

Policy of the International Institute of Tropical Agriculture (IITA) on Intellectual Property/ Assets

(Approved by the IITA Board on 28-11-2012)

The International Institute of Tropical Agriculture (IITA), a member of the Consultative Group on International Agricultural Research (CGIAR) Consortium, aims to enhance the food security, income, and well being of resource-poor people, primarily in the humid and subhumid zones of sub-Saharan Africa (SSA)

Intellectual property (IP) and intellectual assets (IA) are becoming increasingly important in IITA's work. This statement will explain IITA's policies on IP and IA. It is divided into two parts: Part 1 explains the principles on which the policies are based, and Part 2 explains how these principles will be implemented in practice.

This policy statement is intended to reflect the CGIAR Principles on the Management of Intellectual Assets¹. That document can be referred to for further information if required and is available on the IITA website.

1. Principles

1.1. International Public Goods

IITA regards the results of its research and development activities as international public goods. IITA is committed to widespread diffusion and use of these public goods to achieve the maximum possible access, scale, and scope of impact and sharing of benefits to advantage the poor, especially farmers in sub-Saharan Africa.

1.2. Partnerships

IITA recognizes that partnerships:

- (a) 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
- (b) may require incentives that must be innovatively designed, carefully managed and diligently monitored. These incentives may take the form of IP or IA concessions.

¹ The 'CGIAR IA Principles' approved as of 7 March 2012

1.3. Farmer’s Rights

1.3.1. IITA recognizes the indispensable role of farmers, indigenous communities, agricultural professionals and scientists in conserving and improving genetic resources.

1.3.2. IITA seeks to be respectful of national and international efforts to protect and promote farmers’ rights as envisaged by the Treaty² and support the development of appropriate policies and procedures for its recognition and promotion.

1.4. Genetic Resources for Food and Agriculture

1.4.1. IITA supports the effective conservation and widespread use of all genetic resources for food and agriculture.

1.4.2. Facilitated access to Plant Genetic Resources for Food and Agriculture within the purview of the Treaty shall be provided in accordance with the Treaty.

1.5. Sound Management of Intellectual Assets and Intellectual Property Rights

1.5.1. IITA is committed to the sound management of Intellectual Assets and Intellectual Property Rights (“**IP Rights**”) to further its mission, in accordance with all applicable laws and best practices.

1.5.2. IITA shall manage its respective Intellectual Assets and IP Rights with integrity, fairness, equity, responsibility, and accountability, wherever it operates.

1.5.3. IITA shall use its best endeavors to engage in IP Rights due diligence for the activities that it carries out, and, in particular, to secure where appropriate (e.g. through licenses or non assert covenants) the IP Rights that are necessary for the development and delivery of products/services without infringing third party IP Rights.

1.6. Maximizing Global Accessibility and Impact

All IA produced or acquired by IITA shall be managed in ways that maximize its global accessibility and/or ensure the broadest possible impact on target beneficiaries in furtherance of IITA’s mission.

1.7. Prompt Dissemination of Research Results.

IITA shall promptly and broadly disseminate its research results, subject to confidentiality obligations as may be associated with restrictions permitted under Part 2 below.

² the International Treaty on Plant Genetic Resources for Food and Agriculture

2. Implementation

2.1. Limited exclusivity agreements

2.1.1. IITA may grant limited exclusivity for commercialisation of the IA that it produces, provided that such exclusivity is:

- (a) necessary to:
 - (i) improve IA, or enhance the scale or scope of impact on target beneficiaries, in furtherance with the IITA mission
- (b) as limited as possible in duration, territory or field of use.

2.1.2. In such limited exclusivity agreements, IA must remain available in ALL countries:

- (a) for non commercial research by public sector organisations³ in furtherance of CGIAR vision (**Research Exemption**)
- (b) in the event of a national or regional food security emergency⁴ (**Emergency Exemption**)

2.1.3. It is the policy of IITA and CGIAR that the above exemptions should be maintained unless there are compelling reasons to depart from them. If, however, IITA wishes to execute an agreement without these exemptions, it needs to secure express prior permission from CGIAR.

