

## **CIMMYT Intellectual Property Policy**

### **I. PREAMBLE**

The International Maize and Wheat Improvement Center ('CIMMYT') is an international, publicly-funded, autonomous, non-profit, research and training organization for science-based agricultural development.

CIMMYT operates under the aegis of the Consultative Group on International Agricultural Research (CGIAR) towards the following mission:

*CIMMYT acts as a catalyst and leader in a global maize and wheat innovation network that serves the poor in developing countries. Drawing on strong science and effective partnerships, we create, share, and use knowledge and technology to increase food security, improve the productivity and profitability of farming systems, and sustain natural resources.*

CIMMYT regards its research products as international public goods, and therefore strives to achieve the broadest possible impact from the outputs of its research and the results of its development activities. CIMMYT will publish the results of its research and development activities as broadly and freely as possible. However, CIMMYT understands that partnerships with the private sector may be necessary to access the best technologies or ensure the most effective delivery of CIMMYT's outputs to target resource-poor farmers.

CIMMYT subscribes to the prudent and strategic use of intellectual property (IP) protection systems to further its capacity to serve the global poor. In the modern landscape of public sector agricultural science, it is understood that relationships with the private sector are increasingly necessary to ensure access to the best technologies, harness efficiencies in product development, and achieve maximum impact through effective delivery and deployment of research outputs. Moreover, CIMMYT acknowledges that private sector partnerships require downstream incentives that must be carefully and innovatively managed to support CIMMYT's goals of broadly disseminating know-how and research as well as delivering technologies to stakeholders that promote the alleviation of poverty, hunger and marginalization.

### **II. THE ROLE OF IP MANAGEMENT AT CIMMYT**

CIMMYT's Policy on Intellectual Property defines the principles that CIMMYT considers essential to achieve its objectives. CIMMYT shall use its intellectual property and that acquired from third parties in ways that fully support CIMMYT's mission. Specific details regarding practical implementation issues are described in CIMMYT's IP Management Manual. Implementation of the IP Policy is monitored by the CIMMYT Board of Trustees.

### **III. STEWARDSHIP**

In its use and development of novel technologies (including biotechnology-based materials), CIMMYT will endeavor to comply with all national and international laws that are relevant for the protection and

use of intellectual property and in the field of biosafety and bioethics and will require its collaborators to be subject to the same obligations.

#### **IV. GENETIC RESOURCES**

CIMMYT recognizes the indispensable role of farmers across the world in developing and conserving the genetic resources that form the foundation of the current maize and wheat improvement efforts. CIMMYT holds this germplasm in trust for the global community and acknowledges its responsibilities in conserving and distributing this material without restriction.

All germplasm held by CIMMYT under the International Treaty of Plant Genetic Resources for Food and Agriculture (hereinafter referred to as 'The Treaty') will be distributed under the terms and conditions of the Standard Material Transfer Agreement (SMTA).

#### **V. PRINCIPLES AND OPERATING POLICIES**

1. CIMMYT endeavors to comply with all applicable international laws and treaties concerning the use of third party intellectual property, genetic resources, and biotechnologies.
2. CIMMYT endorses the CGIAR's "Ethical Principles Relating to Genetic Resources" and guidelines on IP and biosafety management.
3. CIMMYT will endeavor to manage intellectual property issues with integrity, fairness, equity, responsibility, and accountability wherever it operates. CIMMYT will hire legal council to aid in IP management analyses, negotiations, and decisions whenever required.
4. In the management of intellectual property protection systems, CIMMYT will be guided by its mission and its responsibilities to resource poor farmers and consumers in low income countries.
5. CIMMYT will stringently and consistently consider whether to acquire, and how to manage, the intellectual property rights associated with all aspects of its research and product development, including germplasm, technologies, methodologies, software, as well as information in databases, publications, and know-how in any form.
6. CIMMYT may enter into contracts that provide for the acquisition and management of confidential and/or proprietary materials when there is a clear justification and when such action will best serve our resource-poor stakeholders.
7. Prior to the use and application of third party proprietary technology, CIMMYT will make reasonable efforts to identify any constraints associated with its use or with the distribution of products or processes incorporating the proprietary technology.
8. When using copyright materials of others, CIMMYT will abide by "fair use" or will act within the limitations invoked through the consent of the copyright owner, and will always properly attribute the source of the material. In turn, we expect the same from those who use CIMMYT copyright materials.
9. When it is essential to make advanced biological techniques available to any partner or to make any materials available to private sector product deployment entities in low-income countries, CIMMYT may strategically employ limitations on the distribution of these techniques and/or the

derived and associated materials in cases where there is clear justification and when such action will best serve our resource-poor stakeholders.

