

IPR for poverty reduction?

harnessing public ownership over knowledge

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This presentation

- Developments in intellectual property rights and genetic resource rights
- Options for public institutions based on a World Bank study
- Some questions to the CGIAR

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Recent developments: patents & breeder's rights

- Paris Convention 1883 stimulating/harmonising patent protection
 - Exclusive rights on the commercialisation of an invention
- Living organisms not patentable
 - Ethical reasons
 - Practical reasons
 - Legal reasons
- Instead: Plant Breeder's Rights on plant varieties
 - Including traditions of agriculture: breeder's exemption / farmers' privilege

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Developments

■ Spread of IPRs

- Into agriculture
 - Through court decisions
- Into developing countries
 - Through TRIPs Agreement of WTO

■ Strengthening of IPRs

- In patents
 - E.g. research exemption in the USA
- In breeder's rights
 - In subsequent UPOV Acts

■ Emergence of other rights

- National rights (CBD)
- Farmers' Rights (IT PGRFA)
- Community Rights on TK (IT and WIPO-IGC)

Debate
concentrates on
international (and
national) policies

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Common feeling of national policy makers

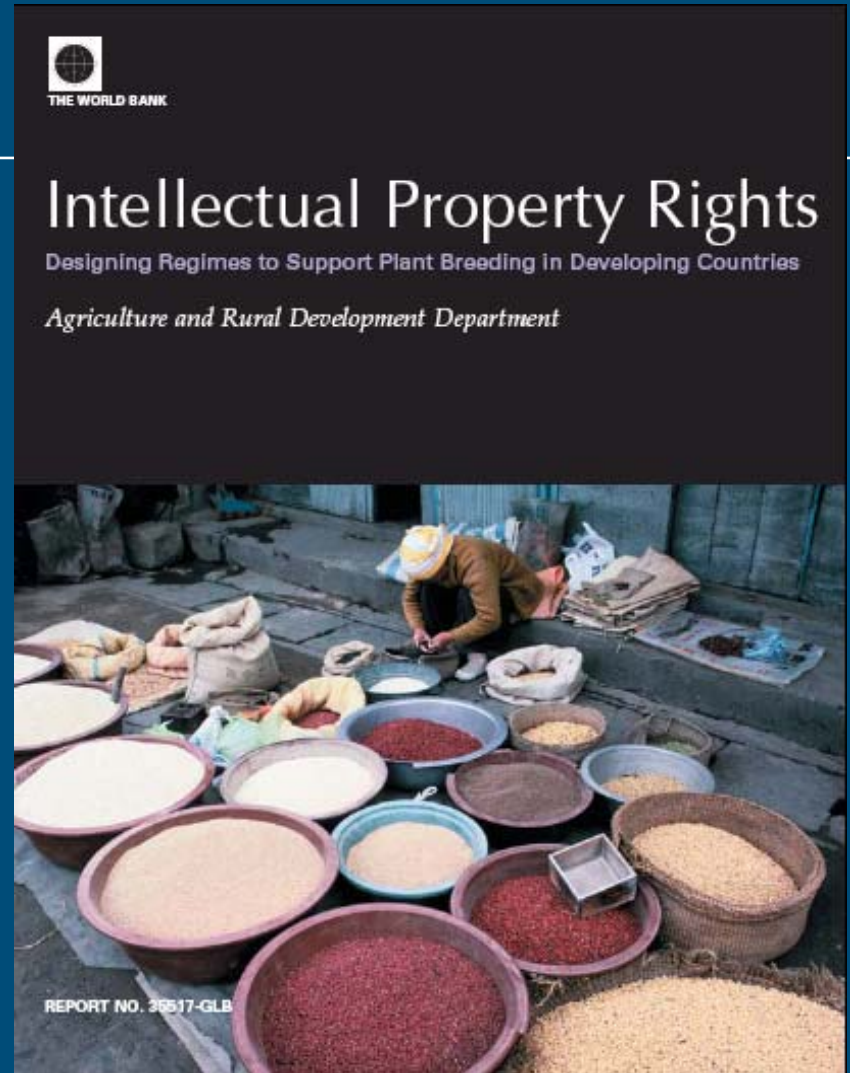


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World Bank study

- China, Colombia, India, Kenya, Uganda
- Stakeholder surveys
- Impact on private sector
- Impact on public sector

● http://siteresources.worldbank.org/INTARD/Resources/IPR_ESW.pdf



Effects of IPR on public research

- Recognition
- Supporting the use of technology through Public – Private Partnerships
- Promise of revenue

