



Integrating the work of the System Council Intellectual Property Group into CGIAR's successive 3-year business cycles

Purpose: Provide background information and consultation questions to identify strategic elements that SIMEC should consider in stewarding the revision of the Terms of Reference for the SC IP Group.

Prepared by: Strategic Impact, Monitoring and Evaluation Committee (SIMEC)

Contents

1. Introducing the System Council Intellectual Property Group ('SC IP Group')
2. Revised operating context since November 2017
3. Some key elements for SC IP group Revised Terms of Reference ('TOR')
4. Way Forward

1a: Introducing the System Council Intellectual Property ('SC IP') Group



- 1. Origin:** Discussion between CGIAR's Funders and Centers centered on ensuring that CGIAR's intellectual assets are managed in a way that maximizes impact through the production of IPGs or licensing or other restrictive arrangements.
- 2. Date of creation:** 7 March 2012 the Principles were approved, and endorsed by the System Council as a continuing policy of the transformed governance system on 12 July 2016 (pre-CGIAR Risk Management Framework adoption)
- 3. Mandate:** *“to facilitate coordination between the System Council and the System Organization by working in cooperation with the System Organization with regard to the implementation of the CGIAR IA Principles and advising the System Council in order to enable the System Council to provide adequate oversight of Intellectual Asset management in CGIAR while safeguarding sensitive and confidential information.”*
- 4. Members:** No more than 3 persons, and one alternate, who shall be representatives of the System Council, which may include a representative of the ISPC**, in order to receive its independent perspective, each designated by the System Council on a two-year basis.

1b: SC IP Group current membership

Member	Nominating Group	SCIP Group Role	Organization and position	Initial appointment	Years served to date
Paul Figueroa	USA	Chair	Attorney Adviser/USAID	3 April 2013	5
Bram de Jonge	EIARD	Member	Seed Policy Advisor OXFAM/Wageningen University	3 April 2013	5
Aline Flower	BMGF	Member	Associate General Counsel, Global Development, Bill & Melinda Gates Foundation	1 May 2015	3

SC/M6/EDP3 (September 2018): extension of membership as a further interim measure until 31 December 2018, to:

- a. **provide for continuity in the membership** of the SC IP Group for the 2018 calendar year,
- b. **facilitate a conversation at the System Council's November 2018 meeting on how the recommendations and work of the SC IP group can be more impactful** during CGIAR's successive 3-year business cycles, as has been done with other advisory groups

1c: Overview of SCIP Group modality (main work)

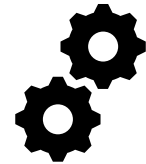
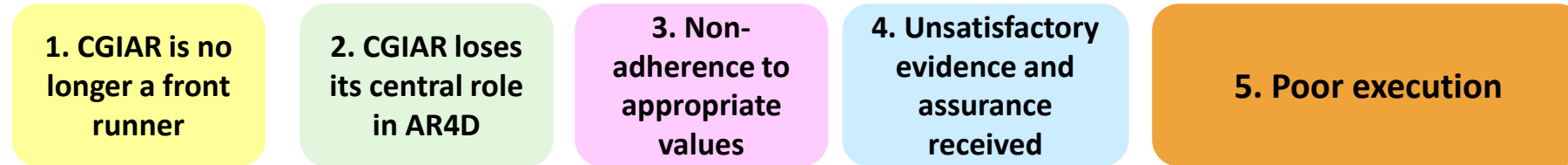
- Centers provide annual IA reports to the System Organization, including both confidential and non-confidential sections
- When taken together, the two sections, provide:
 - Assurance of compliance with the IA Principles for the prior calendar year; and
 - A description of Center IA management capacity, and a report of any Limited Exclusivity Agreements, Restricted Use Agreements, or Intellectual Property Applications (e.g patents, plant variety protection, trademarks).
- The SC IP Group reviews both the confidential and non-confidential sections; seeks clarifications with Centers as required, and then provides an opinion to the System Council
- Reporting is via the annual [CGIAR Intellectual Assets Report](#) (* note the report has not formally been discussed by the System Council, or former Fund Council, since 2015)
- 2017 Independent Review found these reports... *“are comprehensive and very well structured for transparency through public disclosure while still recognizing and respecting the confidential nature of some information. The reports are structured with a “standard” organization that facilitates making year-to-year comparisons”* No commentary was provided on the role of the SC IP Group, as the review was focused on the IA Principles, as required by those principles.

