

Introduction

Whereas the International Water Management Institute (IWMI) in 2004 has drafted and adopted its Intellectual Property (IP) Policy,

Whereas CGIAR Principles on Management of Intellectual Assets (CGIAR IA Principles)¹ were approved by the Consortium Board and effective from 7th March 2012, and need to be complied with by all CGIAR Centers, and

Whereas IWMI being one of the fifteen (15) Centers of CGIAR has to comply with the provisions of CGIAR IA Principles, and has now amended its IP Policy of 2004 to be in line with CGIAR IA Principles on Management of Intellectual Assets.

In the event of any provisions of this document being contradictory to CGIAR IA Principles, CGIAR IA Principles shall prevail.

This IP Policy of IWMI will be reviewed and amended from time to time consequent to any major changes to CGIAR IA Principles, to ensure compliance with CGIAR IA Principles at all times.

This revised IP Policy of IWMI shall come into effect on 01 May 2014 and shall remain in force until superseded, cancelled or suspended by the Director General with the concurrence of IWMI Board of Governors/Management Team.

IWMI believes in generating and sharing knowledge to improve the management of land and water resources for food, livelihoods and the environment. In pursuing this belief, IWMI seeks to hold, share and distribute its intellectual property as international public goods with maximum possible global access for the benefit of all mankind.

IWMI recognizes both the importance of respecting intellectual property rights and the significant needs of the research community to have access to knowledge for further educational and scientific research purposes. Thus, IWMI's approach is to promote sound management of Intellectual Assets and to protect as well as promote use of Intellectual Property Rights in accordance with applicable laws and best practices.

As an international organization, IWMI is continuously seeking to generate, share, broker and apply knowledge in the areas of land, water, food and the environment. It must do so responsibly

¹ CGIAR Intellectual Asset Principles - <https://www.cgiar.org/wp/wp-content/uploads/2018/03/CGIAR-IA-Principles.pdf>

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in view of increasingly protectionist intellectual property law regimes, diminishing public domain and the proliferation of sharing in a digital environment.

IWMI's Intellectual Property Policy is intended to facilitate a culture within IWMI that encourages and motivates scientists to engage in, and promote knowledge sharing activities with good intellectual property management to maximize global accessibility and to ensure impact on targeted beneficiaries. It also serves to provide a consistent guideline to IWMI in the use and recognition of the legitimate interests of owners of intellectual property rights in a fair and equitable manner.

For the avoidance of doubt, the CGIAR IA Principles shall not limit or otherwise affect, except to the extent expressly provided herein, IWMI's rights over its Intellectual Assets.

1. Definitions:

'Intellectual Assets' 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, knowhow, processes, software and distinctive signs), whether or not they are protected by IP Rights.

'Intellectual Property Rights' 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.

'International public good' under CGIAR IA Principles International Public Goods means "the results of its research and development activities which may be dispersed and used to achieve the maximum possible access, scale, scope of impact and sharing benefits to advantage the poor, especially farmers in developing countries". (CGIAR IA Principles page 2).

'System' the CGIAR System is an international organization that, together with the CGIAR Fund, advances international agricultural research for a food secure future by integrating and coordinating the efforts of those who fund research and those who do the research.

The CGIAR System is made up of:

- The System Board;
- The System Office; and
- The Research Centers which are members of the CGIAR System.

The System Office is the coordinating body of the System.

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Defined terms in the CGIAR IA Principles when used in this IP Policy of IWMI will have the same meaning as in the CGIAR IA Principles.

2. Applicability of the Policy:

2.1 This Policy shall apply to intellectual property of all types including, but not limited to, any invention, discovery, trade secret, technology, scientific or technological development, research data and computer software, regardless of whether they are protected under patent, trademark, copyright, sui generis intellectual property rights or any other laws.

2.2 This Policy applies to all employees, consultants, contractors, researchers, interns and volunteers of IWMI.

2.3 Researchers employed at IWMI are required to submit to IWMI an annual certification on sound management of Intellectual Assets related to the respective projects that they handle during the preceding year.

