

INSTITUT FRANCAIS DE RECHERCHE
SCIENTIFIQUE POUR LE
DEVELOPPEMENT EN COOPERATION
(ORSTOM)

CENTRO INTERNACIONAL DE
MEJORAMIENTO DE MAIZ Y TRIGO
(CIMMYT)

**SPECIFIC PROTOCOL OF AGREEMENT
for
THE STUDY OF APOMIXIS**

ARTICLE 1 - AIM OF THE ACTION OF COOPERATION

This specific protocol of agreement is a continuation of the former one signed on May 31, 1994. It aims at developing an international research and training project entitled

ORSTOM-CIMMYT Apomixis Project:
Equity in Access to Hybrid Vigor for Resource-Poor Farmers

The technical and scientific description of the project for the 1997-2000 period is attached to the present protocol of agreement, as "1997-2000 ORSTOM-CIMMYT Apomixis Project Working Plan" (Appendix 1)

ARTICLE 2 - GENERAL AGREEMENT ON FUNDAMENTALS

BETWEEN

L'Institut Français de Recherche Scientifique pour le Développement en Coopération (ORSTOM), a public research organisation with headquarters in France, 213 rue La Fayette, 75480 Paris, represented by its Director General, Monsieur Jean NEMO, and hereafter referred to as ORSTOM,

AND

The Centro Internacional de Mejoramiento de Maiz y Trigo (CIMMYT), international institute member of the Consultative Group for International Agricultural Research (CGIAR) with headquarters at El Batán Texcoco, State of Mexico. Mexico, represented by its Director General, Professor Timothy REEVES, and hereafter referred to as CIMMYT,

WHICH refers

- to the General Agreement of Cooperation signed by the French Institutions CIRAD, INRA and ORSTOM with CIMMYT on September 15, 1986.
- and to the specific protocol of agreement signed between CIMMYT-ORSTOM on May 31, 1994.

MOU/CIMMYT/G906/97

WHEREAS

both ORSTOM and CIMMYT are interested in developing a collaborative research project on apomixis.

ARTICLE 3 - DURATION OF COOPERATION

CIMMYT and ORSTOM agree to implement the elements of this specific protocol of agreement to carry on the ORSTOM-CIMMYT Apomixis Project for a period of three years, from August 1997 to August 2000.

The Project will be reviewed at the beginning of 2000. Based on the recommendations of this review, decisions will be taken jointly by CIMMYT and ORSTOM on continuing, ending or modifying the collaborative research activities. In case of continuation, a new agreement on the mode of implementation will be defined jointly.

ARTICLE 4 - ORSTOM STAFF ASSIGNMENT FOR THE COOPERATION

ORSTOM agrees, except in circumstances outside of its control, to assign one or more scientists at CIMMYT - currently Dr. Yves SAVIDAN, directeur de recherche, and Olivier LEBLANC, chargé de recherche - in accordance with the conditions defined in article 4 of the general agreement of cooperation. The team may be complemented by one or more pre-doctorate fellows assigned by the French Ministry of Nationale Education, of Research and Technology (MNERT).

The team of scientists will be assigned as adjunct scientists to the Applied Biotechnology Center (ABC) under the supervision of Dr. David HOISINGTON, ABC Director, - according to standard CIMMYT management structure. CIMMYT will inform ORSTOM's scientists of security and health rules as well as of internal law.

ORSTOM scientists, in collaboration with CIMMYT staff, will be charged to achieve the goals of the ORSTOM-CIMMYT Apomixis Project as indicated in the working plan approved by both parties.

Dr. Yves SAVIDAN will be assigned as Project Coordinator of the Frontier Project #2 entitled "Apomixis - Equity in access to hybrid vigor for resource-poor farmers" and included in CIMMYT's Medium Term Plan 1998-2000+ and will assume the roles and responsibilities for Project Coordinators as outlined in CIMMYT's Project Management structure, in respect with ORSTOM management policies and as set up in this protocol of agreement.

ORSTOM remains liable with regards to the salaries and salary-related benefits of every nature to Dr. SAVIDAN, Dr. LEBLANC and their families in accordance with ORSTOM human resources policy throughout the period of assignment at CIMMYT. It is understood that, as civil servants, Dr. SAVIDAN and Dr. LEBLANC benefit from the French Social Security System, which provides full insurance coverage for themselves and their families.

ORSTOM will also provide for the cost of transportation of its scientists and their families to and from Mexico at the beginning and termination of their assignments as well as for their annual home leaves.

ARTICLE 5 - CIMMYT STAFF ASSIGNMENT FOR THE COOPERATION

CIMMYT agrees, in so far as resources are available, to assign additional scientific staff to the project. Currently, two post-doctoral fellows, Dr. Daniel GRIMANELLI and Dr. Enrico PEROTTI are assigned to the Apomixis Project. They will report to Dr. HOISINGTON, as Director of the Applied Biotechnology Center and to Dr. SAVIDAN, as Frontier Project #2 Coordinator according to CIMMYT's Project Management structure.