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Recognition

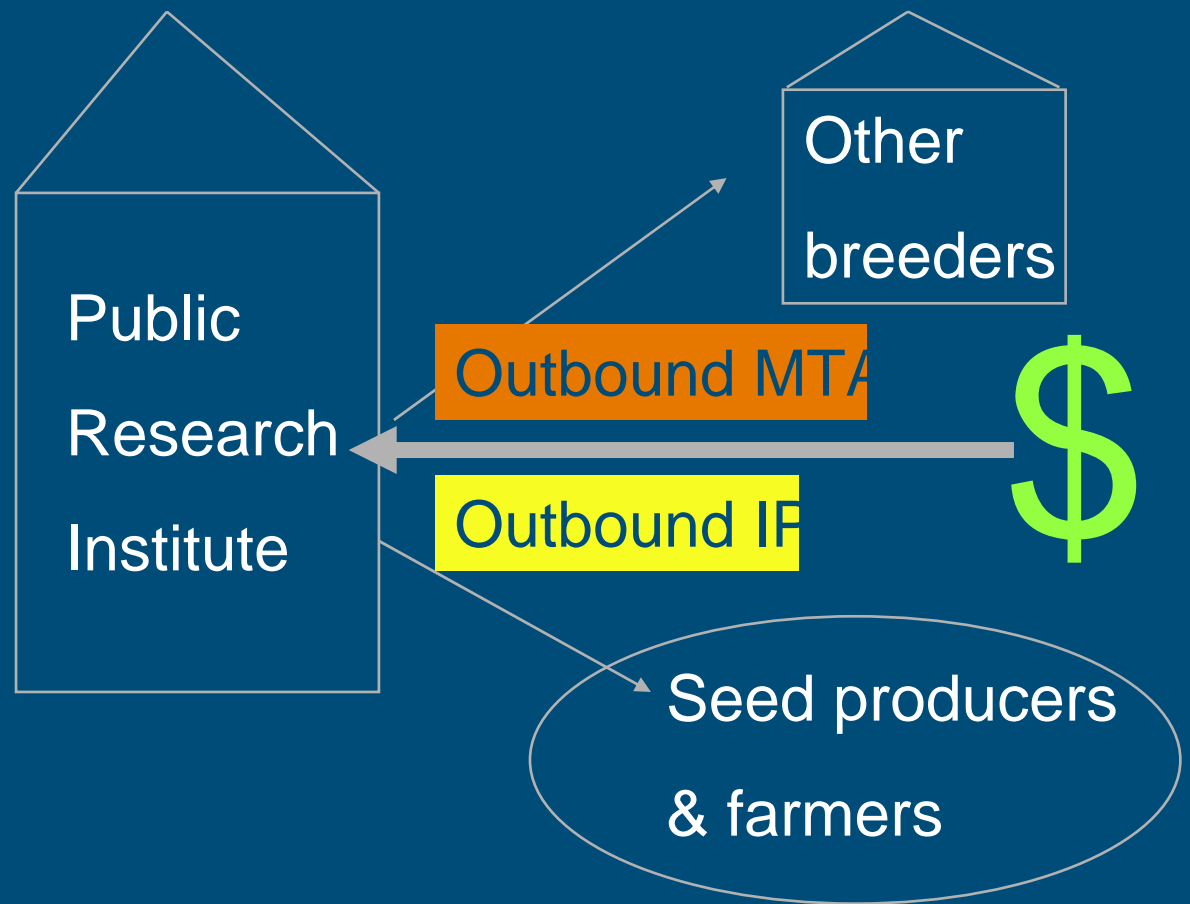
■ Recognition

- Mentioned in countries where institutional income flows to the treasury

■ Supporting PPPs

- Potentially important in export-oriented and local commercial agriculture
- Not relevant for the poor(est) who cannot afford to purchase inputs (except for trickle down effects).

Revenue: thinking in many public institutes



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However: what about inbound IP and materials