3. Ownership of Intellectual Property:

3.1 Any research data, maps, models, tools, findings and other material collected, accumulated, created, generated or improved on by an employee or consultant in the course of his or her employment or engagement is subject to ownership by IWMI. This means that an employee or consultant, during employment or engagement, and upon leaving IWMI, is not allowed to divulge any research resources which are confidential in character or which breach IWMI or third-party Intellectual Property Rights without express permission from IWMI.

3.2 IWMI nevertheless recognizes and respects the moral rights of the respective employee and consultant authors. Unless expressly negotiated, there shall be no waiver of such moral rights by the employee or consultant.

3.3 Terms and conditions regarding ownership, access, use and dissemination of any research data, maps, models, tools, findings and other material collected, accumulated, created, generated or improved on by IWMI in collaboration with outside partners or subcontractors may be negotiated on a project-by-project basis in Project Agreements, Memorandums of Understanding or other documents. In such negotiations, IWMI will endeavor to ensure research freedom and timely disclosure of research resources and findings in line with its IP Policy.

3.4 IWMI will carefully consider whether to register/apply for (or allow third parties to register/apply for) patents over IWMI's respective Intellectual Assets. As a general principle, such IP Applications shall not be made unless they are necessary for the further improvement of

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such Intellectual Assets or to enhance the scale or scope of impact on target beneficiaries, in furtherance of the CGIAR Vision as defined in the CGIAR IA Principles.

4. Dissemination of Intellectual Property:

4.1 IWMI is dedicated to supporting national and international efforts that encourage the prompt and broad sharing and dissemination of important research resources.

4.2 IWMI realizes the impediment that can be caused to the advancement of research due to restricted availability of unique research resources, such as research data and tools, upon which further studies are dependent. IWMI is also aware that by encouraging data and knowledge sharing, unnecessary duplication of efforts and costs can be avoided. For this purpose, IWMI will utilize various tools to facilitate sharing and dissemination of research data and findings, such as its database platform, websites and research reports.

4.3 However, IWMI is also cognizant of the fact that scientists have a legitimate interest in benefiting from their intellectual investment and effort. IWMI is committed to ensuring that data and knowledge sharing takes place in a timely manner within, as well as outside, IWMI for further research, development and application, in the expectation that such action will further the research enterprise and accelerate the development of new ideas and knowledge for the benefit of the public in issues related to water management. A reasonable time frame for deposition of material and associated data will be specified in each project by the Project Leader after consultation with the relevant Research Manager and Regional Director.

4.4 IWMI will also consider, on a case-by-case basis, whether or not to seek the protection afforded by Intellectual Property Law when such protection may impact on accessibility, use and distribution of research data and findings. In doing so, IWMI will be guided, principally, by its mission, objectives and values.

5. Access and use of third-party Intellectual Property:

5.1 IWMI is fully aware of the importance of responsibility in sharing the intellectual property rights belonging to third parties. IWMI recognizes the primary importance of the rights of the originators of the resources and values its relationship with those partners. IWMI will make every reasonable effort to secure any necessary permission for use of protected material.

5.2 In collaborations, IWMI will encourage partners to consent to its data-sharing activities as expressed in this Policy. It may collaborate directly in projects with third-party owners and rights holders or may seek permission for use. Also, IWMI will rely solely on fair dealing or fair use and other educational and scientific research exceptions to copyright laws.

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5.3 Where licensing for research resources is required, IWMI will do its best to seek from third-party owners a non-exclusive, worldwide, royalty-free license to incorporate and make available such resources for restricted educational, research and non-commercial uses within IWMI as well as outside IWMI. Users who seek to make commercial use of research resources belonging to IWMI or third parties will be required to seek permission.

5.4 However, should a rights holder object to the use of such resources even for educational, research and non-commercial purposes, IWMI would do its best to address any concern while also being prepared, in appropriate circumstances, to withdraw such resources from the public domain.

5.5 IWMI hopes that by taking this stand, it will stimulate interest in future partnerships with various bodies on water-related issues.

