

Recommendations of the Intellectual Property Rights Audit of ICARDA

Conducted according to the Terms of Reference issued by Center Directors Committee on IP based on the preliminary scoping report of Venables Associates, Washington DC and finalized by J. Dodds Associates in January 2000.

Recommendation	Action Update
<p>1. ICARDA should consider a standard material transfer agreement to be used for distribution of all materials, with the exception of those held in trust under the FAO agreement. This would be separate and distinct from the MTA now used by centers for distribution of FAO trust materials. Ideally, the CGIAR as a system should adopt a uniform MTA.</p>	<p><i>This recommendation technically may no longer be needed, as the in-trust system is in the process of being replaced by the multilateral exchange system of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), which came into force in 2003. The CGIAR Centers will be asked to sign new agreement with the Governing Body of the ITPGRFA, aligning the Centers with the ITPGRFA. This agreement will obligate the Centers to use a Governing Body-approved Standard Material Transfer Agreement (SMTA) for crop germplasm exchanges of the species, genera listed in ANNEX I of the ITPGRFA, and give guidelines for materials not listed in Annex I, but generally regarded as agricultural crops. In addition, the Directors General of the Future Harvest Centers of the CGIAR have agreed to use a standard MTA for all materials that are considered products of Center research that incorporate germplasm originating from the Center-held collections. It is expected that the ITPGRFA-SMTA will be finalized and approved at the first Governing Body meeting in June 2006.</i></p>
<p>2. ICARDA is currently in the process of reviewing its employment manual. A section should be included specifically on IP. It should clarify the responsibilities of staff in relation to the management of</p>	<p><i>ICARDA's Personnel Policy has been re-drafted to include a section on Intellectual and Tangible Property Rights. The revised Personnel Policy was approved by the Board of Trustees in April</i></p>

Recommendation	Action Update
<p>IP of others. It should also re-affirm the paragraph in the employment contracts on center ownership of inventions developed while employed at ICARDA.</p>	<p><i>2005. It also re-affirms the clause in employment contracts on center ownership of inventions developed while employed at ICARDA. This paragraph reads: "It is understood that all genetic material, research data (in all forms and stages) and procedures/processes, computer programs, and products developed in the course of your employment at ICARDA will remain the property of ICARDA. When your employment ceases with ICARDA, you may still use such material, provided that permission for its use is obtained from Management, and full credit is given to the Center for permitting the use of the material".</i></p>
<p>3. ICARDA needs to include similar language to its employment contract language on IP in all consultancy agreements. Any person employed directly or indirectly for the Center should be bound by appropriate IP language.</p>	<p><i>A standard clause on Tangible and Intellectual Property Rights is included in all consultancy contracts as follows: " All inventions, improvements, original works and/or discoveries, which are conceived or made by employees or contractors of ICARDA will remain the property of ICARDA. Collaborating partners and National Programs will be granted the right to use such inventions, improvements, original works and/or discoveries internally for research purposes. Collaborators will not transfer to third parties or sell or commercialize in any form the intellectual property of ICARDA without prior written approval from ICARDA".</i></p>
<p>4. ICARDA should consider a mechanism to ensure that the MTAs it uses are being complied with.</p>	<p><i>The Genetic Resource Unit keeps a database of all germplasm materials and associated MTAs. Compliance with the terms of these MTAs (and the successor, Governing Body-approved Standard Material Transfer Agreement (SMTA)), will need to be addressed by ICARDA management during 2006. It is likely that the Centers will receive some guidance with regard to the expectations of the Governing Body of the ITPGRFA regarding follow-up on the enforcement of the terms of SMTAs.</i></p>
<p>5. ICARDA should consider a more centralized data storage and</p>	<p><i>ICARDA has developed its Intranet substantially to manage and</i></p>

Recommendation	Action Update
management facility. There should be clear guidelines so staff is fully aware of where data is held and updated.	<i>store data. ICARDA now has draft policies on Data Management and Scientific Ethics.</i>
6. ICARDA should consider using a more standard approach to its use of IP of others. In some cases scientists themselves have signed agreements, sometimes by program leaders, other times by Director level staff. There should be clear guidelines and consistency.	<i>ICARDA has now standardized the approach to agreements, which are now all signed by the Director General.</i>
7. ICARDA should ensure that visitors, students and other parties should be clear on issues of confidentiality. Visitors should be bound to the same standard that covers Center staff.	<i>ICARDA has asked CAS to assist them with this topic. Central Advisory System (CAS-IP) of CGIAR at IPGRI is preparing a set of practice materials/guidelines for the Centers.</i>
8. ICARDA needs to establish and implement clear guidelines in its cooperative agreements with both NARS and ARIs in relation to the ownership of products and inventions produced. Standard language should be developed for inclusion in all contracts developed with NARS and ARIs.	<i>A standard clause on inventions, improvements, original works and/or discoveries, which are conceived or made during collaborative projects is now included in our new agreements.</i>
9. ICARDA should consider the inclusion of copyright protection notices in all its databases and proposals as a form of protection of both its ideas and data.	<i>ICARDA places copyright notices on all its corporate publications. Significantly, Syria became a signatory to the Berne Convention on 11 June 2004. This means that material originating from ICARDA Headquarters will be protected by copyright automatically. Nevertheless a notice will still be placed on each piece of material to help users of the materials respect this copyright. ICARDA has a copyright notice and conditions for its WebPages.</i>
10. ICARDA needs to ensure that mechanisms are in place so that scientists are free to operate on their task. Innovative mechanisms	<i>To ensure that scientists are free to operate on their task, the contact point for intellectual property is the Assistant Director</i>

Recommendation	Action Update
<p>should be sought to pass the responsibility of administrative issues to the appropriate persons so the scientist can continue to do science. Some universities have favored the idea of a contact person, such as the Director of Research.</p>	<p><i>General (Research). ICARDA is considering the establishment of an IP Management position/unit to address this need and other IP Management needs.</i></p>
<p>11. ICARDA should work closely with the proposed Central Advisory Service on IP (CAS-IP) to be established at ISNAR. It is important that ICARDA take full use of this service and try to influence its agenda where it will be of benefit to the CG as a whole.</p>	<p><i>ICARDA has worked with CAS-IP, especially during the past year following the visit of the CAS-IP Director, both through visits and through input into the CAS work plan and operations (via the CDDC AGM04/05 Meetings and CDDC-observer). The ICARDA-designated IP focal point has been able to attend a limited number of the annual meeting of the Center IP Managers/focal points, (the IP-Strategy Meeting). However, there interest has been expressed by ICARDA management in the work of these meetings and meeting reports.</i></p>
<p>12. ICARDA should review and implement an appropriate file management strategy. The current system for host country agreements and MOAs would be a good basis for this.</p>	<p><i>Signed agreements are filed centrally with the host country agreements and MOAs.</i></p>
<p>13. ICARDA should ensure that its Board of Trustees routinely reviews the centers policies and status on this issue.</p>	<p><i>A revised ICARDA Intellectual Property Rights Policy was approved by the Board of Trustees in May 2003.</i></p>