

# **Summary of Discussions**

## **Teleconference on Intellectual Property Issues**

**5 May 2010**

The teleconference on 'Intellectual Property Issues' was a follow up to the Berlin Workshop on Establishing the CGIAR Fund (April 13, 2010). The purpose of the teleconference was to provide a platform for donors to share their views, issues, and concerns on intellectual property issues as it relates to the development of the draft documents<sup>1</sup> that are central to the functioning and legal underpinnings of the CGIAR Fund. This subject was not covered at the Berlin workshop due to limited time. The list of participants in the teleconference is attached (**Attachment 1**). The teleconference was chaired by Iftikhar Mostafa, Governance Adviser, CGIAR Fund Office.

**Issues/Comments**

Participants acknowledged the importance and significance of discussing intellectual property issues. Below are the issues, questions, and comments discussed at the teleconference:

1. What are the implications of intellectual property rights in the development of the Fund?

*The drafting team expressed that they wanted to hear to what extent intellectual property issues matter to donors, in order for them to gauge what needs to be included in the agreements being drafted or the common operational framework. Or should intellectual property issues remain entirely with the Consortium?*

2. What terms and condition donors generally use with direct recipient organizations on intellectual property matters?

*Gates Foundation shared that the foundation's general approach is to allow grantee institutions to seek IP protection provided that they fulfill the foundation's "Global Access" commitments and charitable objectives of the grant:*

- *Results of work, e.g. scientific best practices, are shared to the scientific community*
- *Access to products developed (e.g. improved seeds) in terms of quantity, supply, and price is provided to farmers*

*One component of Global Access is ensuring "freedom to operate" and securing permissions from any third parties whose rights the proposed research project relies upon. Gates Foundation commented that intellectual property issues are very significant, should not be*

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<sup>1</sup>The draft documents for establishing the CGIAR Fund are as follows:

1. **CGIAR Fund Governance Framework.** A stand-alone document to be adopted in its final form by the Fund Council, which will be incorporated by reference into the Contribution Agreements between donors and the Trustee of the CGIAR Fund. Includes a number of operational aspects of the CGIAR Fund in the interest of clarity and transparency among all Fund Council members (not all of whom will be signatories to Contribution Agreements).
2. **Contribution Agreement Between each Donor and the Trustee** (formerly called "Administration Agreement"). A template that sets forth the specific modalities on donor contributions and Trustee services for the CGIAR Fund as they affect the respective signatories.
3. **Joint Agreement among the Consortium, the Trustee and all Fund Donors.** Designed to combine the upstream (donors) and downstream (Consortium) elements in one contractual setting. Donors would become parties to the Joint Agreement through signature of a Contribution Agreement.

*ignored and should be addressed through contractual provisions. There is a need to address key critical aspects and work on particulars.*

*European Commission expressed that as a policy point of view, it is important that results of work are in the public domain as global public goods and not belong to particular institutions.*

3. The former CGIAR had a Central Advisory Service on Intellectual Property (CAS-IP) as a part of its System Office and a Genetic Resources Policy Committee (GRPC) as an advisory body for the CGIAR and the Centers. What will be the status of these two bodies in the new CGIAR? Will these be maintained as part of the Consortium? Will the Fund Council need advice on IP matters when it makes decisions on mega-programs?

*There are no clear answers to these questions yet. CGIAR Fund Office will forward the teleconference participants, for information, a short brief on CAS-IP and GRPC. to the teleconference participants.*

*One participant noted that moving from the old to new CGIAR has meant losing fluidity in the way the CGIAR works, such as GRPC and CAS-IP advising both Centers and donors. Intellectual property issues will likely become more prominent in the new CGIAR because the new CGIAR brings in a stronger concern for research for development, more interest to reach farmers through partnership with the private sector, and as a result, a longer production-to-dissemination chain.*

4. One donor wondered where intellectual property clauses would fit in the legal documents.

*The drafting team indicated that a clause on intellectual property could be put in the Joint Agreement or included in the common operational framework. It could also be included as part of the agreement on a specific mega program. That is, it can be treated as a generic issue or handled on a case by case basis.*

5. Participants indicated that intellectual property issues are likely to emerge in some mega program proposals. In that case, the Fund Council will need guidance in evaluating the provisions on intellectual property.

*Several participants noted that indeed the Fund Council will likely need support and advice on IP matters. An advisory committee reporting to the Fund Council could be appointed or a sub-committee of the ISPC could be formed to address these issues.*

*It was also suggested that intellectual property should be discussed at the ISPC workshop in June.*

6. Other issues:

- Does intellectual property policy include defensive protection, defensive patenting?
- Intellectual property issues also cover copyrights, knowledge products and branding.

**Agreed Next Steps**

1. Victoria Henson-Apollonio will share with the participants through the CGIAR Fund Office ([cgiarfund@worldbank.org](mailto:cgiarfund@worldbank.org)) the GRPC policy/statement on intellectual property.
2. Aline Flower will share some intellectual property documents of the Gates Foundation after receiving Victoria's paper (to give her an idea about which documents would be most relevant).
3. The CGIAR Fund Office will circulate information material on CAS-IP and GRPC.
4. Another teleconference on IP issues will be helpful after the relevant documents have been circulated to the participants.

Participants agreed that it was a good start on intellectual property discussi

**Attachment 1****Teleconference on Intellectual Property Issues  
May 5, 2010 1:00PM – 2:00PM Washington DC time  
List of Participants**

No.	Name	Organization
1	Debois, Marc	European Commission
2	Coleman, Catherine	Canada
3	Drewnowski, Sophia	World Bank (Partnership)
4	Flower, Aline	BM Gates Foundation
5	Gorospe, Rowena	World Bank (Legal)
6	Henson-Apollonio, Viktoria	CGIAR CAS-IP
7	Nass, Luciano Lourenço	Brazil
8	Pehu, Eija	World Bank
9	Stumpf, Andrea	World Bank (Legal)
10	Mostafa, Iftikhar	CGIAR Fund Office
11	Ozgediz, Selcuk	CGIAR Fund Office Consultant