10. CIMMYT may seek to protect the products of its research by obtaining intellectual property protection through patents, plant breeder's rights, copyrights, trademarks, statutory invention registrations or their equivalent, and/or trade secrets where there is clear justification and when such action will best serve our resource-poor stakeholders.
11. All data, research outputs, technologies, germplasm, methodologies, and software, as well as information in databases and publications generated by CIMMYT staff, adjunct scientists, consultants, students, and any other person operating on behalf of CIMMYT is the property of CIMMYT.
12. CIMMYT will cooperate in the development of databases that assist the resource-poor and will make its best efforts to keep the data in these databases in the public domain.
13. Wherever possible, CIMMYT will release its information products (software, documents, multimedia, data) using a suitable Open Content License, allowing copying, distribution, and the creation of derivative products but prohibiting commercialization or protection and requiring attribution as well as the release of derivative products under the same license as the original product was released by CIMMYT.
14. All CIMMYT staff, adjunct scientist, students, and third parties operating on behalf of CIMMYT will be required, through their engagement contracts, to follow best practices in order to abide by all elements of this Policy.
15. CIMMYT will require, through engagement contracts, all contractors, brokers, and any parties contracted or acting on behalf of CIMMYT to abide by all elements of this Policy.
16. CIMMYT will ensure, as far as possible, in all agreements with partners and collaborators, that all joint activities are implemented in accordance with this Policy. Similarly, CIMMYT will ensure it has the discretion to control research outputs from all joint activities to ensure unrestricted uptake by our end-users and direct impacts for our stakeholders.
17. CIMMYT has registered the "CIMMYT" name and logo and may register other distinctive marks as trademarks in order to protect the goodwill and reputation associated with the exclusive use of these marks by CIMMYT.

## **VI. GERmplasm ACQUISITION AND DISTRIBUTION**

On 16 October 2006, all Centers of the CGIAR System holding collections of Plant Genetic Resources for Food and Agriculture (PGRFA) signed Agreements with the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty) placing their collections of PGRFA within the purview of the Treaty.

In accordance with this Agreement, as of 15 January 2007, all transfers of PGRFA crop material, as listed in Annex 1 to the Treaty (shipments of PGRFA under the Multilateral System), will be governed by the terms and conditions of the Standard Material Transfer Agreement (SMTA) adopted by the Governing Body of the Treaty at its first session in June 2006. Any shipments of PGRFA under the Multilateral System will be accompanied by the SMTA, and the recipient's acceptance and use of the Material will constitute acceptance of the terms and conditions of the SMTA.

1. In collaborations, CIMMYT may unilaterally provide “germplasm under development” with selected limitations regarding the timing of its dissemination or geographical distribution to others.
2. In cases where the germplasm contains protected IP, the material may be distributed with an additional material transfer agreement (MTA) detailing specific restrictions and conditions.
3. CIMMYT does not proactively support the application of patent legislation to plant genetic resources (i.e., genotypes, genes, or any other derived component) held in its ex situ genebank collections or its materials under development but accepts the use of these materials under regimes that allow the use of resultant material for further breeding by anyone.
4. The CIMMYT genebank will only accept for long-term conservation germplasm that can be distributed in accordance with the SMTA.
5. For further information on germplasm request and distribution, [click here](#).

## **VII. IMPLEMENTATION, REVIEW AND REVISION**

1. This Policy is effective from 1 April 2009, and will remain in force until superseded, canceled, or suspended in writing by the authority of the CIMMYT Board of Trustees.
2. In order to implement this policy, CIMMYT employees, visiting scientists, and trainees (through signed agreements) will abide by all elements of the IP Policy and CIMMYT’s IP Management Manual, and CIMMYT will routinely monitor staff practices, invoking corrective action whenever required.
3. All arrangements with third parties associated with the access, joint creation, use, or exploitation of intellectual property protected materials will be appropriately documented. These records will be subject to an annual audit by the CIMMYT Board of Trustees to ensure consistent mission-based decisions are being made across all aspects of CIMMYT’s management of IP.
4. This Policy will apply to all of CIMMYT’s activities, programs, and offices; accordingly, all references to CIMMYT in this Policy will be construed to include these entities.
5. Responsibility for implementing this Policy rests with CIMMYT’s Director General.