2a: Revised operating context since November 2017

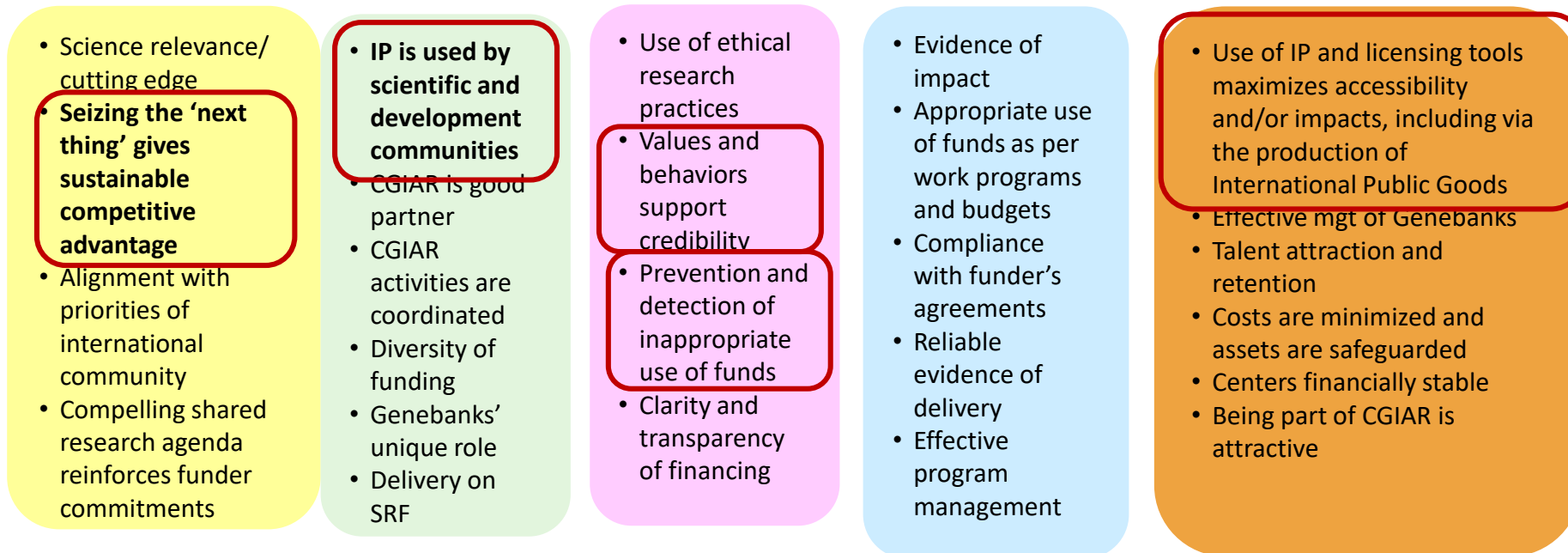
CGIAR System's Risk Families – and relevant indicators on IP



A: 'CGIAR RISK FAMILIES' – SET AND REVIEWED PERIODICALLY BY SYSTEM COUNCIL



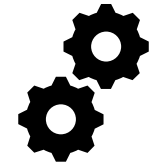
B: Opportunity and risk indicators in Risk Register set by the SMB; reviewed annually for appropriateness



Whilst there is a natural role for the SC IP Group to be providing assurance on these areas, the TOR of the group is not currently linked into the broader combined assurance framework

