



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



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

Item 9.1 of the Provisional Agenda

TENTH SESSION OF THE GOVERNING BODY

Rome, Italy, 20–24 November 2023

**Report on Implementation and Operations of the Multilateral System -
*Addendum***

Executive Summary

By Resolution 2/2022, the Governing Body invited the CGIAR System to continue reporting on the application of the CGIAR Principles on the Management of Intellectual Assets to germplasm managed under the framework of the International Treaty, parts thereof, or information generated from the use of the germplasm.

This Addendum contains a synthesis of the report that the CGIAR System provided in response to the invitation. The full report is made available as an information document for this Tenth Session.

Guidance Sought

The Governing Body is invited to take note of the information extracted from the report by the CGIAR System and provide guidance as it may deem necessary.

I. THE STATUS OF IMPLEMENTATION OF THE CGIAR PRINCIPLES ON THE MANAGEMENT OF INTELLECTUAL ASSETS

1. From the Eighth Session of the Governing Body in 2019, the CGIAR System began submitting reports to the Governing Body on the Status of Implementation of the CGIAR Principles on the Management of Intellectual Assets.
2. At its Ninth Session, the Governing Body thanked the CGIAR System for the submission of the report and the increased transparency in Centers' communications when entering into restrictive agreements concerning plant germplasm or information generated from the use of such germplasm. The Governing Body invited the CGIAR System to continue reporting on the application of the CGIAR Principles on the Management of Intellectual Assets (IA Principles) to germplasm managed under the framework of the International Treaty, parts thereof, or information generated from the use of this germplasm.¹
3. In September 2023, the CGIAR System submitted a new report in response to the invitation by the Governing Body. The report is available as information document, IT/GB-10/23/9.1/Inf.1.
4. In the report, the CGIAR System refers to the 2021 CGIAR Intellectual Assets Management Report which was published after the submission of CGIAR's report to the Ninth Session of the Governing Body.² The CGIAR Intellectual Assets Management Report covering the year 2022 is expected to be finalized and published prior to the commencement of this Tenth Session.
5. CGIAR Centers also publish public disclosures on their institutional websites concerning the Limited Exclusivity Agreements (LEAs) – and/or Restricted Use Agreements (RUAs) they enter into, and/or the intellectual property applications they make, or allow third parties to make, with respect to their intellectual assets.³
6. In the report to the Governing Body, the CGIAR System confirms that all plant germplasm or information generated from the use of such germplasm that is the subject of a LEA, an RUA or an intellectual property application were developed, at least in part, through the use of plant genetic resources for food and agriculture (PGRFA) held in trust by the Centers, or from PGRFA acquired by the Centers under a Standard Material Transfer Agreement (SMTA).
7. In the report to the Governing Body, it is underscored that the rationale of the IA principles is to balance their traditional approach to treating all intellectual assets as international public goods with the recognition that they occasionally need to restrict global access, where justified, to create incentives for other organizations to contribute to further develop those assets or increase their availability to farmers through market mechanisms. In the IA Principles, it is established that each Center will manage in-trust germplasm in accordance with the Centers' Article 15 agreements with the Governing Body. The IA Principles impose limitations on the Centers' discretion under the International Treaty framework when they manage improved assets derived from in trust germplasm (e.g., PGRFA under Development, new Products).
8. The report clarifies the current compliance monitoring arrangements, which include an annual compliance statement by the respective Boards of Trustees/Governing Boards of the Article 15 Centers to the CGIAR System Organization, and an annual report to the System Organization concerning their implementation of the CGIAR IA Principles using a standardized template. Those reports are scrutinized by the System Organization and an independent System Council Intellectual Property Group, with the involvement of the Genebank Initiative's genetic resources policy group in relation to compliance with the International Treaty, and other applicable access and benefit sharing laws and policies.
9. As clarified in this report to the Governing Body, the first request made by the Governing Body in 2017 encouraged the CGIAR Centers and staff of the System Organization to provide additional information of potential interest to the Governing Body in the annual reports, and in the form of independent disclosures published by the Centers. A 'Guidance Note on CGIAR Research Center Public Disclosures related to the Management of Intellectual Assets' was issued in 2018, and since then training courses have been conducted

¹ Resolution 2/2022, available at: www.fao.org/3/nk237en/nk237en.pdf; paragraphs 11-12.

² cgspace.cgiar.org/bitstream/handle/10568/120060/CGIAR-2021-Intellectual-Assets-Report.pdf?sequence=1&isAllowed=y. The report lists five patent applications, one plant variety protection application, 55 LEAs and no RUAs.

³ www.cgiar.org/how-we-work/accountability/cgiar-intellectual-asset-management/.

to raise awareness about the Governing Body's resolutions and the need to increase transparency in Centers' communications. Reportedly, approximately 150 CGIAR genebank managers, plant breeders, intellectual property focal points and legal officers have received training. More trainings will be conducted in 2024 and beyond.

10. Furthermore, the standard template used by Centers to report to the System Organization was amended in 2019 to include additional questions concerning whether or not the genetic resources used by the Center to develop the intellectual assets that are the subject of the patent or plant variety protection applications, LEAs or RUAs were acquired under the SMTA or subject to other access and benefit-sharing laws, as well as the due diligence that the Center exercised to ascertain whether or not such laws apply. The template also requires Centers to explain, in the context of each specific patent or plant variety protection application, any LEA or RUA reported, if and how a downstream entity commercializing the intellectual assets or derivatives will be bound by benefit sharing requirements, in circumstances where such requirements are applicable.

11. The Secretary wishes to note that the restrictive agreements and/or intellectual property applications continue being of actual or potential relevance to benefit-sharing requirements under the International Treaty in case of commercialization of intellectual assets or derivatives, including by a downstream entity. Thus, the Governing Body may wish to invite the CGIAR System to continue submitting regular reports on the application of the IA Principles to germplasm managed under the framework of the International Treaty, parts thereof, or information generated from the use of this germplasm.

II. GUIDANCE SOUGHT

12. The Governing Body is invited to take further note of the report provided the CGIAR System on the Status of Implementation of the CGIAR Principles on the Management of Intellectual Assets, taking into account the relevant draft elements for a possible Resolution included in *Annex 2* of document, IT/GB-10/23/9.1, specifically in paragraphs 9 and 10.