement for materials not included in the International Treaty's Multilateral System of Access and Benefit Sharing' (in Annex 1 to this document) inserting the optional clause 5.

Annex 1 (to appendix C):

Draft Model  
Germplasm Acquisition Agreement  
for materials not included in the International Treaty's Multilateral System  
of Access and Benefit Sharing

1. *[Supplier]* grants germplasm and related information to *[Centre]* under the terms and conditions of this agreement. The germplasm being provided as identified in the attached list, which forms part of this agreement, is outside the International Treaty's multilateral system of access and benefit sharing (MLS).
2. *[Supplier]* warrants that it is legally free to provide the germplasm to *[Centre]*, and that all necessary permissions have been obtained.
3. *[Centre]* will hold the germplasm in trust for the international community in accordance with the terms of the agreement between the *[Centre]* and the Governing Body of the Treaty signed on 16 October 2006, place it in its genebank, periodically regenerate it, duplicate it for security reasons, and provide long-term conservation.
4. *[Centre]* will be free to use, or make available to third parties, the germplasm and related information available for the purpose of utilization and conservation for research, breeding and training for food and agriculture in accordance with the standard material transfer agreement currently in use.
5. *Optional clause* --*[Centre]* will be free to use, or make available to third parties, the germplasm and related information available for the purpose of non-food/feed research or direct use.

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Signed

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Signed

## Appendix D: Draft Policy of the Alliance of CGIAR Centres on Intellectual Assets<sup>3</sup>

1. Overriding drivers to CGIAR activities are the mission of the CGIAR and the imperative that the products of research are international public goods. All aspects of CGIAR Intellectual Assets policy are subservient to these two principles. The mission of the Consultative Group on International Agricultural Research (CGIAR) is: *To achieve sustainable food security and reduce poverty in developing countries through scientific research and research-related activities in the fields of agriculture, forestry, fisheries, policy, and environment.*
2. The Alliance of 15 international agricultural research Centres of the CGIAR works with national agricultural research partners. They are supported by funding from countries, international and regional organizations, and private entities. The Centres, produce, manage and provide access to, the products of Centre research for use by, and for the benefit of, poor farmers in developing countries.
3. Centres hold their in-trust collections of germplasm for the benefit of the world community, in accordance with agreements signed by Centres with the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.
4. The Centres' intellectual assets resulting from their research include improved germplasm, technologies, information, publications, vaccines, databases, methodologies and know-how that are used to support the mission of the CGIAR.
5. To advance the mission of the CGIAR, the primary strategy of the Centres is to make available their intellectual assets without restriction.
6. The Centres shall not grant third parties exclusive rights over the Centres' intellectual assets unless it is necessary for their further development or transfer, provided that they remain openly available to NARS in developing countries without restriction for further development and use. The products will also be available to ARIs for research purposes in support of the CGIAR mission.
7. Centres will not seek or assert intellectual property over their intellectual assets except when necessary for the development and transfer of technology (including PGRFA under Development) consistent with the CGIAR mission or to prevent misappropriation. The Centres' copyright protected materials will be available for use by others in an open access manner, with the obligation of attribution of the source and respect for authors' moral rights.
8. The Centres shall not exploit their intellectual assets with the sole intention to raise income. For PGRFA under Development, the Centres may receive compensation to support activities that are fully consistent with the mission of the CGIAR and that do not divert from their research agendas. Such PGRFA shall remain freely available to NARS in developing countries.
9. The Centres will make public the justification and describe the conditions for their granting exclusive rights over their intellectual assets, or seeking or asserting intellectual property rights

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<sup>3</sup> Other elements, including issues relating to stewardship and liability, are under development and will be added to the policy when finalized.

over them. The Centres will also publicly report on income received as compensation for providing access to PGRFA under Development.

10. The Centres will distribute genetic resources under development, derived from their in-trust collections without consideration of when material was accessed, using the Standard Material Transfer Agreement, adopted by the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.

11. The Centres will abide by the CGIAR's statement of ethical principles relating to genetic resources, and will respect the rights of traditional knowledge holders by seeking their prior informed consent for the use and publication of their traditional knowledge.

12. The Centres will use third party intellectual assets that are subject to intellectual property or contractual rights as inputs only when the resulting products are available in a manner that is consistent with the mission of the CGIAR.

DRAFT