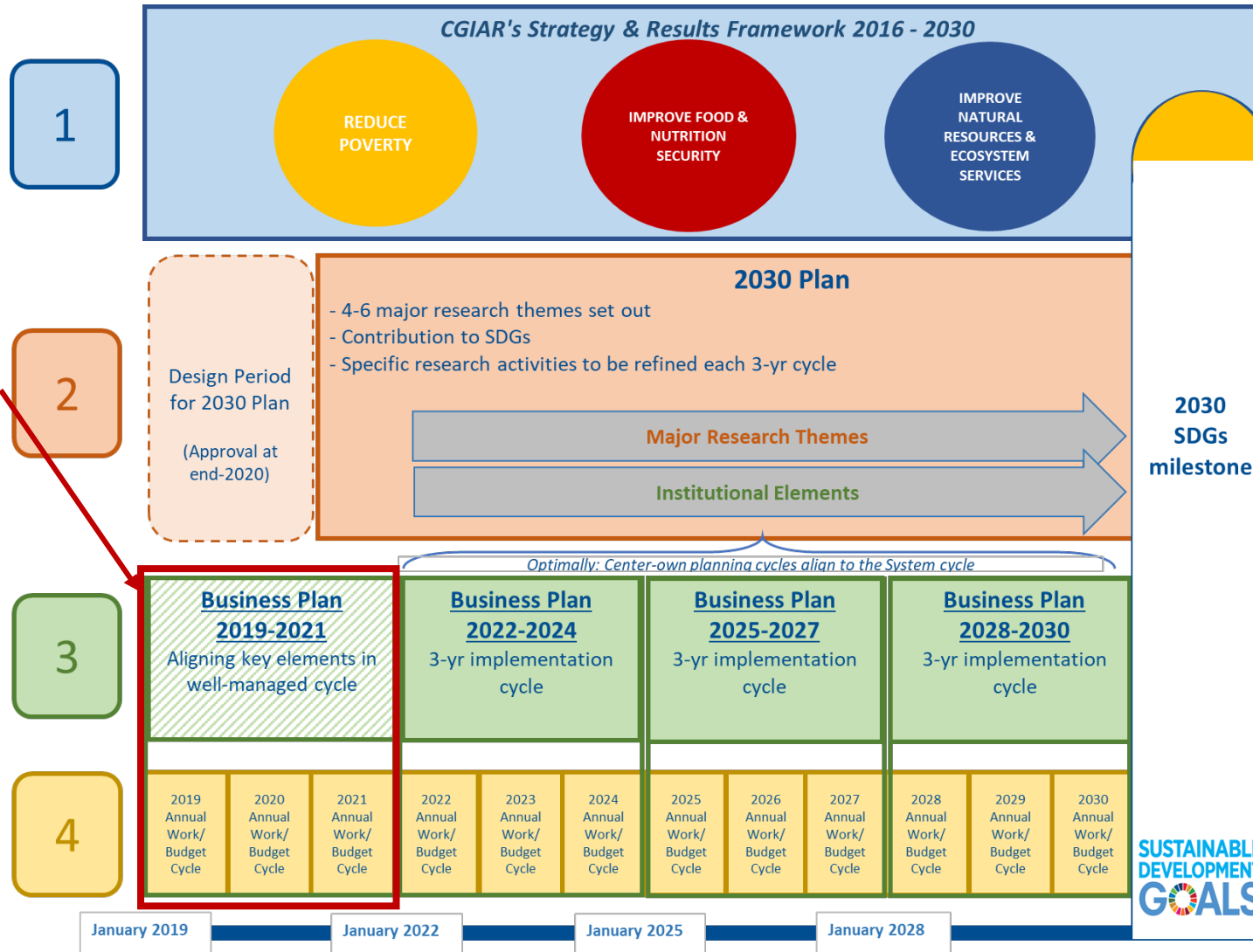
2b: Revised operating context since November 2017

