



ILRI policy on the management of intellectual assets

Background and scope

In March 2012, the CGIAR Consortium and centres adopted a set of principles on the management of intellectual assets ('CGIAR IA principles')¹ to provide a common set of principles to govern the management of intellectual assets (IA) produced, acquired or disseminated by the CGIAR centres.

This ILRI policy 2013 is revised and updated to align with the CGIAR IA principles and relevant international developments in intellectual property (IP) and related fields.

1. The 'CGIAR IA principles' took effect from 7 March 2012 www.cgiar.org/resources/main-legal-documents-of-cgiar/. 'Intellectual assets' means any results or products of research and development activities of any nature 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.

This policy governs the management of ILRI's intellectual assets with regard to the acquisition, production, management and dissemination of research outputs and innovations produced by ILRI in all its research and/development activities with partners.

The ILRI IA policy, management and practice are intended to be supportive of and consistent with:

- The CGIAR principles on the management of intellectual assets and the implementation guidelines;
- The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). ILRI is one of the 11 centres hosting 'in-trust' collections of plant genetic resources for the benefit of the international community and which signed agreements in 2006 with the Governing Body of the ITPGRFA, placing those collections within the purview of the Treaty.

- The Convention on Biological Diversity ('CBD') and its Nagoya Protocol on Access and Benefit Sharing ('the Nagoya Protocol'), and the objectives, including the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources;
- International agreements promoting the respect for intellectual property and use including the agreement on trade and related aspects of intellectual property rights of the World Trade Organization ('TRIPS'); relevant World Intellectual Property Office (WIPO) treaties;
- Fundamental human rights as stated in particular in the Universal Declaration on Human Rights;
- Local laws and regulations governing IP, access and benefit sharing laws and related laws wherever ILRI operates worldwide.



Intellectual assets management principles

ILRI has adopted five principles to guide the management of its intellectual assets: 1. International public goods (IPGs) 2. Intellectual property rights protection 3. Public private partnerships 4. Incorporating third party intellectual assets and 5. Maximizing global accessibility and impact.

1 International public goods (IPGs)²

ILRI's research aims to produce international public goods to alleviate poverty, increase food security and human nutrition, protect the environment and influence policy working through strategic partnerships and alliances. ILRI is committed to the widespread diffusion and use of its research products to achieve the maximum possible access, scale, scope of impact and sharing of benefits to advantage the poor, especially farmers in developing countries.

2 Intellectual property rights protection³

ILRI is committed to the prudent and strategic use of intellectual property rights (IPR).⁴

ILRI will carefully consider whether to register/apply for (or allow third parties to register/apply for) patents and/or plant variety protection (IP applications) over its intellectual assets subject to the provisions below. IP protection over ILRI's research outputs may be necessary to:

- Ensure continued availability of germplasm, vaccines, technology, inventions and innovations to poor farmers and prevent the mis-appropriation of its outputs by third parties for profit making.
- Ensure the delivery of improved products and technologies in developing countries.
- Negotiate access to other proprietary rights and technologies required for product development.

2. Consistent with Article 1 of the CGIAR IA principles.

3. Consistent with Article 6.4 of the CGIAR IA principles.

4. '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.

All rights, title to and interest in any intellectual assets generated from collaborative research with ILRI will be owned by ILRI or jointly by ILRI and the partners. Such joint products and outputs will respect and acknowledge all contributions of partners and funding sources.

3 Public private partnerships⁵

ILRI recognizes that partnerships including product development partners or private sector partners—

- are critical to ensuring access to the best knowledge and innovation, harnessing efficiencies in product development, and achieving maximum impact through effective delivery and deployment, and
- may require incentives that must be innovatively designed, carefully managed and diligently monitored.

ILRI recognizes that it may need to form partnerships with the private sector to ensure continued availability and delivery of research products, information, technology and innovations. In order to promote delivery of product, where necessary ILRI will establish linkages with the private sector in the early stages of development of products. All such partnerships will be governed by appropriate governing agreements including confidentiality and material transfer agreements to clearly define access to and use of information and materials between ILRI and the private sector.