Responsibilities

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Restrictions

Cloud of existing knowledge

Inbound IP

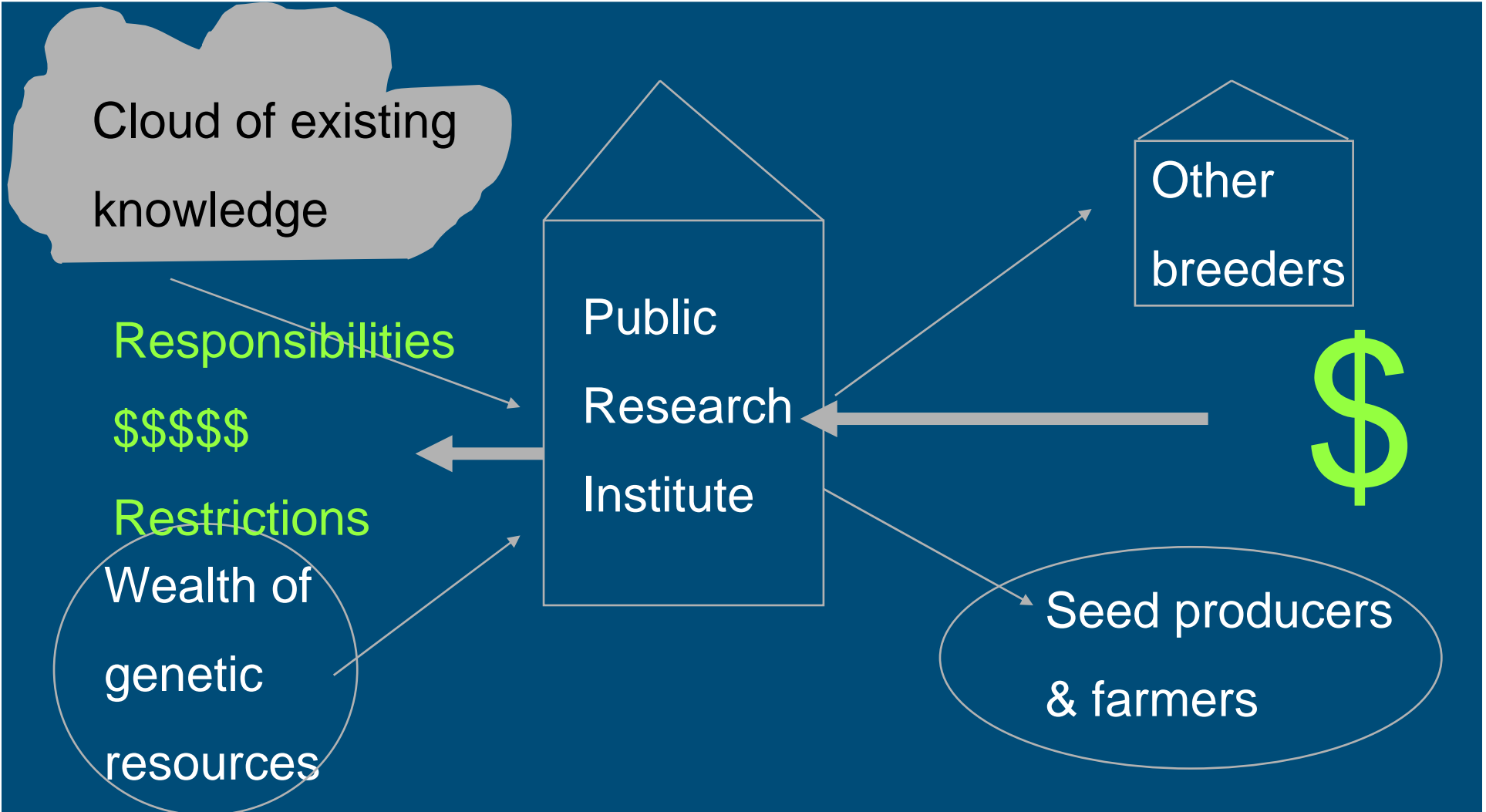
Public
Research
Institute

Inbound MTA

Wealth of
genetic
resources

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Cost and benefits



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Cost – benefit analysis

■ Costs

- Freedom to operate on 3rd party IP
- Administration – lab-reports
- Legal expertise – applications, FTO, infringements
- Commercial expertise – technology transfer/commercial

■ Cost - benefit

- Patents: few institutions (globally) have net benefits
- Breeder's Rights: net income very well possible

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What if NARS become dependent on royalties

- Changes in the focus to those crops where a private seed sector can most easily be promoted
 - Marketable crops: vegetables, industrial crops
 - Cross fertilizing crops with low multiplication factor: maize, some oil crops
 - Less work on legumes, small grains, roots
- Changes in the focus to commercial farmers
 - From participatory plant breeding towards hybrids

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Options for NARS

- Become commercial
- Accept revenue - redistribute to fulfill public task
- Focus on supporting the private sector
- Ignore the developments



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Options for Universities – based on WB-

study

- Become commercial – compete with private sector
 - China, Uganda – how to deal with less fortunate farmers?
- Accept revenue - redistribute to fulfill public task
 - Kenya – difficult to maintain with reduced public funding?
- Focus on supporting the private sector
 - Netherlands – leave applied research to the private sector



Choices based on your basic role ???

