



# Legal Issues of Sharing Environmental Data

Breakout Session D for the  
UK-EOF Data Solutions Workshop  
25<sup>th</sup> June 2009

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# Agenda

- ➔ Welcome and purpose of break out session
- ➔ Introduction to legal and legislative landscape
- ➔ Discussion and debate
- ➔ Best practice examples and update of current efforts
- ➔ Wash-up and agree key points to be fed back to the plenary

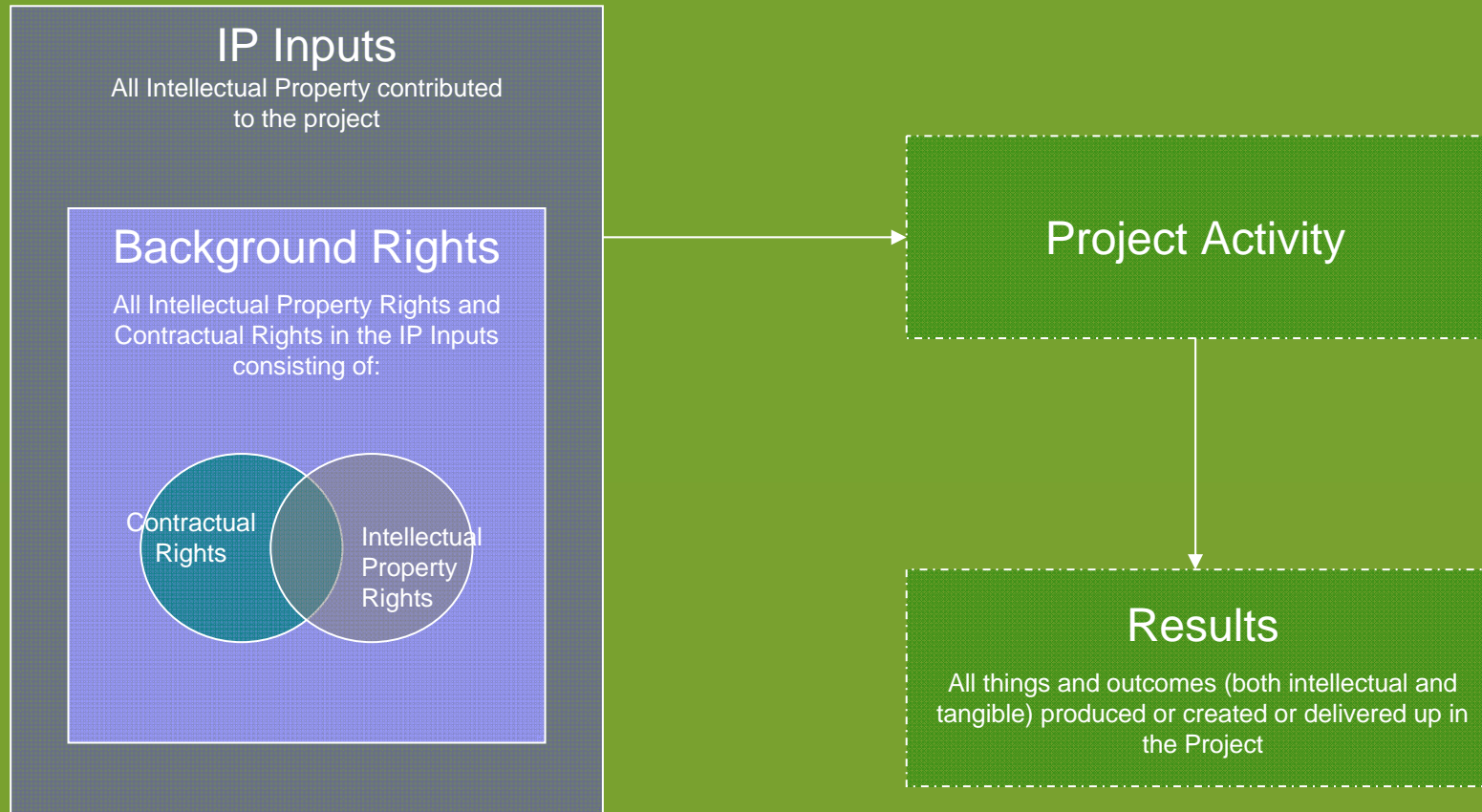
# Legal Landscape



Picture by Dr. Ingo Baumann

# Legal Framework

- ⇒ Intellectual Property Rights, inc:
  - ⇒ Copyright
  - ⇒ Database Rights
  - ⇒ Patents
  - ⇒ Trade Marks
  - ⇒ Registered and Unregistered Design Rights
  - ⇒ And others...
- ⇒ Contractual Rights



## Results

All things and outcomes (both intellectual and tangible) produced or created or delivered up in the Project

contains

## IP Outputs

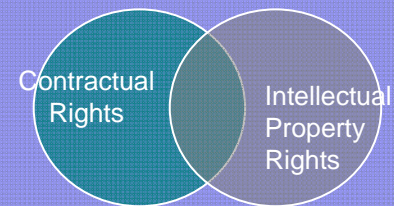
All Intellectual Property produced or created in the Project

### Foreground Rights

All Intellectual Property Rights and Contractual Rights in the 'new' elements of the IP Outputs

### Third Party Rights

Background Rights of third parties over which a licence is needed in order to Use the Foreground Rights, consisting of :



# Public Sector Legislative Framework

- ⇒ Freedom of Information Act 2000
- ⇒ Environmental Information Regulations 2004
- ⇒ Re-use of Public Sector Information Regs 2005
- ⇒ Data Protection Act 1998
- ⇒ Competition Act 1998
- ⇒ Aarhus Convention
- ⇒ Treasury Wider Markets Initiative
- ⇒ OPSI's IFTS

# Key Messages

⇒ Access\* is ‘blind’ to purpose

“Any person making a request... is entitled ...  
to have that information communicated to  
him”

*Freedom of Information Act*

\* but re-use licensing need not be



# Key Messages

➔ There must not be a barrier to accessing information

“In order to contribute to the protection of the right of every person ... each party shall guarantee the rights of access to information”

*Aarhus Convention*

# Key Messages

➔ Public authorities can only charge cost recovery for providing access to information

“...may charge the applicant for making the information available”

“...shall not exceed an amount which the public authority is satisfied is a reasonable amount”

*Environmental Information Regulations*

# Key Messages

⇒ EIR/FOI does not grant an IPR licence only a right of access ...

“A public sector body may charge for allowing re-use...”

“The total income...shall not exceed the sum of:  
(a) the cost of collection, production, reproduction and dissemination...; and  
(b) a reasonable return on investment.”

*Re-use of Public Sector Information Regulations*

# Key Messages

➔ Copyright is the creator's automatic right

“The author of a work is the first owner of any copyright in it, subject to...” “

“Where...work is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.”

*Copyright, Designs and Patents Act 1988.*

# Conclusions

- ➔ Information available for re-use should be identified, e.g. Publication Scheme, IAR
- ➔ Current Government policy allows charging (reiterated by recent Trading Fund review)
- ➔ Charging & licensing must be consistent, fair and transparent
- ➔ Academics are not differentiated under the legislation (so must not be treated differently)

# Discussion

# Best Practice and Current Initiatives

# EA – Approved for Access

➔ Classification based upon Electronic Document & Record Management System:

- ➔ Public Register
- ➔ Approved for Access
- ➔ To be Assessed

[AfA documentation](#)





Environment  
Agency