



Intellectual Assets Policy
Version 2

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Document Control

The Legal Manager will be responsible for the periodic review of this document.

Document Responsibility

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|----------------------|----------------------------|
| Title | Intellectual Assets Policy |
| Directorate | Research |
| Unit | Legal |
| Manager | Legal Manager |
| Applicable to | All Staff |

Document Revision History

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| 1 | Senior Leadership Team | SLT-SI-10-12 | 19-Oct-12 | Board of Trustees | BOT56 | 24-Nov-12 | 1-Nov-12 | New Policy |
| 2 | Senior Leadership Team | SLT-Fin-06-19 | 31-Oct-19 | Board of Trustees | CB2 | 22-Nov-19 | 1-Dec-19 | No content changed. Recast into new format. |

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1. Purpose

The International Centre for Research in Agroforestry (ICRAF) adopts the Intellectual Assets Policy to ensure that:

- 1.1. The intellectual assets produced and acquired by ICRAF are promoted and widely disseminated, thus furthering our mission.
- 1.2. The intellectual assets and intellectual property rights (IPRs) of our partners, consultants, collaborators and other entities or institutions are respected as per legal, contractual and moral obligations.
- 1.3. Our intellectual assets and IPRs are managed responsibly with integrity, fairness, equity and accountability.

2. Scope

- 2.1. This is a Centre-wide Policy and is applicable to all staff located in all countries where the Centre operates.

3. Definitions

- 3.1. **Intellectual Assets/Intellectual Property** means any results or products of research and development activities of any nature whatsoever (including, but not limited to, knowledge, publications and other information products, databases, improved germplasm, technologies, inventions, know-how, processes, software, and distinctive signs), whether or not they are protected by IP Rights.
- 3.2. **Intellectual Property Rights (IPR)** means ownership rights (or applications for protection) of Intellectual Assets, whether registered or not, granted in any jurisdiction, including but not limited to, copyright and related rights, database rights, patents, industrial design rights, plant variety rights, trademarks and service marks, geographical indications, and trade secrets.
- 3.3. **International Public Goods** means a public good is a product that one individual can consume without reducing its availability to others and from which no one is deprived and that is made available globally.

4. Policy Principles

4.1. Compliance with legal obligations

ICRAF will take steps to ensure that it is fully compliant with international treaties and national regulations, or in the absence of such, international best practices on the management of intellectual assets as they relate to our operations and programs.

4.2. Ownership of IPRs

Any right of ownership associated with products generated by ICRAF and/or its staff, (visiting scientists, fellows, contractors and students) or consultants during the performance of their duties at ICRAF, shall reside with ICRAF and not the individual. Due recognition of the contributions of individuals will be made, and their moral rights (including authorship rights) will be respected.

4.3. International Public Goods

ICRAF views its final research outputs as "International Public Goods" (IPGs). In line with the principle of unrestricted public access to its final research outputs, ICRAF will seek to make such outputs widely available.

4.4. Partnerships

ICRAF recognizes that partnerships (i) are critical to accessing the best knowledge and innovation, harnessing efficiencies in product development, and achieving maximum impact through effective delivery and deployment, and (ii) may require incentives that must be innovatively designed, carefully managed and diligently monitored.

4.5. Intellectual Property Rights

ICRAF is committed to the prudent and strategic use of IPRs. In this regard ICRAF does not seek IPR protection on its intellectual assets and final research outputs, unless such protection facilitates increased public access to research results. Where copyrights are concerned, ICRAF seeks the protection of the laws of the countries it operates in, as well as regional and international treaties including the Berne Convention for the Protection of Literary and Artistic Works. All publications will feature a standard blurb permitting free use of content, so long as the source is acknowledged, the correct citation appears alongside, and the content is reproduced without modification—unless permission to modify has been obtained in advance from ICRAF.

4.6. Exceptional circumstances for protection of IPRs

Where it is unlikely that publication or public disclosure will facilitate access to, or ensure delivery of, research products for the public benefit, in particular in developing countries, ICRAF will, exceptionally, pursue this objective by:

- 4.6.1. applying for, or allowing others to make an application for, IPRs on research products, or material derived from research products; and/or
- 4.6.2. entering into confidentiality and/or limited exclusivity agreements over research products, in accordance with the relevant provisions of the CGIAR Principles on the Management of Intellectual Assets ([CGIAR IA Principles](#))¹.

4.7. Incorporation of third-party intellectual assets

ICRAF may enter into agreements for the acquisition and use of third-party intellectual assets that restrict the global accessibility of the products/services resulting from the use of such intellectual assets for commercialization, research and development (“Restricted Use Agreements”), provided that:

- 4.7.1. it is, to the best of its knowledge, unable to acquire equivalent intellectual assets from other sources under no or less restrictive conditions, and
- 4.7.2. the products/services that are intended to result from the use of such third-party intellectual assets will further ICRAF’s mission in the countries where they can be made available.

4.8. Agreements with third parties

In agreements between ICRAF and partners/collaborative institutions, IPR provisions consistent with this policy will be agreed upon in advance of finalizing such agreements. ICRAF shall not enter into agreements where IPR provisions shall be interpreted to restrict public access to our final research output except as described in Principles 6 and 7 of the CGIAR IA Principles.

