

## Policy for the Development of CIMMYT Collaboration Agreements

Approved by the CIMMYT Board of Trustees

September 2013

1. **Purpose:** CIMMYT enters into public-public and public-private collaborations and collaboration agreements to enhance the capacity, speed, or quality with which CIMMYT inputs & results can be developed or disseminated. While inputs & results may not entail international public goods by themselves, inputs & results are to further CIMMYT's mission, the development and dissemination of international public goods, and for stakeholders in developing countries.
2. **Values:** In the negotiation of collaborations and collaboration agreements, CIMMYT pursues good governance principles of transparency, accountability, participation, fairness, efficiency and sustainable development.
3. **Equity and fairness:** CIMMYT does not pursue any collaboration that cannot be offered in an equivalent sense to another entity of similar capacity and for a similar purpose.
4. **Role of management:** Collaboration agreements are developed, negotiated, agreed and signed at Management Level following the **CIMMYT IP Policy** (<http://www.cimmyt.org/en/cimmyt-intellectual-property-policy>), as well as the **CIMMYT Intellectual Property Management Manual** (<http://www.cimmyt.org/en/intranet/research-services/intellectual-property-unit>), with the assistance of the CIMMYT IP& Legal Department.
5. **Substantive Collaboration Agreements:** "Substantive Collaboration Agreements" are defined as those collaboration agreements that (i) deviate from the "Guidelines Applicable to Collaboration Agreements" within the **CIMMYT Intellectual Property Management Manual**; or (ii) are deemed Limited Exclusivity Agreements, Restricted Use Agreements or Agreements leading to Intellectual Property Applications under the CGIAR Principles on the Management of Intellectual Assets; or (iii) imply a grant in excess of US\$10,000,000.00 (Ten Million Dollars 00/100, Legal Currency of the United States of America), or its equivalent in any other currency; or (iv) may have a considerable impact on
  - a. *CIMMYT's technical and managerial capacity* – e.g. collaboration agreements that may require for their implementation a considerable increase of CIMMYT's staff with particular technical and managerial skills (>5% budget).
  - b. *CIMMYT's financial resources* –e.g. collaboration agreements that may require for their implementation a large commitment of financial resources (> 5% budget increase).
  - c. *CIMMYT's exposure to liability* – including high liability risks arising from biosafety issues, labor issues, environmental issues, security issues, or others.

- d. *CIMMYT's independence* –e.g., collaboration agreements that may demand exclusivity for working with one or certain particular partners -and no one else- in a field of research.
- e. *CIMMYT's ability to disseminate and deliver* –e.g., the collaborator may demand ownership and exclusivity of Results for a period longer than three (3) years; collaboration may demand extended confidentiality periods affecting disclosure.
- f. *CIMMYT's public relations* –e.g., the nature of the proposed collaborative research is highly controversial and there is a need to carry out a careful assessment of the benefits that the research may bring. The controversy must go beyond previously signed agreements. For instance, engaging in GM research collaborations or collaborations with the multinational private sector are no longer reasons for being labeled a Substantive Collaboration Agreement. Engaging in a GMO research collaboration or a collaboration with a highly controversial party that exposes CIMMYT to significantly higher risks of negative public relations - as compared to previous collaboration agreements – are reasons for being labeled a Substantive Collaboration Agreement.

The purpose of the CIMMYT Intellectual Property Management Manual and that of these definitions is to provide CIMMYT staff with the criteria for entering into collaboration, sponsor/donor and licensing agreements as well as to identify those collaboration agreements that may require engagement of the Board of Trustees in its role in governance, risk assessment, and oversight of strategy.

6. **Role of Board of Trustees and external legal counsel:** For each Board of Trustee meeting, management will develop a confidential table of agreements under development and which draft agreements may fall under the “Substantive Collaboration Agreement” criterion. The Board of Trustees will select from such table the specific agreement or agreements they would like to review (the “Selected Agreements”). The Selected Agreements shall be reviewed by the Board of Trustees on a confidential basis in accordance with the following procedure: (i) the Chair of the Board of Trustees and the Director General of CIMMYT shall appoint two Members of the Board of Trustees to conduct the review (collectively these Trustees are referred to as the “Ad-Hoc Substantive Agreement Review Committee”); (ii) the Ad-Hoc Substantive Agreement Review Committee will review the Selected Agreements and determine whether (a) the Selected Agreements or certain terms and conditions contained therein need to be reviewed and discussed at the Full Board level; (b) the Selected Agreements or certain terms and conditions contained therein need to be reviewed by external counsel prior to execution of same; or (c) Management should proceed to the execution of such Selected Agreements. In those cases where the Ad-Hoc Substantive Agreement Review Committee decides in accordance with Sections (a) or (b) above, review and discussion by the Full Board or external counsel shall occur in an expedite and timely manner in order to prevent unnecessary delays in the negotiations of such Selected Agreements. In any case, the Full Board or the external counsel shall be bound to provide Management with clear guidelines to follow in connection with the negotiations of the Selected Agreements. Members of the Board of Trustees

with the conflict of interest in the Selected Agreements shall refrain from participating in the review of Selected Agreements or any discussions related thereto.

The discussions mentioned above shall be carried out by teleconference, with detailed confidential minutes to be generated stating the decision finally reached. Once a new Substantive Collaboration Agreement has been executed, it may lead to a need for updating of the **CIMMYT Intellectual Property Management Manual** and the development of a communications strategy related to the agreement. In these cases, Management will proceed accordingly.

7. **Guidelines Applicable to Collaboration Agreements** (*see the CIMMYT Intellectual Property Management Manual for information*) include: benchmark criteria for entering into collaboration agreements in terms of rights of access and use of inputs and results, publications and dissemination of knowledge, ownership and confidentiality. These criteria as well as others are also explained as part of Donor or Sponsor Agreements in the **CIMMYT Intellectual Property Management Manual**. Furthermore, aspects such as the eventual application of intellectual property rights to results and the possible effects on immediate availability of the results and in future work, and aspects of liability, indemnity, and warranties are explained under the “Negotiating Agreements and Licenses” section of the Manual.
8. **Confidentiality:** All Collaboration Agreements under negotiation and associated documents or verbal information provided for the review are to be treated under strict confidentiality. The same applies for written comments made by members of the Board regarding new Substantive Collaboration Agreements. After review of Substantive Collaboration Agreements, copies and associated documents must be returned to the Director General. Board of Trustee members with potential conflict of interest must be excluded from seeing or discussing documents under negotiation.
9. **Information:** The full Board of Trustees will be informed about the general final terms of new Substantive Collaboration Agreement through a summary to be provided by the Ad-Hoc Substantive Agreement Review Committee described in point 6 of this policy once agreements have been executed. The full Board of Trustees will also be informed in cases where the **CIMMYT Intellectual Property Management Manual** is updated.