



Intellectual asset management

In line with the CGIAR Principles on the Management of Intellectual Assets and their Implementation Guidelines, RICE recognizes that careful management of intellectual assets (IA) is prerequisite for effective development and delivery of RICE's international public goods. The RICE strategy for management of intellectual assets should be read in conjunction with its strategy on open access and data management (Annex 9). Ownership, custody, and management of IA rest with the RICE CGIAR centers producing them (with their partners). AfricaRice, CIAT, and IRRI are led by institutional IA and IP policies that are in line with those of the CGIAR.

Relevance of IA management: critical issues and anticipated challenges

Most critical issues and challenges relate to generally understood and accepted definitions of IA, ownership over IAs, freedom to operate, and adherence to pertinent national and international treaties, policies, laws, and regulations.

"Intellectual Assets (IA)" means any results and/or products of research and development activities, of any nature whatsoever (including, but not limited to, knowledge, technologies, and know-how), whether or not they are or can be protected by intellectual property rights. Examples of IAs generated by RICE are given in Annex 9 on 'Open access and data management': peer-reviewed journal articles; reports and other papers; books and book chapters; data and databases; data collection and analysis tools (e.g., models and survey tools); video, audio and images; computer software; web services and metadata associated with

the information products above; novel germplasm products (varieties, pre-breeding lines, discovered genes, QTLs, markers, etc.); and novel crop, soil, water, and pest and disease management technologies.

"Intellectual property (IP) rights" means ownership rights over intellectual property (or applications thereof), 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, trade secrets, trademarks and service marks, geographical indications, and trade secrets.

In line with the CGIAR Principles on the Management of Intellectual Assets and their Implementation Guidelines, the RICE CGIAR centers shall ensure that, to the extent permitted by applicable law, they hold the rights over the information products generated by their staff, visiting scientists, consultants, students, and any other person operating on their behalf. Hence, RICE CGIAR centers have both ownership and stewardship responsibilities with regard to their RICE-generated information products (often in partnership). The RICE CGIAR centers claim co-ownership of information products generated in collaboration with partners through explicit statements in signed letters of agreement or contracts with partners on co-ownership of information products developed as a result of the collaboration.

The RICE CGIAR centers shall use their best endeavors to ensure that they have full freedom to operate for all the activities that they carry out, and to secure, where necessary, appropriate licenses in accordance with their and the CGIAR IA policies. The RICE CGIAR centers may enter into agreements for the acquisition and use of third party IA that restrict the global accessibility of the products/services resulting from the use of

such IA for commercialization, research and development provided that:

1. they are, to the best of their knowledge, unable to acquire equivalent IA from other sources under no or less restrictive conditions; and
2. the products/services that are intended to result from the use of such third party IA will contribute to the goals and objectives of RICE

RICE's IA policy, management, and practices are consistent with:

- The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), as the RICE CGIAR centers host 'in-trust' collections of plant genetic resources, and for the benefit of the international community 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 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
- Fundamental Rights as stated in particular in the Universal Declaration on Human Rights and other relevant international treaties
- All applicable International Treaties, and supranational and national laws related to IP

Project planning and implementation

At the project planning stage, agreements will be made, and developed into contracts, among project partners on the expected IA assets to be generated under the project, any IP sharing arrangements, and appropriate dissemination pathways following the relevant institutional and CGIAR IA policies

and as described in this document. When relevant (especially for development of new genetic resources IAs), existing frameworks, arrangements, and policies that may impact on the management of pertinent IP are reviewed; applicable IP types and restrictions identified; and international overviews produced of pertinent IP protection regimes specific to the nature of the proposed IAs. Beside the International Treaty on Plant Genetic Resources for Food and Agriculture, and the CBD, major international treaties relevant to the areas of IP protection include

- agreement on Trade Related Aspects of Intellectual Property Rights (the TRIPS Agreement),
- Paris Convention for the Protection of Industrial Property of 1883 (Paris Convention),
- Patent Cooperation Treaty (PCT),
- International Convention for the Protection of New Varieties of Plants (UPOV Convention), and
- The Madrid Agreement Concerning the International Registration of Marks, and the Protocol Relating to the Madrid Agreement (Madrid Protocol).

Reviews of the above have been made as well as of IP regimes with respect to patent and plant breeders' rights protection in North America (United States, Canada, and Mexico), South America, Southeast Asia, Africa (African Regional Intellectual Property Organization, African Intellectual Property Organization, South Africa), Europe, and Australasia (Australia and New Zealand).

