

**CDC Statement to ICW2000 on the Need to Resolve Outstanding Issues Concerning Intellectual Property Protection Relating to Plant Genetic Resources**

RAFI approached the CGIAR Genetic Resources Policy Committee with concerns about the draft of the revised Guiding Principles on Intellectual Property Relating to Genetic Resources. Based on discussions with RAFI and other NGOs, the following statement has been issued by the Center Directors Committee.

Centre Directors' wish to draw the attention of ICW-2000 to the growing problems they are facing regarding the exchange of plant genetic resources in relation to changing intellectual property and access regimes. In 1994, the Future Harvest Centres responsible for plant germplasm collections signed agreements with FAO to ensure that the more than half a million accessions designated under the agreements would remain secure in the public domain under the intergovernmental authority of FAO and its Commission on Genetic Resources for Food and Agriculture, the body responsible for setting policies related to this germplasm. Centre Directors believe that the agreements have served the best and highest interests of researchers and farmers around the world. However, in a world of changing technologies and intergovernmental arrangements, questions of intent and problems of interpretation inevitably arise. Because of this, the CDC wishes to allay concerns in some instances and to identify genuine problems in others.

The Centres have upheld both the spirit and letter of the agreements with FAO and will continue to do so. These agreements remain a solid and effective basis for ensuring the conservation and utilization of plant genetic resources in today's world.

Nevertheless, the Centres recognize that major changes in the international arena, particularly in matters related to trade and environment, are making the management of the designated germplasm increasingly difficult. The Centres recognize that Governments, in negotiating the revision of the International Undertaking as a legally binding instrument, will resolve many of the key questions involved. In the meantime, the Centres are committed to administering the agreements with the same common and consistent interpretation that they have had since the signing of the agreements six years ago. Centres will not amend or re-interpret any aspect of their agreements without full consultation with, and agreement of, FAO, as exemplified in the past by the issuance of "Joint Statement(s) of FAO and the CGIAR Centres on the Agreements Placing CGIAR Germplasm Under the Auspices of FAO."

The Centres urge the Governments negotiating in the FAO CGRFA to complete these negotiations in the very near future in order to provide an agreed international framework in which the Centres can play their role. The failure to establish an adequate framework for the complex issues involved could undermine our work on food security.

Other concerns have also arisen as to whether Centres may at some time accept intellectual property restrictions for patents held in one country and apply those restrictions in their work in other countries where the patents do not exist. Centres always

have and always will operate in full compliance with relevant intergovernmental agreements and national laws. Intellectual property legislation is nationally determined and is not uniform across all countries. Technologies that are protected in one country may be available without restriction in another. In making available proprietary technologies that are associated with Centre research on plant germplasm, the Centres will advise the recipient of such intellectual property protection and that it might not apply in their jurisdiction.

The Centres are concerned that the growing number of intergovernmental agreements in trade, the environment, human rights, and intellectual property may threaten the integrity of international public sector agricultural research and the public goods resulting from that research. There is some concern that even the Right to Food, as defined by various governments, could be compromised by certain interpretations of intellectual property and other agreements. Centres note that the boundaries between various agreements are often unclear. In the delivery of vital international public goods, such inconsistencies risk causing serious damage to the work of the Future Harvest Centres.

We urge all parties to work together to resolve these problems. In particular, we look to the FAO CGRFA for guidance, and expect that a revised IU will provide clarity. It has been suggested by some that the Office of the Human Rights Commissioner or the International Court of Justice might be asked to assist in bringing clarity. While such an initiative is beyond the purview of the Centres, the Centre Directors welcome any effort that would help to resolve these issues.