ARTICLE 6 - CONTRIBUTION OF CIMMYT TO COOPERATION

CIMMYT agrees:

- to provide to the Apomixis Project team the area of offices, laboratories, greenhouse compartments, experimental fields and other areas necessary to achieve the goals of the project;
- to provide access to the equipment means of communication and documentation in the same conditions and in accordance with the same rules and regulations as for the other CIMMYT scientists;
- to provide to Dr. Savidan and Dr. Leblanc a vehicle each in the same conditions and in accordance with the same rules and regulations as for the other CIMMYT international staff, and make other perquisites available to them as far as other international staff in so far as these perquisites are not already covered by ORSTOM; and
- to provide funds for running costs covering support staff salaries and benefits, and material needs such as chemicals, glassware and other consumables.

ARTICLE 7 - FRENCH SUPPLIES FOR THE COOPERATION

Since the beginning of the project in 1989, and in the framework of the French financial contribution to the International Agricultural Research Centers and especially to CIMMYT, funding has been provided to contribute to part of the running costs of the ORSTOM-CIMMYT Apomixis Project covering support staff salaries and benefits, and material needs such as chemicals, glassware and other consumables.

Nevertheless, both ORSTOM and CIMMYT will continue a search for additional support, as the nature of the scientific activities and their corresponding costs have changed since the beginning of the project. Additional funding may also be provided through specific protocols of agreement signed with third parties, in accordance with the conditions defined in article 10 of this specific protocol of agreement.

According to its financial possibilities, ORSTOM will continue to provide and additional funding for supplies and/ or temporary workers.

Participants to the project will continue using the main scientific and technical equipments bought by ORSTOM during the first two phases. These pieces of equipment will remain ORSTOM's property.

ARTICLE 8 - OWNERSHIP OF THE RESULTS

ORSTOM and CIMMYT will be co-owners of the outputs of the project, including all genetic materials created by the ORSTOM-CIMMYT Apomixis Project team.

If the ORSTOM team, at the end of the 3-year period covered in this protocol joins another laboratory/ institution, it will have access to all the genetic materials created during the project and be able to transport them out of Mexico, in accordance with the terms of article 7 of the general agreement and all biosafety regulations and licensing agreements.

To guarantee the intellectual property of the outputs of the project each party will insure that his staff will not disclose any information on current activities or unpublished results without the formal agreement of this other party.

Rights to any patent which may be obtained relative to techniques, methods or genetic materials developed during the course of the Project, and which will be filed by the Project Leader or another member of the team, will be immediately assigned equally to ORSTOM and CIMMYT. Any exploitation of these patents will be subject to an agreement between the parties in respect with national and international laws and rules.

Costs to apply for, obtain and defend any patent will be shared by ORSTOM, CIMMYT and/ or a third party. Division of these costs will be decided prior to the submission of the patent.

The specific agreement signed on May 31, 1994 notwithstanding, ORSTOM has had to submit a patent before the defense of Mr. GRIMANELLI's thesis in view to protect CIMMYT and ORSTOM property rights. It was registered on January 17, 1997 under file number 9701821 named « moyens pour identifier, isoler et caractériser les séquences nucléotidiques impliquées dans l'apomixie ». Appendix II is the contract which relates to the transfer of 50 % of the patent ownership from ORSTOM to CIMMYT.

ARTICLE 9 - PUBLICATION OF THE RESULTS

In the framework of this specific protocol of agreement, and within the particular dispositions relative to patents, the parties are bound to publish the results obtained during the 3-year duration of the Apomixis Project with the double stamp of CIMMYT and ORSTOM, these publications being scientific, technical or extension papers, oral or written, poster communications at scientific meetings, reports, reviews, books or book chapters, etc.

All the scientists having effectively participated in the work will be cited as authors in these publications, the author order being decided between the different contributors.

ARTICLE 10 - COOPERATIVE ACTIONS WITH THIRD PARTIES

In the framework of this research activities, CIMMYT and ORSTOM may wish to conduct complementary collaborative activities with third parties, such as advanced research organisations (AROs), national programs (NARSs), international institutes, or the private sector in developed and developing countries.

These complementary activities will be implemented after discussion between ORSTOM and CIMMYT. Specific complementary protocole of agreement would be signed,

~~- either bilaterally, between CIMMYT and a third party or between ORSTOM and a third party,~~ 

- or trilaterally, as signed by CIMMYT, ORSTOM and a third party.

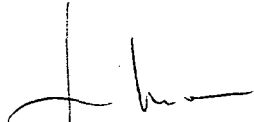
Codicils signed jointly by CIMMYT and ORSTOM would be added to the present specific protocol of agreement if these complementary collaborative activities were to entail modifications of articles in the present specific protocol of agreement.

