

Primer on Internal Operating Procedures for the Development of a Memorandum of Understanding and Agreements



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Front cover: ICRAF DG Tony Simons and Indonesian Minister Kuntoro sign an MoU

Back cover: DG Tony Simons, Kenyan Cabinet Secretary for Agriculture, Livestock and Fisheries, Felix Koskei, and Howard-Yana Shapiro, a Global Director from Mars, Incorporated during the launch of the African Plant Breeding Academy

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List of acronyms & abbreviations

ADG	Assistant Director General
BOT	Board of Trustees
CGIAR	Consultative Group on International Agricultural Research
DG	Director General
HRU	Human Resources Unit
ICRAF	World Agroforestry Centre
IPR	Intellectual Property Rights
MoU	Memorandum of Understanding
NL	Nodal Leader
OGs	Operational Goals
P&ID	Partnerships & Impact Directorate
RC	Regional Coordinator
SDL	Science Domain Leader
SLO	System Level Outcomes
SLT	Senior Leadership Team
SRF	Strategic Results Framework

Introduction

ICRAF's mission is to generate science-based knowledge about the diverse roles that trees play in agricultural landscapes, and to use its research to advance policies and practices, and their implementation that benefit the poor and the environment. The Centre pursues its mission through partnering with a wide range of organizations including other CGIAR centres, national, regional and international research partners, and non-research intermediary partners to ensure that agroforestry innovations generated are taken through to delivery and adoption to impacts at scale. To enhance the quality of partnerships, it is necessary to clarify relationships and responsibilities, while affirming partner commitment to undertake collaborative activities in a specified manner. A memorandum of understanding is an important tool to employ in this effort.

What is a Memorandum of Understanding (MoU)?

A Memorandum of Understanding (MoU) is a formal non-legal binding agreement between two or more parties, desiring to enter into a contractual relationship as equal partners. Generally, MoUs can include a variety of different issues and topics. Input from each partnering agency enhances the overall process of creating a jointly crafted MoU. Each MoU can range from one to several pages in length, with an allowance for signatures that represent the commitment from all involved leaders.

What is the purpose of an MoU?

The purpose of an MoU is to formalize and strengthen partnerships between two or more organizations that seek solutions to mutual problems. The overall goal is to develop partnerships among all of the parties to work more closely together and benefit from the exchange of ideas and practices. An MoU serves as the vehicle for establishing the requirements of an agreement. In this respect, an MoU can be used to:

- Protect both parties against differing interpretations of expectations by either party, by spelling out details of the relationship
- Establish formal relationships with established or influential agencies
- Reduce potential friction over turf issues and misunderstandings by specifying responsibilities.

It is important to understand that MoUs are not contracts. A contract is a private law between two parties which can be upheld in court and is therefore legally binding. An MoU is not legally binding. However, it can be a powerful tool since it requires two or more parties to come to a mutual agreement. Developing an MoU is not a straightforward process. It requires negotiating, which can take a considerable amount of staff time, energy and resources.

The following is a list of general guidelines to keep in mind during the process of developing an MoU:

1. Identify the key people
2. Keep the goals and objectives broad and the language simple
3. Set realistic expectations
4. Be specific regarding the agreements and functions
5. Set review dates
6. Clearly specify procedures for amending the MoU
7. Handle the arrangements and establish the relationship correctly the first time, so that the need to re-negotiate is minimized.

Stages in the process of developing an MoU

Initiation stage

This stage is essential as a basis for subsequent MoU activity and will, if carefully executed, provide a set of decisions and determinations which will facilitate smooth negotiation and implementation. MoUs can be initiated by any ICRAF staff member and the partner organization. Initiating the process will often involve introductions by the prospective partners/ ICRAF, informal consultations and email exchanges that may culminate in the development of a draft MoU. Upon receiving the request to partner, the Partnerships & Impact Directorate (P&ID) will send an MoU template (see attached on Annex II) for completion by both the ICRAF staff and the partner organization. Templates of partner institutions can be used as long as clauses addressing all ICRAF identified risks are included.

MoU draft review stage

At this stage, draft MoUs/Agreements are circulated among relevant Science Domain Leaders (SDLs), Regional Coordinators (RCs), Nodal Leaders (NL) and/or Units and the respective partner organization for review by the P&ID.

Partnerships & Impact review stage

Once received by the Partnerships & Impact Directorate (P&ID), draft MoUs/Agreements are reviewed and where necessary, submitted for legal appraisal and guidance. The reviewed draft is shared with the ICRAF staff and partner for their approval.