4 Incorporating third party intellectual assets⁶

ILRI 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'), when:

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

- ILRI will use best efforts to ensure that such third party intellectual assets are only used in relation to or incorporated into, such intended products/services.⁷

In obtaining and exercising any IP rights ILRI will endeavour to ensure that:

- they are exercised consistently with Principle 4 (incorporating third party intellectual assets) and Principle 5 (maximizing global accessibility and impact); 2nd bullet,
- limitations to use of any proprietary materials and conditions set by donors on applying intellectual property protection to products resulting from research funded by these donors are respected,
- ILRI will observe relevant local and international laws and legislations.

5 Maximizing global accessibility and impact⁸

All intellectual assets produced or acquired by ILRI shall be managed in ways that maximize their global accessibility and ensure that they lead to the broadest possible impact on target beneficiaries in support of the ILRI and CGIAR visions.

Prompt dissemination of results: ILRI will endeavour to promptly and broadly disseminate its research results, subject to any confidentiality obligations or subject to limited delays to seek IP protection as per Principle 2 (IP protection) and subject to ILRI's open access policy.

Limited exclusivity agreements: ILRI may grant limited exclusivity ('limited exclusive licence') for commercialization of its intellectual assets when such exclusivity is:

- necessary for the further improvement of such intellectual assets or to enhance the scale or scope of impact on target beneficiaries, and
- as limited as possible in duration, territory and/or field of use,

5. Consistent with Article 2 of the CGIAR IA principles.

6. Consistent with Article 6.3 of the CGIAR IA principles.

7. For example, centres shall use best practices in field, greenhouse, laboratory, and livestock structure management to reduce the risk of unintended contamination of CGIAR biological materials by/with third party intellectual assets, consistent with Article 6.3 of the CGIAR IA principles.

8. Consistent with Article 6 of the CGIAR IA principles.

- and provided that the limited exclusivity agreements provide that the intellectual assets remain available⁹ in all countries:
 - for non-commercial research conducted by public sector organizations ('research exemption'), and
 - in the event of a national or regional food security emergency for the duration of the emergency ('emergency exemption').

Open access

In keeping with its commitment to IPGs, in 2010 ILRI adopted an open creative commons (CC) licence for all ILRI publications (articles, books, reports, chapters, brochures, flyers, press items, CDs and DVDs, websites, posters, conference papers and presentations, images, audio files, videos and films, maps, software, datasets and databases) to encourage wide dissemination, uptake and re-use of its research publications.¹⁰



Under the terms of the CC licence, ILRI retains copyright while allowing users freedom to copy, duplicate or reproduce, and distribute, display or transmit any part of the publication or portions thereof without permission and to make translations, adaptations or other derivative works on condition that such use is properly attributed to ILRI, it may not

be used for commercial purposes and if the work is altered, transformed or built upon, the resulting work must be distributed only under the same or similar licence (share alike).¹¹

Research data management

ILRI is committed to ensuring that research data (including all data collected for the purposes of research, the metadata that describes them and information derived from them, numerical and non-numerical data, and data stored electronically/digitally and/or in hard copy (e.g. paper, original photos) are generated as international public goods (Principle 1) and handled in ways that maximize accessibility (Principle 5), and open access content whilst taking into consideration relevant issues of research ethics (ILRI's Institutional Research Ethics Committee), IP ownership and use of third party IP and data privacy and protection.

Farmers' rights¹²

ILRI recognizes the indispensable role of farmers, indigenous communities, agricultural professionals and scientists in the conservation and improving of the valuable genetic resources of livestock, microbes, parasites and forage species. ILRI seeks to promote, support and respect national and international efforts to protect and promote farmers' rights as envisaged by the International Treaty on Plant Genetic Resources for Food and Agriculture ('ITPGRFA') and support the development of appropriate policies and procedures for their recognition and promotion.

Genetic resources¹³

ILRI supports the effective conservation and widespread use of all genetic resources for food and agriculture, within the provisions of the ITPGRFA, the Convention on Biological Diversity ('CBD') and the Nagoya Protocol.

9. Available means free-of-charge (except for actual costs or reasonable processing fees) or at a reasonable cost consistent with Article 7 of the CGIAR IA principles.
10. <http://creativecommons.org/licenses/by-nc-sa/3.0>.