Necessary freedom to operate is pursued for pertinent project activities and, where necessary, appropriate licenses are secured. State of the art assessments of freedom to operate have been made for specific IAs that are under development in GRiSP and that are carried forward in RICE, such as for C4 rice (governed by prevailing confidentiality arrangements). Dissemination pathways are expressed in impact pathways and theories of change that describe the ways research leads to outputs (IAs) that are disseminated and taken up by

intermediate and end users to achieve the intended impacts as related to the CGIAR IDOs and SLOs. Overviews of the outputs and dissemination pathways are given in section 1.0.3 of the RICE proposal and in the impact pathway sections of each of the RICE's flagship projects. RICE's results-based management system (Annex 6) is used to track the development of outputs, assess progress made toward outcomes and impact along the impact pathway, and regularly review and adapt underlying dissemination strategies and theories of change.

Key dissemination pathways

Managing IAs as international public goods. The RICE CGIAR centers are committed to keeping their IAs, including germplasm, inventions, improvements, data, processes, technologies, software, trademarks, and publications, available to public and/or private sector entities through pathways that facilitate the achievement of maximum impact for poor farmers and consumers consistent with the RICE mission. To the extent possible and when appropriate, publication or contractual provisions will be used to ensure that such information, innovation, or material remains available for use by the public and private sectors.

In accordance with the Treaty and all relevant biosafety, phytosanitary, import, and export regulations, the RICE CGIAR centers will supply samples of rice genetic resources to anyone, anywhere for the purposes of research, breeding, and training for food and agriculture, under the terms of the Standard Material Transfer Agreement (SMTA) adopted by the Governing Body of the Treaty. Plant Genetic Resources under development may be made available under a further MTA that defines conditions consistent with the IA policy and practices of the RICE CGIAR Institute, or IP or other contractual restrictions set by RICE CGIAR Center collaborators

Exclusivity, patents, and plant variety protection. Provided it is fully consistent with their mandates, with RICE's goals and objectives, international agreements on genetic resources, and IP policies of its donors and partners, the RICE CGIAR centers may seek protection of their IAs or impose restrictions on their use by others, when it is necessary for further improvement of such IA or to enhance the scale or scope of impact on target beneficiaries, in furtherance of the RICE CGIAR vision. In cases where the RICE CGIAR centers protect or assert IP rights, they shall do so in the name of the institute as an assignee (or co-assignee as the case may be). The RICE CGIAR centers may grant limited exclusivity for commercialization of their IA, provided that such exclusivity is limited in its duration, territory, and/or field of use and that it is necessary for the further improvement of IA or to enhance the scale or scope of impact on target beneficiaries. The RICE CGIAR centers will only grant such limited exclusivity if such agreements do not limit accessibility to the IA for non-commercial research purposes.

Innovative models and private sector involvement. The RICE CGIAR centers shall enter into formalized collaborative relationships with the public and private sectors, including civil society organizations, when such relationships serve to further RICE's goals and objectives, enhance the quality and impact of research, contribute to capacity development, and ensure continued availability and delivery of information and inventions. All such partnership arrangements will be undertaken under agreements that define the IA policies that would apply to the further development, use or commercialization of the IA.

Operations (e.g., technical infrastructure and planned activities)

Technical infrastructure consists of a suite of IP management tools, such as global access strategies, IP disclosure forms, IP audits, IP registers, IP decision-taking tools, and IP ranking matrixes. These tools are applied to suit the needs and complexities of particular projects generating specific IAs. For planned activities, see section above on project planning and implementation.

Coordination and decision making (e.g., policies, procedures, committees, and task forces)

The institutional IA and IP policies of the RICE CGIAR centers AfricaRice, CIAT, and IRRI are approved by their center boards and are in line with those of the CGIAR. Responsibility for execution rests with the centers' management teams. The RICE IP and IA strategy places the centers' policies in a coherent framework that is overseen by its program management team (PPMT). For specific projects, project leaders share responsibility in adherence to IA policies by project staff. Specific project agreements may include specific IA provision required by donors. Diligence in adhering to the IA

policies by staff of the RICE CGIAR centers is a term of employment and is assessed as part of annual performance appraisals.

Indicative resources (e.g., human and financial)

The RICE CGIAR centers employ dedicated IA/IP (or legal) specialists or focal points, who participate in the CGIAR IA/IP community of practice. The lead center IRRI employs a legal expert and an IP specialist (supported by national staff) who dedicate around 70% time each to RICE; AfricaRice employs a legal expert who dedicates around 70% time to RICE; CIAT employs a legal expert who dedicates around 10% time to RICE. Complex projects in terms of IA and type and number of partners, may have dedicated IA/IP committees recruited from among its partners, supported by the IA/IP specialists. Also, for complicated projects, consultants may be recruited. Around 1.5% of the RICE budget is spent on IA/IP (\$1,200,000/year).

Additional information

The RICE Addendum (Responses to ISPC and CO review) provides additional details on RICE IA strategy, including CVs of IA/IP staff, examples of relevant compliance issues, and examples of freedoms to operate, licences, and patents GRiSP is currently pursuing.