Final revisions, endorsements and signatures stage

Following final approval of revisions by the P&ID, ICRAF staff and partner organization, the final MoU/Agreements are forwarded to the Director General (DG) for approval and signature. Under certain circumstances, the DG may delegate approval authority and signature to a member of the Senior Leadership Team (SLT). Regionally, the authority can also be transferred to the Regional Coordinators or Nodal Leaders. Further still, for the DG to append his signature, the MoU/Agreements will need to be cleared using the Letter of Agreement/MoU/Grants checklist form (see Annex III). The final reviewed MoU/Agreements are submitted to the DG for signature.

Further details on the workflow for an MoU/Agreement Process is available in Annex IV.

Timeframe

The following is the recommended timeframe for developing an MoU from initiation to signatures stage:

Draft stage	07 days
Review stage	07 days
Expert advice	05 days
Cleared for endorsement	02 days
Signature	02 days

The benefits of following MoU procedures

MoU procedures:

- Safeguard the organization against risks from exposure of legal interpretation
- Build healthy and transparent partnerships
- Foster organizational growth

Risks of ignoring MoU procedures

- Risks to legal exposure and loss of credibility
- Reputational risks
- Risk of increasing institutional exposure (e.g. financial, social)

Tips and traps

Pay attention to:

- Intellectual Property Rights (IPR) (protecting all policies)
- Dispute resolution (recourse when misunderstandings occur)
- Indemnification (creation of relationships between parties)
- Individual contributions/agreement for the specified projects/activities.

Frequently Asked Questions (FAQs)

Are MoUs legally binding?

MoUs are non-legally binding; however, parties enter into MoUs with a full understanding of the potential resulting obligations.

Does a new MoU supersede a previous one?

A previous MoU with a timeframe is usually superseded by a new one.

What is the timeframe for an operational MoU?

Operational MoUs can either be definite or indefinite; it is determined by mutual agreement of the parties.

What is the minimum/maximum duration of an MoU?

Most MoUs have durations of 3-5 years; MoUs can be renewed based on mutual consent and interest of the parties.

NOTE

All technical agreements with financial implications should be processed by Contracts and Grants Unit.

Secondment agreements are processed by P&ID and HRU.

Inquiries

Ensure they are clearly understood!

For more information, please contact the following:

Assistant Director General, Partnerships & Impact

Tel: +254 20 7224197

Email: m.kroma@cgiar.org or

Program Officer, Partnerships & Impact Directorate

Tel: +254 20 7224218

Email: h.ochieng@cgiar.org



(Left to right) Tom Derksen, SNV's Managing Director for Agriculture, Sabdiyo Dido, SNV Regional Strategy Advisor, Dr Margaret Kroma, ADG, Partnerships & Impact ICRAF and Tony Simons, DG ICRAF at the MoU signing.



ICRAF signs a Memorandum of Understanding with Chiang Mai University, Thailand.

Annexes

Annex I: Partnerships Strategy and Guidelines 2013

As a global organization, the World Agroforestry Centre (ICRAF) seeks to work closely with researchers, the academia, private sector, policy-making bodies and development organizations in effective partnerships that enable better capture and application of agroforestry knowledge and increased cross-sectoral synergy. This is well articulated in Strategic Goal 3 of the World Agroforestry Centre Strategy (2013-2022): Transform agroforestry impacts to large-scale through policy, innovation and partnerships.

The strategy is divided into two, namely: Strategy and Implementation Guidelines. This strategy builds on lessons learnt from past experiences and has been developed in a participatory manner, with ICRAF staff and some of our current partners. It strives to make partnering part and parcel of ICRAF's structure and way of doing business. It is also consistent with the current position of the CGIAR Consortium which envisions partnering as a necessity rather than as "an optional extra" engagement.

The office of the Assistant Director General, Partnerships & Impact guides and strengthens the establishment of partnerships at all levels, with a focus on improving expertise, effectiveness and efficiency. It will catalyze capacity building and mentoring for the Centre and partner staff and organizations. It will also guide the development of tools and mechanisms/processes for achieving and assessing impact. However, it is the duty and responsibility of all staff and other units, Science Domains and regions to mainstream a partnering approach into their work to nurture a partnership culture.

In regard to the implementation guidelines it is important that they are read together with the Centre's Partnership Strategy. The guideline also outlines scope, partnership duration, partnering process, partnering typology, management of partnerships, formalization of agreements, implementation and monitoring.

