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Public research at a cross-roads:	
harnessing ownership of knowledge and	
technology in breeding and agrobiodiversity	
Niels Louwaars Biopolicies specialist	
Centre for Genetic Resources, the Netherlands	
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This presentation	
 Developments in intellectual property rights and genetic resource rights 	
 Options for public research based on a World Bank study 	-
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Recent developments: patents & Breeder's Rights	
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 Paris Convention 1883 stimulating/harmonsing patent protection New, inventive step, industrial use, disclosure 	
Living organisms not patentable Ethical reasons	
Practical reasons Legal reasons Legal reasons	
Instead: Plant Breeder's Rights	
■ Now: TRIPs Agreement of WTO and bilateral trade agreements	
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Plant Breeder's Rights _ variety patents IPR system based on agriculture Adapted requirements: DUS-NN Exclusions: breeder's exemption; farmers' privilege Harmonised in UPOV (55 members) Ban on patents on living matter lifted by US court decisions in 1980s Gradually applied to microorganisms, genes and plant varieties No exemptions, strong (reach-through) protection Centre for Genetic Resources, the Netherlands WABENINGENIUS WABENINGENIUS Centre for Genetic Resources, the Netherlands

patents On research tools, methodologies Transformation systems, Molecular marker systems, Sequencers, DNA-chip technology etc On products Genes, promoters, etc. Plant varieties (US) Broad patent claims!! On information (databases) genomics Centre for Genetic Resources, the Netherlands

Not only IPRs National rights on genetic resources (CBD) Regulating access (among others) Farmers' Rights Benefit sharing (among others) Community Rights on traditional knowledge In very few countries yet

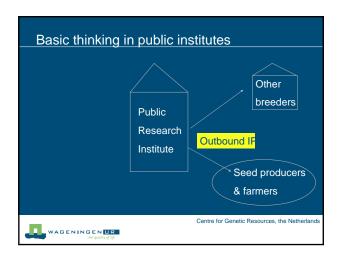
Common feeling of national policy makers	
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World Bank study	
World Barik Study	
5 countries: China, Colombi Intellectual Property Rights	
India, Kenya, Uganda	
Stakeholder survey: public,	
private breeders/seedsmen	
farmers' organisations,	
IP-institutions	
http://siteresources.worldbank.org/INTARD/Resources/IPR_ESW.pdf	
http://site/esources.wonabank.org/int/ARb//Resources/int/_Low.par	
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Effects of IPR on public research	
promise of revenue	
Patents: few institutions have net benefits	
Prooder's Pights; not income year, well possible	

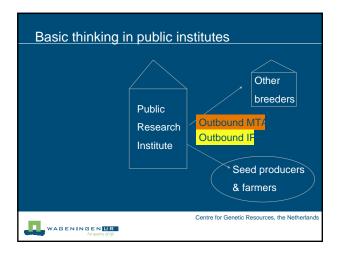


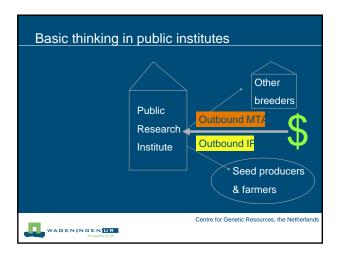
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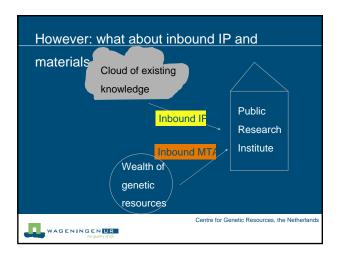
supporting the actual use of technology through PPP

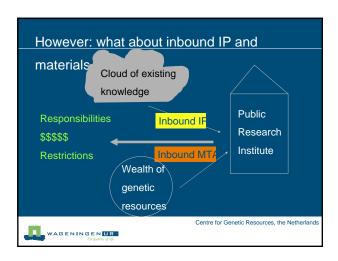
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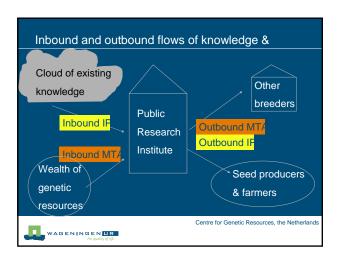


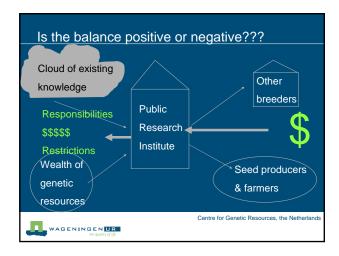












Effects of IPR on public research	
 1. promise of revenue Patents: few institutions have net benefits Breeder's Rights: net income very well possible 2. recognition 3. supporting the actual use of technology through PPP 	
 Restrictions Freedom to operate on 3rd party IP Administration – lab-reports Legal expertise – applications, FTO, infringements Commercial expertise – technology transfer/commercial 	
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What if public research becomes 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 Changes in the focus to commercial farmers From participatory plant breeding towards hybrids Centre for Genetic Resources, the Netherlands

Options for Universities - based on WBstudy Become commercial – compete with private sector Accept revenue - redistribute to fulfill public task Move away from applied research Ignore the developments Centre for Genetic Resources, the Netherland WAGENINGEN UR Options for Universities – based on WB-Become commercial – compete with private sector • China, Uganda - how to deal with less fortunate farmers? Accept revenue - redistribute to fulfill public task • Kenya - how realistic with reduced public funding? Move away from applied research • Netherlands - relation with private sector Ignore the developments WAGENINGEN UR What is your basic role ??? Support the private sector? IPRs may be necessary to conclude research contracts Poverty alleviation?

Both?

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 IPRs may deviate you from your task when you become dependent on revenue from these rights

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

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Don't run away from risk: some have a different	
perception of risk	
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