5.6 IWMI 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 in the following instances:

- (a) When to the best of IWMI's knowledge such Intellectual Assets or any other equal Intellectual Assets are unable to be acquired from other sources under no or less restrictive conditions.
- (b) Where the product or service that is intended to result from use of such third party Intellectual Assets will further CGIAR vision in countries where they can be made available.
- (c) Where such acquisition and use of third party Intellectual Assets is to take place, IWMI shall use its best effort to ensure that such third-party Intellectual Assets are used only in relation to, or incorporated into, such an intended product or service.

6. Confidentiality:

6.1 In the course of its work, IWMI will strive to preserve at all times the confidentiality of information pertaining to identifiable individuals or households that is recorded in any of its research resources, especially where such information is not in the public domain.

6.2. IWMI's actions in respect of the privacy of human research subjects and the confidentiality of research data are the subject of the IWMI Research Ethics Policy, and more specifically, are governed by procedures and protocols described in IWMI's *Human Research Protection Program and Institutional Review Board Policy and Procedure Manual*.

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6.3. IWMI may grant limited exclusivity for commercialization of any Intellectual Asset it produces subject to the following:

- (a) Such exclusivity is necessary for the further improvement of these Intellectual Assets or to enhance the impact on target beneficiaries.
- (b) Such exclusivity is as limited as possible in duration, territory and/or field of use.
- (c) Such Exclusivity ensures that Intellectual Assets remain available in all countries for non-commercial research conducted by public organizations in furtherance of CGIAR vision and in the event of a national or regional food security emergency, for the duration of the emergency.

7. Publications:

7.1 IWMI encourages the wide dissemination and open access of its publications (printed and electronic), including databases, maps and research reports with full and accurate attribution to the author and IWMI.

7.2 All IWMI publications (printed and electronic) will carry standard copyright convention signs indicating IWMI as the copyright owner of the compilation, published edition and/or the material published, together with the year of publication.

7.3 IWMI may, to the extent available in national laws, enforce its copyright in IWMI publications (printed and electronic) and protect them from unfair competition if enforcement is necessary for upholding its mission, objectives and values.

8. Administration, Monitoring and Enforcement:

8.1 IWMI expects its entire staff to adhere to the principles and values stated in this Policy.

8.2 The day-to-day administration, monitoring and enforcement of this Policy lie principally with IWMI's Legal Officer under the supervision of the Deputy Director General-Research for Development (DDG-R4D) who will report annually to the Director General about implementation and monitoring activities. Overall, IWMI's Management Team is responsible for effective implementation of this policy. In addition, Project Leaders are required to comply, as part of their stated roles and responsibilities, with sharing policies and guidelines on research resources stated herein.

8.3 In ensuring that staff will be fully aware of intellectual property matters, IWMI legal officer will organize awareness-raising activities such as training workshops on a regular basis.

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9. Reporting to the System:

9.1 Assurance of Compliance: IWMI shall submit annually to the System a written assurance signed and approved by IWMI Board of Governors that IWMI has complied with the CGIAR IA Principles and in particular with the provisions of Article 5 on sound management of Intellectual Assets and according to requirements laid down in Article 6 of the CGIAR IA Principles during the preceding year.

9.2 IWMI IA Report: IWMI shall provide annually to the System its IA Report signed and approved by the Director General of IWMI, with regard to the implementation of CGIAR IA Principles during the preceding year. The IA Report shall be in the format and contain information in accordance with the schedule and template provided by the System Office.

10. Dispute Resolution:

10.1 Any dispute arising out of the interpretation, application and scope of this Policy will be first referred to the Deputy Director General-Research for Development (DDG-R4D) of IWMI by relevant Project Leader/Strategic Program Leader. If the dispute cannot be settled among the DDG-R4D and Strategic Program Leader/Project Leader, the final decision shall be with the Director General of IWMI.

11. Fees:

11.1 IWMI may charge reasonable financial fees, beyond actual costs and reasonable processing fees, in return for providing access to its respective Intellectual Assets on the condition that this possibility of charging fees does not divert the Intellectual Assets from the fulfillment of the CGIAR Vision.

11.2 IWMI shall use any revenue generated from Intellectual Asset management in line with, and to support the CGIAR Vision. The use of such revenue shall be transparently reported in the regular financial reporting by the System and IWMI.

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