Annex II: Memorandum of Understanding template

Cover page



Insert logo of
the other parties

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE INTERNATIONAL CENTRE FOR RESEARCH IN AGROFORESTRY¹

AND

NAME OF PARTNER

For

Name of 'project, collaboration, country etc'

DATE

Inside cover page

Memorandum of Understanding

For a

Insert title (same as cover page)

Between

The International Centre for Research on Agroforestry hereafter referred to as “The World Agroforestry Centre” or “ICRAF”, and located at

United Nations Avenue, Gigiri,
P.O. Box 30677-00100, Nairobi, Kenya

And

Names of Partners

(With full address after each name)

Inside pages

INTRODUCTION

Describe the background to the MoU

Description of the partners or parties, cooperating entities especially if this is an umbrella MoU, but in the case of a specific project limit the descriptions to substantive experiences and what knowledge/experience each partner brings to the partnership)

NAME OF PARTNER

Description

INSTITUTIONAL PROFILES for all organizations

PREAMBLE

Whereas ICRAF and **NAME OF PARTNER** have common visions of a sustainable future and complementary missions

Whereas both ICRAF and **NAME OF PARTNER** wish to initiate effective cooperative relationships that will have positive impacts on smallholder farmers, and recognize the value of strengthened institutional and program collaboration in this regard

And

Whereas both ICRAF and **NAME OF PARTNER** have the capacity to enter into an understanding and that their respective Chief Executive Officers have the authority to approve, sign and supervise implementation of agreements for their respective institutions;

Now therefore, ICRAF and **NAME OF PARTNER** inspired by their common objectives to strengthen a cooperative relationship to achieve common strategic objectives of addressing poverty, hunger and malnutrition, ecosystem management and climate change action through testing and promotion of agroforestry, set forth in this Memorandum of Understanding.

PROVISIONS (use the articles that are relevant)

ICRAF and NAME OF PARTNER jointly referred to hereinafter as ‘The Parties’.

This MoU sets out (insert the number)of provisions as follows:

Article 1 - Objectives

Why have this MoU?

What are the objectives? Elaborate what the MoU will achieve

ARTICLE II - PROJECTS AND FUNDING

To implement this MoU, the two partners in this MoU will develop individual proposals for collaborative research, referring to specific responsibilities of each partner. The projects will contain a multi-year budget that is conditional to continued funding availability from donors and partners. Subject to an annual review based on research reports, the projects will be redesigned or adjusted accordingly to meet available funding or resources required or availability to perform agreed upon tasks. Any funding by ICRAF and NAME OF PARTNER contemplated hereunder shall be formalized under separate legally binding agreements.

ARTICLE III – EFFECTIVE DATE, AMENDMENTS AND TERMINATION

This Memorandum of Understanding will enter into effect on the date of the last signature and supersedes all prior understandings regarding collaboration between the Parties. This MoU will remain in force for a period ofyears and may be extended upon mutual written consent.

The terms of this Memorandum of Understanding can be amended, with the approval of both Parties, by means of exchange of letters through the authorized officials at each institution. Either Party may initiate the exchange of letters.

This Memorandum of Understanding may be terminated by either Party by giving written notice of intent to terminate the understanding. Such termination shall not affect the execution and conclusion of specific activities in effect under the terms of this MoU nor publication and dissemination of results of research in progress. Such notice will be given six months in advance of the desired termination date.

Notices to the respective parties shall be addressed to:

Amend as necessary

Director General's Office World Agroforestry Centre (ICRAF) P.O. Box 30677-00100 United Nations Avenue, Gigiri Nairobi, Kenya Tel: +254 20 7224151 Fax: +254 20 7224001 Email: t.simons@cgiar.org	Full name, position, address and contact information of the partner organization
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ARTICLE IV - CONFIDENTIALITY

During the course of this MoU, either Party may acquire confidential information or trade secrets of the other ('Confidential Information'). Confidential Information of a party means all information of whatever description, whether in permanently recorded form or not and whether or not belonging to a third party, which is by its nature confidential or which the party identifies as confidential to itself. It **does not** include information to the extent that information is: (i) independently created or rightfully known by, or in the possession or control of, the other party and not subject to an obligation of confidentiality on the other party; (ii) in the public domain (otherwise than as a result of a breach of this Agreement); or (iii) required to be disclosed by law.

Each Party agrees to keep all such Confidential Information in a secure place, and further agrees not to publish, communicate, divulge, use or disclose, directly or indirectly, for its own benefit or for the benefit of another, either during or after performance of this MoU. This obligation of confidence shall not apply with respect to information that is (a) available to the receiving Party from third parties on an unrestricted basis; (b) independently developed by the receiving Party; or (c) disclosed by the other party to others on an unrestricted basis.