11. For details see the ILRI institutional strategy on research publishing (<http://cgispace.cgiar.org/handle/10568/17220>).

12. Consistent with Article 3 of the CGIAR IA principles; Article 9 of the ITPGRFA treaty provides that farmers' rights include: 'a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture; b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture'.

13. Consistent with Article 4 of the CGIAR IA principles.

In adherence with the CBD, ILRI respects the sovereign rights of nations to their genetic resources.

ILRI will abide by the terms and conditions of access with prior informed consent agreed under national policies or legislation. Material transfer agreements setting out the terms and conditions of acquisition, benefit sharing and any future transfer and use of the material will be signed with the appropriate national body empowered by the nation to implement the national legislation.

Collecting missions for forages, livestock and microbial genetic resources will be done in a participatory mode between ILRI and its national partners in accordance with the principles of the CBD and the implementing national legislation.

Forage diversity

The ILRI forage genebank holds 'in-trust' collections of forage germplasm (both pre-CBD and post-CBD collections) in trust in accordance with the agreement of 16 October 2006 signed with the Governing Body of the ITPGRFA.

The ILRI genebank conserves more than 18 thousand accessions of forages from over 1000 species. This is one of the most diverse collections of forage grasses, legumes and fodder tree species held in any genebank in the world and includes the world's major collection of African grasses and tropical highland forages.

ILRI will provide forage germplasm (subject to availability) in small experimental quantities along with its related information accompanied by the Standard Material Transfer Agreement (SMTA) in keeping with its policy of maximizing the utilization of material for research, breeding and training.

The material is held in trust and the recipient has no right to obtain IPRs on the material or related information. The recipient may utilize and conserve the material for research, breeding and training and may distribute it to other parties provided such parties accept the terms and conditions of the SMTA.¹⁴

Indigenous populations of livestock

ILRI holds indigenous populations of African cattle, goat and sheep breeds, which are used in ILRI's research on the genetics of disease resistance and are maintained by ILRI for research purposes only. These breeding populations are considered to be held in trust by ILRI.

In transferring any genetic material from these populations, ILRI will abide with national legislation and international legislation on access, benefit sharing and transfer (CBD, Nagoya Protocol etc.) and utilize appropriate material transfer agreements.

Biological materials

The ILRI livestock biorepository¹⁵ holds collections of animal biological material along with their data.

Clones, breeding materials, elite germplasm, and parental lines of livestock, parasites, and microbes that are derived from research activities carried out by ILRI will be made available under a MTA in accordance with the CBD and implementing legislations.

ILRI will upon request (subject to availability) provide such biological resources to both public and private sector under appropriate MTA terms including provisions that:

- the materials or components of the material will be used only in the laboratory that has signed the MTA and may not be distributed to third parties without authorization by ILRI;
- any publication of any results obtained through their use shall be shared with ILRI prior to publication and include appropriate acknowledgements to ILRI;
- experimental data obtained through the use of this material will be made available to ILRI prior to publication;
- the recipient agrees not to claim IPR ownership over the materials or components of the materials received from ILRI.

¹⁴. See: <http://cgspace.cgiar.org/handle/10568/32714>.

¹⁵. See: <http://azizi.ilri.cgiar.org/>

Cost recovery¹⁶

ILRI may charge reasonable financial fees, beyond actual costs and reasonable processing fees, in return for providing access to its intellectual assets. ILRI will use any revenue generated in line with and to support ILRI's research work.

Access to ILRI's genebank as prescribed under the multilateral system of access and benefit sharing may include reasonable processing fees to cover costs.¹⁷

Staff and other personnel contracts

All ILRI staff, scientists, students, consultants, seconded staff, associates, post-graduates and visiting scientists and third parties operating on behalf of ILRI will be required, through their engagement contracts, to follow best practices in order to abide by all elements of this policy.



All data, research outputs, technologies, germplasm, methodologies, and software, as well as information in databases and publications generated by ILRI staff, scientists, students, consultants, seconded staff, associates, post-graduates and visiting scientists and third parties operating on behalf of ILRI is the property of ILRI.