Agreement to adopt a 'CGIAR System' business plan



1st business plan has two major parts

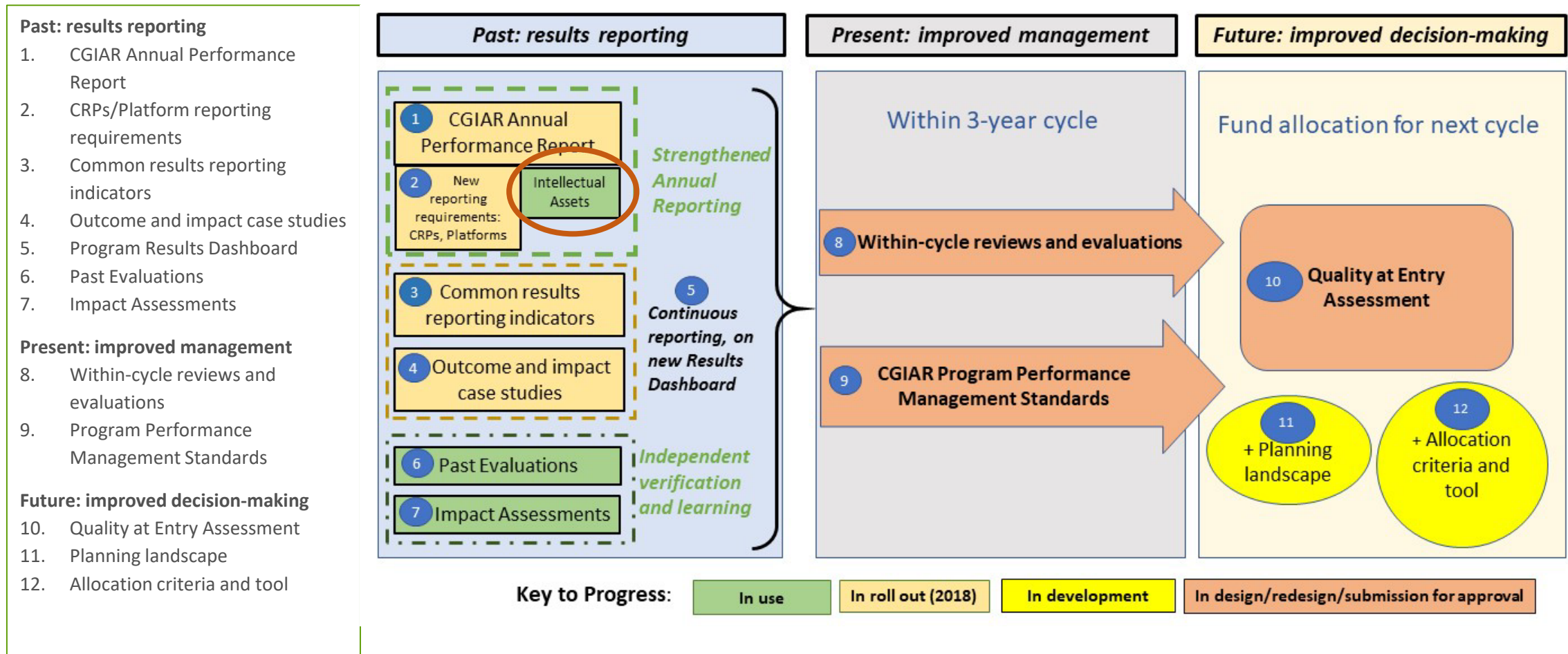
1. Modernizing and improving today's CGIAR...and....
2. At the same time, Defining the need, and processes, for potentially radical rethinking and clarifying a shared CGIAR business model to inform a clear longer-run strategy for the next portfolio and to provide a framework for anticipated ongoing institutional innovation



For the present, the reporting cycle of the SC IP Group and the System's conversations on intellectual property matters are not well linked to the business plan 3-year context.

2c: Revised operating context since November 2017

Bringing in Intellectual Assets into a more strategic CGIAR System 'Performance Report'



2d: Revised operating context since November 2017

System Council actions to optimize its advisory functions



CGIAR System Internal Audit Function

SC/M5/DP12 – November 2017:

The System Council approved the framework to revise the **CGIAR System Internal Audit Function**, and a new TOR for a restructured Internal Audit Function was subsequently approved by the SMB in December 2018.



System Council's scientific advisory services

SC/M6/EDP2 – October 2018: Approval of terms of reference of the System Council's Advisory services

The System Council approves the following Terms of Reference on a no-objection basis, each with operational effect from 1 January 2019:

- a. Terms of Reference for the Independent Science for Development Council ('ISDC'), dated 4 October 2018
- b. Terms of Reference for the Standing Panel on Impact Assessment ('SPIA'), dated 4 October 2018
- c. Terms of Reference for the Shared Secretariat for CGIAR Advisory Services, dated 4 October 2018

SC/M6/DP3 – May 2018: Future of the System Council's scientific advisory services

The System Council approved the option as set out in a SIMEC think-piece (meeting document SC6-05) for the future functional areas and operational arrangements for the System Council's **scientific advisory (ISPC), impact assessment (SPIA) and evaluation services (IEA)**.