ARTICLE V - INTELLECTUAL PROPERTY *(use relevant paragraphs)*

NON-PROPRIETARY INFORMATION/OWNERSHIP OF INTELLECTUAL PROPERTY/USE OF LOGOS

All intellectual property created under this MoU is considered jointly owned by the parties to this MoU. Each Party will execute its ownership *rights in accordance with its policy on intellectual property*.

Under the framework of this MoU, 'Intellectual Property Rights or IPR' means all intellectual property rights, including: (a) ideas, information, literary text, plant breeder's right, patents, copyright, registered designs, artwork, trademarks and any right to have confidential information kept confidential; and (b) any application or right to apply for registration of any of the rights referred to in (a).

The Parties agree that any information developed under this MoU will be made publicly available.

Any creative work developed by the parties under the framework of this MoU, including but not limited to all written, graphic, audio, visual and any other materials, contributions, applicable work product and production elements contained therein, whether on paper, disk, tape, digital file or any other media (the 'Joint Work'), shall remain the joint intellectual property of the parties provided however that the parties agree and acknowledge that the Joint Work shall be used exclusively for non-commercial purposes.

Parties to this MoU actively encourage the wide dissemination of creative works. Permission to make digital or hard copies of the joint creative work for personal use, education, research, training or other non-commercial use is hereby granted without fee and without formal request. Where any material is reproduced for training or other outreach activity the user is requested to supply a copy (electronic or other format) along with the details of use to the Centre). Proper citation is requested and modification is purely on a prior consent basis.

If a joint work is formed, all joint authors are joint owners of the entire work (as opposed to each author only owning their own contribution.) As a co-owner of the entire work, any joint author can:

- Modify, reproduce, and distribute copies of the entire work without consent of the other owners.
- Grant a nonexclusive license to others to use the work without obtaining the consent of the other co-authors
- Transfer her or his interest to a third party (by written assignment) with the permission of the other owners.

The ownership of intellectual property that exists prior to the commencement of this MoU ('Pre-existing Intellectual Property') shall not be altered or transferred merely by virtue of its use for the projects contemplated hereunder.

The names and logos of the parties are registered marks and may not be used without permission.

Data use and access

Raw data generated through activities covered by this MoU and the protocols that describe it are intellectual property and hence the previous paragraphs are relevant. In addition;

- a. All such raw data and protocols will be accessible by both parties
- b. Parties will agree the specific objectives in collecting any data, and the timeframe for meeting those objectives

- c. During that time, named scientists or students from either party may have exclusive use of the data in order to meet the agreed objectives
- d. After the agreed time limit, either party may use the data to meet those objectives

Authorship

The authorship of all reports, articles books or other outputs resulting from activities under this MoU will be determined by usual scientific norms. Specifically:

1. All scientists involved in conceiving, planning, implementing or analysing any activities will be invited to be authors of outputs resulting from the activity.
2. Scientists become authors if they then make a substantial intellectual contribution to drafting, reviewing and revising the output and they approve the final version.

Members of either Party cannot claim authorship on the basis solely of their position in the organization, or on other roles in activities which do not meet conditions 1 and 2.

ARTICLE VI - SETTLEMENT OF DISPUTES

Any disputes about the interpretation or application of this MoU will be resolved by consultations between the Parties and will not be referred to any national or international tribunal or third party for settlement.

ARTICLE VII - SURVIVABILITY

Articles IV and V of the MoU will survive after termination of this MoU in whatever manner the termination occurs.

ARTICLE VIII NON-BINDING/RELATIONSHIP OF THE PARTIES

Nothing in this MoU shall be construed to create a relationship between the parties, nor to render any Party liable for the debts or obligations incurred by any other. No participant is authorized to make representations on behalf of the others, or to bind the others in any manner whatsoever.

This MoU is a consummation of the understanding of the Parties (make reference to the title of the MoU). Commitment of funding contemplated by the alliance members shall be formalized under separate legally binding agreements.

IN WITNESS THEREOF, in the interest of implementing this MoU for mutual benefit to the Parties, two (2) original copies of this Memorandum of Understanding are signed by the respective officers on the day, month and year indicated against each signatory.