2.2. Restricted use agreements

2.2.1. In some cases, rather than considering the IA that results from a research project, IITA may need to use or acquire third party IA in pursuit of a research project. IITA may enter into agreements for the acquisition and use of third party IA that restricts the global accessibility of the products/services resulting from such project, provided that:

- (a) IITA is, to the best of its knowledge, unable to acquire equivalent IA from other sources under no or less restrictive conditions,
- (b) the products/ services that are intended to result from the use of such third party IA will further the CGIAR Vision in the countries where they can be made available, and
- (c) IITA shall use its best efforts to ensure that such third party IA is only used in relation to, or incorporated into, such intended products/services.

³ **Public sector organizations** means government entities, such as national governments, national agricultural research institutions, publicly funded international agriculture research centers, and publicly funded educational institutions.

⁴ **Food Security Emergency** means a food security related occurrence that poses imminent threat of a significant loss of human life and which is declared an “emergency” by a national government or a multilateral and internationally recognized institution based on generally accepted benchmarks, such as the ‘level 4 emergency’ or ‘level 5 catastrophe’ categories of the Integrated Food Security Phase Classification (IPC) (available at www.ipcinfo.org).

2.3. Intellectual Property Rights

- 2.3.1. IITA is committed to the prudent and strategic use of IP Rights.
- 2.3.2. IITA shall 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 IA. As a general principle, such IP Applications shall not be made unless they are necessary for the further improvement of such IA or to enhance the scale or scope of impact on target beneficiaries, in furtherance of the CGIAR Vision.
- 2.3.3. All IP Rights shall be exercised consistently with Articles 1.6 – 2.2 above.

2.4. Fees

- 2.4.1. IITA may charge reasonable financial fees, beyond actual costs and reasonable processing fees, in return for providing access to its IA, on the condition that this possibility of charging fees does not divert them from the fulfillment of the CGIAR Vision.
- 2.4.2. For the avoidance of doubt, Article 2.4.1 above does not apply to Plant Genetic Resources for Food and Agriculture held in-trust by Centers and placed within the purview of the Treaty, for which facilitated access shall be provided in accordance with the Treaty.
- 2.4.3. IITA shall use any revenue generated from IA management in line with and to support its mission. The use of such revenue shall be transparently reported in the regular financial reporting by the Consortium and IITA.

2.5. Reporting to CGIAR

- 2.5.1. IITA will provide annually to the Consortium a written assurance by its Board of Trustees that it has, during the preceding year, complied with the CGIAR IA Principles. In particular, the assurance will specify compliance with the provisions of Article 5 and Article 6 of the CGIAR IA Principles.
- 2.5.2. IITA will provide annually to the Consortium a report, satisfactory to the Consortium, regarding the implementation of these CGIAR IA Principles during the preceding year.
 - (a) The report will include a list of every **Limited Exclusivity Agreement, Restricted Use Agreement and IP Application (“IA Activities”)** made during the preceding year. For each of these matters, the report will also include:
 - (i) a general description of the IA activity
 - (ii) justifications for the IA activity, including clear and relevant information showing that the requirements laid down in Articles 5 and 6 of the CGIAR IA Principles have been met.

2.5.3. It is important that IITA is able to report to the Consortium without breaching confidentiality obligations owed to third parties. Therefore, IITA will not undertake confidentiality obligations which would prevent it from providing the necessary justifications as per this article. The Consortium shall treat all information reported as per this Article as confidential. The Consortium will make its own report to a higher body, the Fund Council, but this will only contain general and aggregated information, which should not infringe on any confidentiality agreements IITA may have with a third party. For more information please see section 10.3 in the CGIAR IA Principles.