ARTICLE 11 - AMENDMENTS

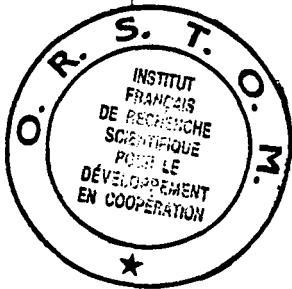
Any amendment which could help to run the project will have to be agreed by the parties.

Any disagreement, which could arise in regard to the understanding of the implementation of this protocol of agreement and which cannot be settled on a friendly basis, will be arbitrated by a college of three referees, one to be chosen by ORSTOM, one by CIMMYT and a third by the former referees.

Date 1 OCTOBER 1997



Mr. Jean NEMO.
Director General, ORSTOM



Date 1 OCTOBER 1997



Prof. Timothy REEVES
Director General, CIMMYT

APPENDIX II

Transfer from ORSTOM to CIMMYT of a share in the ownership of Patent No. 97.01821 of 17 February, 1997

Whereas:

ORSTOM and CIMMYT have jointly researched the apomixy of maize since 1989.

On 17 February, 1997, ORSTOM registered, in its name, French patent n°9701821 entitled "Methods for identifying, isolating and characterising nucleotide sequences involved in apomixy".

ORSTOM wishes to own this patent jointly with CIMMYT and to set down in a contract the rights and obligations of each party regarding said co-ownership.

Therefore, the following was agreed:

Article 1: Partial transfer

Pursuant to this agreement, ORSTOM transfers to CIMMYT, which accepts, 50% of the rights attached to the patent. As a result of the transfer, ORSTOM and CIMMYT shall become co-holders of the patent.

Article 2: Transfer terms

2.1 ORSTOM guarantees the physical existence only of the patent and represents that it has full ownership thereof, and that it has not granted any other partial or total transfer, or any license, surety, pledge or other right to any third party which may contest the present transfer.

This agreement shall become effective on the date of signature by the parties.

This partial transfer is agreed and accepted in exchange for symbolic payment of one franc.

Article 3: Distribution of rights

Each party shall have full ownership in the following proportion:

ORSTOM	50%
CIMMYT	50%

Consequently, the rights, powers and benefits and the obligations, risks and costs attached to the patent in question shall be shared equally. In any event, the obligations, risks and costs resulting from serious negligence or breach shall be borne exclusively by the perpetrator of such negligence or breach.

Article 4: Use of the patent

4.1. Collaboration agreements

ORSTOM and CIMMYT may jointly enter into collaboration agreements with public or private third parties on the basis of the patent. Collaboration agreements shall be negotiated and signed by both patent holders.

Upon expiry of the secondment contract of Mr Yves Savidan, the co-ordinator of the "Apomixy" programme, to CIMMYT, ORSTOM and CIMMYT may enter into independent agreements with third parties subject to obtaining the prior written consent of the other patent holder. Refusal to give such consent may be justified only by exhaustion of the right.

4.2. Operating agreements

ORSTOM and CIMMYT may jointly grant exclusive or non-exclusive licenses to third parties.

Negotiations shall be carried out jointly and agreements shall be co-signed by both patent holders.

Net revenues from such operating agreements shall be shared on a 50/50% basis between CIMMYT and ORSTOM. Each co-owner shall be responsible for the remuneration of its own agents.

Article 5: Filing foreign patents

The parties shall consult each other no later than ten months after the filing date with a view to filing foreign patent applications derived from the patent filed in co-ownership.

If the list of foreign patents is mutually agreed upon, ORSTOM shall be responsible for carrying out the corresponding application formalities and following-up the issue procedures. ORSTOM shall debit CIMMYT for half the expenses incurred in connection with such formalities.

Should there be disagreement on any part of the list of patents to be filed outside France, each owner may apply in its name and at its expense in the country(ies) which interest(s) it.

Consequently, each owner agrees to transfer free of charge its priority rights for the countries in which it refuses to apply for a patent.

In the event of partial or total disagreement, each co-owner undertakes to give all powers and signatures to enable the other party to apply for and obtain foreign patents.

Article 6: Validity of the patents

ORSTOM shall be responsible for maintaining the effectiveness of the jointly filed patents, particularly by paying the annual fees. ORSTOM shall debit CIMMYT for half the expenses incurred in this connection

In the event that ORSTOM should decide no longer to maintain a patent or to suspend an issue procedure, it shall inform the other co-owner in good time so that the latter may substitute for it, if desired.

In such event, CIMMYT shall as of right acquire full ownership of the patents in question.

Article 7: Duration

This contract shall be valid as long as the last jointly owned patent shall be valid.

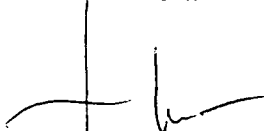
Article 8: Other provisions

Any dispute regarding the performance or interpretation of this agreement which cannot be settled amicably between the co-owners shall be referred exclusively to the Paris courts and shall be governed by the relevant French law.

Done in *Mexico* on *1 OCTOBER 1997*

In 4 originals (two originals in french, two originals in english)

For ORSTOM



Jean NEMO
Directeur Général

For CIMMYT