- Support private sector development
 - Go commercial yourself (commercialise seeds, IP)
 - Focus on PPPs - IPRs necessary to conclude research contracts

- Poverty alleviation
 - IPRs may deviate you from this task when you become dependent on revenue from these rights
 - Use it defensively only

- Both?
 - carefully consider your options, balancing opportunities and risk, long-term benefits and short term gains

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CGIAR

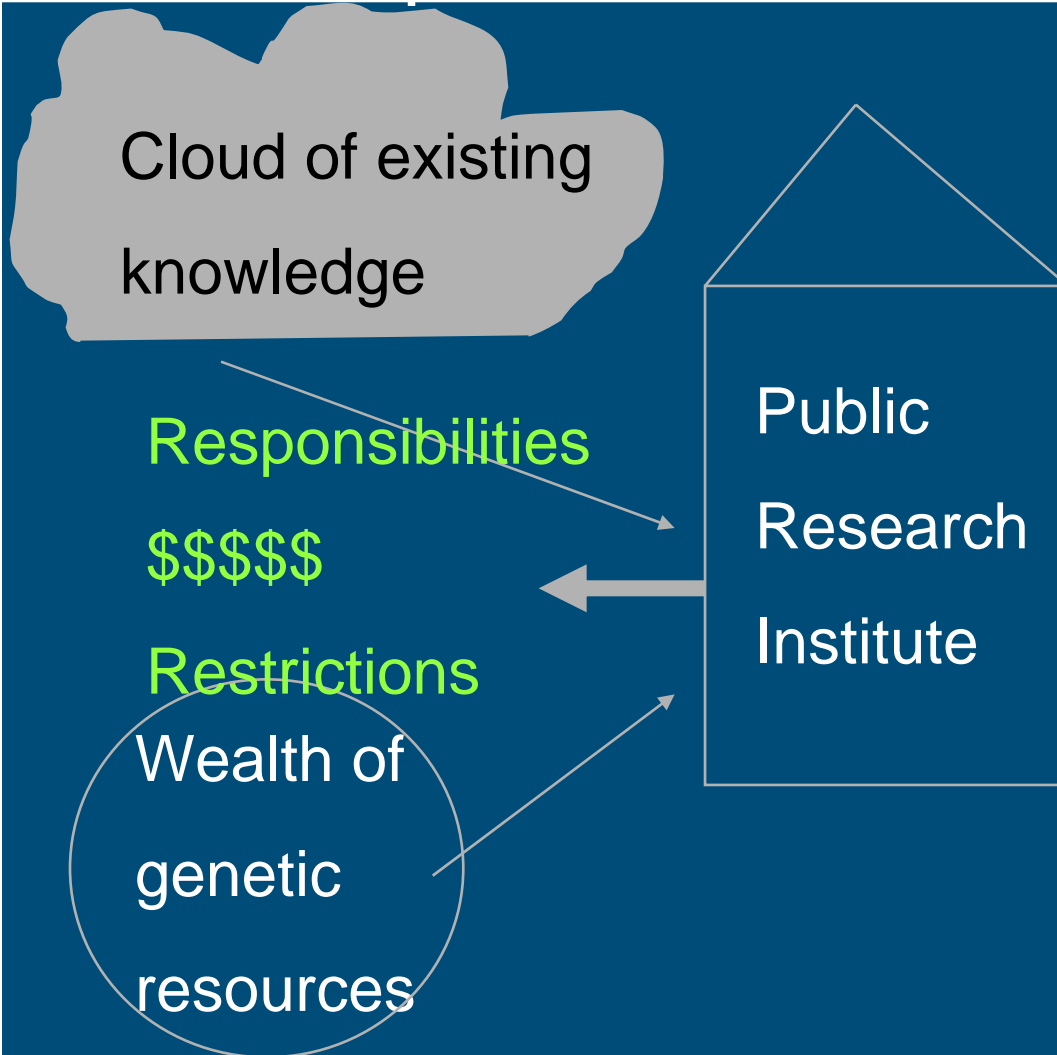
- Primary tasks in poverty reduction and improvement of food security (household – national – global)

Questions from the analysis

- Are NARS that 'go commercial' still good partners?
- Could Centres fall in the revenue trap

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The responsibilities



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Dealing with 3rd party rights

- Access to technology now through humanitarian licenses
 - High transaction costs
 - Dependent on the willingness of the provider to negotiate
 - Dependent on the negotiation capacity of the recipient
 - 'honest brokers' like AATF, ISAAA and in some cases . . . CGIAR
- Consortium Agreement of the Generation CP
 - Language that provide an automatic license for the use of IP for 'the poor'

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Questions to the CGIAR

- Should (could) CGIAR be a forerunner in extending the development license to a more generic level
 - Requires a strong institutional commitment of the CGIAR
 - Is in line with the basic concept of patents ref. commercialisation
- Should (could) CGIAR further suggest such humanitarian access to genetic resources?
 - For use in participatory breeding
 - For non-annex 1 crops and for non-agricultural uses
- Or should CGIAR run the risk of becoming too political?

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Some have a different perception of risk



So . . . don't shy away from risk too quickly

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- Are NARS that 'go commercial' still good partners?
- Could Centres fall in the revenue trap themselves?
- Should (could) CGIAR be a forerunner in extending the development license to a more generic level

Should (could) CGIAR suggest (automatic)

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