Signature

Name, Partner

Position

Name of Partner Institution

Date

Signature

Anthony Simons

Director General

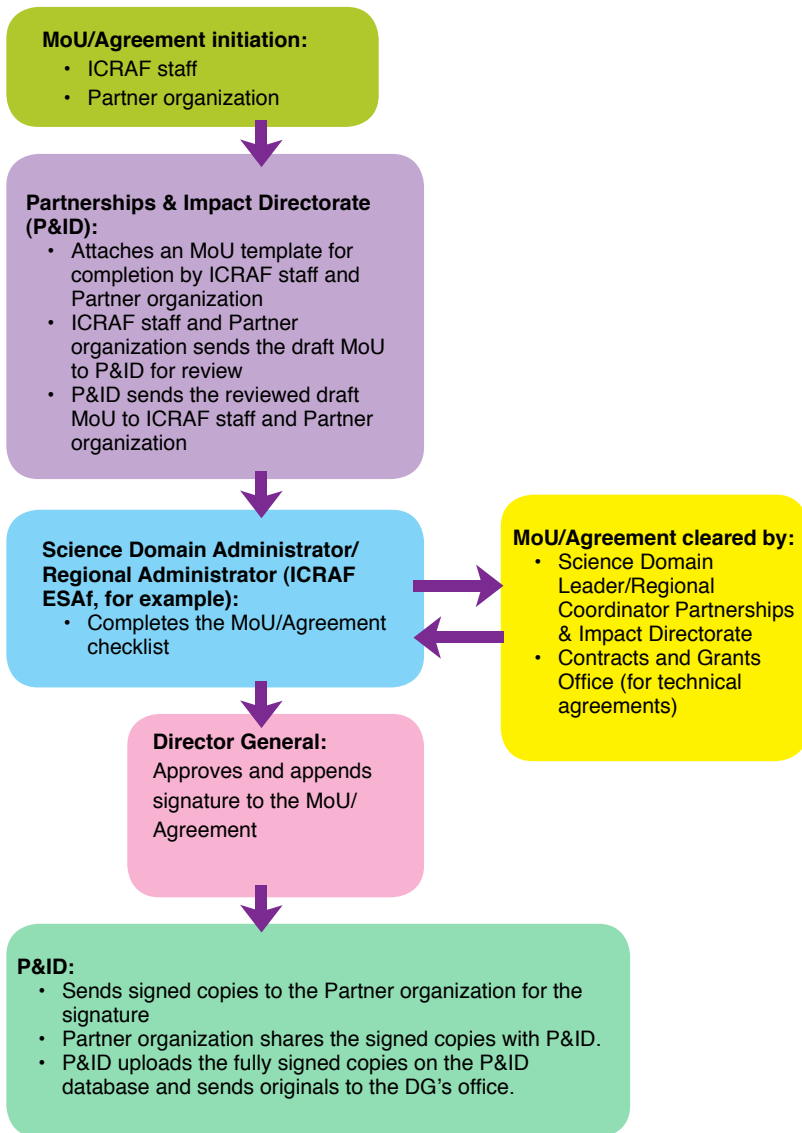
World Agroforestry Centre (ICRAF)

Date

Annex III: Letter of Agreement/MoU/Grants Checklist

LETTER OF AGREEMENT/MOU/GRANTS CHECKLIST	
MoU between ICRAF and NAME OF PARTNER	
Received from (Unit/Region/Name):	Date:
1. Checked and cleared by the Science Domain Leader(s)/Scientist/Unit:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Name: _____	Signature: _____
Comments: _____ _____	
2. Checked and cleared by Partnerships Directorate	
Name: _____	Yes <input type="checkbox"/> No <input type="checkbox"/>
Signature: _____	
Comments: _____ _____	
3. Checked and cleared by Contract & Grants Office:	
Name: _____	Yes <input type="checkbox"/> No <input type="checkbox"/>
Signature: _____	
Comments: _____ _____	
4. Finance endorsement required?	
Yes <input type="checkbox"/> No <input type="checkbox"/>	
Checked and cleared by Finance Unit.	
Name: _____	Signature: _____
Comments: _____ _____	
5. Ok for Director General's signature?	
Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes,	Date Signed: _____
Comments: _____ _____	
6. External Distribution:	
Copy sent to other party (ICRAF partner):	
Yes <input type="checkbox"/> No <input type="checkbox"/>	
Date sent out _____	
Comments: _____ _____	

Annex IV: Work flow for an MoU/Agreement Process





Tom Derksen, SNV's Managing Director for Agriculture (Left) and Tony Simons, DG ICRAF sign an MoU



World Agroforestry Centre is a
member of the CGIAR Consortium

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