Key: Completed



In progress



Not started



Continued....



System Council Intellectual Property (SC IP) Group

- From paper on 'Intellectual Assets Management Matters' dated 13 April 2018:

"5. The 2017 short-term extension of the SC IP Group's members' terms was intended to allow the System Council time to consider the strategic role of the SC IP Group in light of the CGIARs revised governance structure. However, given the other significant priorities on the System Council business agenda in 2017, it was not possible to review the role of the SC IP Group in 2017, for potential adjustments. It is anticipated that discussions on a strategic business planning cycle during 2018 will provide such an opportunity. 2nd membership extension end on 31 July 2018"

- Initial discussion with SIMEC on 29 May 2018 – given the assurance provided by the SC IP under the risk management framework – consider AOC to be a possible lead on stewarding the way forward on the SCIP group with SIMEC being able to offer key inputs on the strategic impact domain.
- Given the strategic nature of the advice from the SC IP Group, SIMEC will steward the process with input from the AOC particularly on the 'assurance lens' for the new ToR.
- SIMEC consultation calls with the SC IP Group on 29 July and 5 September to review past operations, looking at what has worked well and what could be enhanced moving forward.
- Initial consultation with AOC at its 2nd meeting on 19 October 2018 to identify strategic elements that SIMEC should consider in stewarding the revision of the ToR of the SC IP Group, particularly in terms of its relevance to the CGIAR combined assurance landscape

Key: Completed



In progress



Not started



3. Some building blocks for an updated SC IP Group TOR

Consultation ideas and questions



Engagement modalities

- With System Council: Currently it is a 'group' of the System Council but how can better engagement with the System Council be achieved?
- With SC Committees: How should the SC IP group engage with System Council committees: AOC and SIMEC. Formally, or adhoc as required?
- With System Management Board: How could SMB get useful advice and strategic guidance from such a group? Should there be any direct form of engagement with the group (e.g SMB meetings)?
- With other advisory and assurance bodies: Should formal MOUs be entered into to ensure clarity of roles as assurance providers to mitigate the risk of duplication of actions?
- With CGIAR Centers and Programs: Can the same group carry out the role around compliance which needs access to confidential data and information as well as carry out very different other roles such as developing capacity or providing strategic advice on IP use? If so, would certain engagement modalities need to be established to support particular roles with Centers/Programs- and what would those be?

Members and appointment process

- Members: Currently there are 3 members - is this the optimal size moving forward?
- Membership: Currently all members are nominated by System Council members and in 2 cases are direct employees of the SC member's organization (BMGF and USAID) - is this arrangement ideal or could there be some value in other arrangements, such as including at least one independent member?
 - Should the AOC model be applied with 2-3 Funder representatives and 2 independents? (or does this make it too big?)
 - Any value in having a member from any other part of the System?
- Appointment: Currently done by System Council nomination and approval- could this be done differently? Should there be any process for selection of the 'Chair'?

3. Some building blocks for an updated SCIP Group TOR

Consultation ideas and questions



Mandate and Role – beyond updating language to bring the TOR into the context of the Risk Management Framework of the CGIAR System....

- Horizon scanning and foresight: Would there be value in having a role to carry out horizon scanning or foresight on intellectual assets and IP use? What would be optimal arrangements (what, how, when, for who) for implementing this role?
- Providing advice on IP matters for initiative/program development: Could there be a possible role for this group linked to new initiatives and strategies as they are being developed (e.g breeding initiative)?
- Enhanced reporting: While already providing some overall observations on progress and trends in compliance, capacity development, adoption of policies- should the SC IP Group be doing more of this? And how could it optimally do this?
- Providing strategic advice on IP use: There could be a greater strategic role - so how can IP be strategically used to achieve impact by Centers and CRPs?
- Capacity Development: Could this group play a role in raising the capacity of the System and the Centers in this area?

Operational support and budget

- Operational support: How and by which entity should this group be supported?
- Budget: A question on honorarium, especially if would have independent members – is this appropriate? What would a reasonable arrangement be?

4. Way forward: Anticipated roadmap of processes and key milestones