4.9. Fee generation

ICRAF does not view the protection of intellectual property as a mechanism for securing recurring financial returns upon which it may depend. However, ICRAF may charge reasonable financial fees, beyond actual costs and reasonable processing fees, in return for providing access to its

¹ <https://storage.googleapis.com/cgiarorg/2018/03/CGIAR-IA-Principles.pdf>

intellectual assets—so long as charging such fees does not jeopardise ICRAF mission. To the extent that such returns are generated, they will be used in support of specific tasks and projects fully compatible with the mandate of ICRAF, and which support benefit sharing. For the avoidance of doubt, this principle does not apply to Plant Genetic Resources for Food and Agriculture held in trust by the World Agroforestry Centre, in pursuance of the agreement signed with the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture of 16 October 2006, for which a facilitated access shall be provided.

4.10. Respect for third party IPRs and confidential information

ICRAF will always endeavour to safeguard the IPRs and confidential information of others, whether these are determined by legal means or by commonly accepted standards.

4.11. Respect for traditional knowledge and farmers rights

The Centre recognizes the indispensable role of farmers, indigenous communities, agricultural professionals and scientists in conserving and improving genetic resources. In this regard ICRAF will help safeguard and promote farmers' rights, traditional knowledge and other IPRs held by the communities with which it works. ICRAF policy on genetic resources contains detailed provisions for achieving this goal.

4.12. Reporting

In accordance with its obligations under the CGIAR IA Principles, each year ICRAF prepares a Board-certified report on the implementation of the IA Policy by 15th of April every year covering the previous year.

4.13. Management and Implementation

To ensure proper management and implementation of this policy the following should be adhered to:

4.13.1. In negotiations with partners:

4.13.1.1. At the beginning of negotiations regarding research and development collaborations with public entities, private enterprises and/or donors, this policy must be brought to the attention of the other party. Their view on ICRAF's mission to create IPGs must be obtained, preferably in writing. In case Principle 4.1.7 and/or

Principle 4.1.8 are to be applied, the reasons for these, and justifications, must be documented by the negotiators.

4.13.1.2. The Legal Manager should be notified as soon as practically possible about any proposed application of Principle 4.1.7 and/or Principle 4.1.8.

4.13.2. New product process:

4.13.2.1. All new scientific or knowledge products and research outputs should be published in accordance with the Publication Policy, and as soon as practicable, so as to put theses in the public domain. Publications should conform to ICRAF's Publication Policy and Authorship Policy.

4.13.2.2. Until such publication takes place, data and related information should be managed in accordance with ICRAF Research Data Management Policy and should be treated as confidential, if necessary. Confidentiality may be necessary if there is a risk of assertion of IPRs on a product by third parties, resulting in restrictions to their use or dissemination.

5. Roles and Responsibilities

5.1. Board of Trustees

5.1.1. Ensure that sufficient resources are assigned to the Legal Unit and other units to carry out their responsibilities as per this policy.

5.2. Senior Leadership Team (SLT)

5.2.1. Continuously assess the extent to which the Centre is managing compliance with the provisions of this policy.

5.2.2. Monitoring of compliance and receiving and reviewing of exception reporting.

5.2.3. Review, approve and implement the provisions of this policy.

5.3. Deputy Director General- Research

5.3.1. Ensure that an effective intellectual property capacity building programme is set up and implemented to ensure that staff receive appropriate training.

5.3.2. Report any breach of the Policy to the Internal Audit Unit for investigation.

5.3.3. Ensure that staff are aware of the risks associated with breach of the provisions of this policy.

5.4. Regional Coordinators, Country Coordinators, Heads of Units, Theme Leaders

- 5.4.1. Remain vigilant in ensuring compliance to this Policy by their staff.
- 5.4.2. Immediately report any breach of the Policy or suspicion of prohibited transactions to the Internal Audit Unit.
- 5.4.3. Ensure their staff are sufficiently trained on how to comply with relevant intellectual property laws, regulations, policies and procedures in their relevant jurisdictions.
- 5.4.4. Ensure that they and their staff receive and review all communication relating to this Policy and any procedures communicated by the Legal Office or Senior Leadership Team.
- 5.4.5. Following an appropriate internal procedure for the disclosure of all discoveries, inventions, and new intellectual property releases by Center staff.

5.5. Legal Office

- 5.5.1. Review all agreements including confidentiality, partnership, collaboration, development, licensing, distribution, material transfer agreements, employment contracts, and grants with third parties comply with the provisions of this policy.
- 5.5.2. Ensure that proper intellectual property records are maintained.
- 5.5.3. Negotiate and pre-empting IP claims with third parties
- 5.5.4. Ensure internal compliance to the Policy.
- 5.5.5. Ensure the center complies with all intellectual property terms set out in agreements with third parties in so far as they are not inconsistent with the terms of this policy.
- 5.5.6. Ensuring that the intellectual assets generated by ICRAF or staff, visiting scientists, consultants, interns, students, and any other person operating on their behalf are owned by the center.
- 5.5.7. Conduct proper due diligence on matters intellectual property rights prior to binding the center.
- 5.5.8. Prepare and submit center intellectual assets report to the CGIAR by end of February of each year.
- 5.5.9. Keep abreast with national and international developments in intellectual property arenas.
- 5.5.10. Participate in the development and implementation of training programs for staff, either with staff from the Unit or with external consultants.

6. Review

- 6.1. This policy will be reviewed every three years or earlier if required by the Deputy Director General – Research.
- 6.2. Any changes made to the Policy will be presented to the Senior Leadership Team for endorsement and thereafter submitted to the Board of Trustees for approval.

7. Related Documentation

- 7.1. CGIAR Principles on the Management of Intellectual Assets
- 7.2. Tree Genetic Resources Policy;
- 7.3. Personal data Protection Policy;
- 7.4. Research and Science Quality Policy
- 7.5. Research Ethics Policy;