¹⁶. Consistent with Article 7 of the CGIAR IA principles

¹⁷. Consistent with Article 7 of the CGIAR IA principles; Article 12.3(a) of the Treaty provides that facilitated access under the multilateral system of access and benefit-sharing shall be 'free of charge or when a fee is charged, it shall not exceed the minimal cost involved'.

Sound management

ILRI is committed to the sound management of intellectual assets and intellectual property rights (IP rights) to further ILRI's mission, in accordance with all applicable international and local laws and best practices.

ILRI endeavours to manage its intellectual assets and IP rights with integrity, fairness, equity, responsibility, and accountability while respecting and without infringing third party IP rights.

Respect, responsibility and integrity in science: ILRI's scientific work, including that on biotechnology, is based on the principles of accountability, responsibility and precautionary action. For any undertaking, potential benefits shall clearly outweigh potential risks, emphasizing broad societal interests such as long-term environmental sustainability over shorter term gains.

ILRI recognizes the necessity to respect the integrity of culture, tradition and the relationship of local people with nature. Likewise ILRI respects the aspirations and culture of partner institutions and the societal context within which they operate.

ILRI adheres to national regulations and to relevant internationally accepted codes of behaviour and conduct in areas of both plant and animal biology and in particular the collection and transfer of genetic resources, biosafety, animal welfare and intellectual property.

ILRI will not intentionally cause any suffering to animals used in its research and has established an Institute Animal Care and Use Committee (IACUC) to ensure that minimum international standards are adhered to. All ILRI projects involving animals for research and training purposes (including feeding, sampling, transportation and housing), both on and off ILRI sites, must apply for, and receive IACUC approval before commencement of the activities.

The Institutional Research Ethics Committee (IREC) reviews for approval all ILRI research activities involving humans with a view to safeguard the dignity, rights, safety and wellbeing of all actual and potential research participants and the wider community.

ILRI endeavours to manage and implement all agreements and collaborative research activities with donors, partners, subcontracted partners and collaborators in adherence with this policy, the CGIAR IA principles and its implementation guidelines and sound IP management practices.

In agreements between ILRI and its collaborative partners, IPR provisions will be included that adhere to the following objectives:

- protect the collaborator's own confidential information as required by the collaborator's own policies;
- ensure that access to outputs of such collaborations are made available on a fair and equitable basis with as few restrictions as possible;
- allow for commercialization where it benefits the resource poor;
- require the collaborator to incur any costs associated with obtaining, maintaining, and commercializing any resulting IPR;

- ensure that all parties to the collaboration obtain a non-exclusive, irrevocable, world-wide, royalty-free right to use any resulting IPR; and
- require the payment to ILRI of royalties based on the net profit of money earned on any resulting IPR.

This policy is effective and remains in force and may be amended or revised with the approval of ILRI Management and the ILRI Board of Trustees.

Approved by: ILRI Institutional Management Committee June 2013 and the ILRI Board of Trustees 40th meeting held on 3rd–6th November 2013.

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The International Livestock Research Institute (ILRI) works with partners worldwide to enhance the roles that livestock play in food security and poverty alleviation, principally in Africa and Asia. The outcomes of these research partnerships help people in developing countries keep their farm animals alive and productive, increase and sustain their livestock and farm productivity, find profitable markets for their animal products, and reduce the risk of livestock-related diseases.

ILRI leads the CGIAR Research Program on Livestock and Fish, leads a component of a CGIAR Research Program on Agriculture for Nutrition and Health on the prevention and control of agriculture-associated diseases, and contributes to seven other CGIAR research programs. Staff members work in integrated sciences and biosciences programs that develop and deliver science-based practices, provide scientific evidence for decision-making and develop capacities of livestock-sector stakeholders. With the African Union/New Partnership for Africa's Development Planning and Coordination Agency, ILRI also hosts and manages the Biosciences eastern and central Africa (BecA)-ILRI Hub.

CGIAR is a global partnership that unites organizations engaged in research for a food-secure future. CGIAR research is dedicated to reducing rural poverty, increasing food security, improving human health and nutrition, and ensuring more sustainable management of natural resources. It is carried out by 15 centres that are members of the CGIAR Consortium in close collaboration with hundreds of partner organizations, including national and regional research institutes, civil society organizations, academia and the private sector.



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better lives through livestock

ILRI is a member of the CGIAR Consortium

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