

IP Annex to UK-China Memorandum of Understanding for Science, Technology and Innovation Cooperation

Annex I: Intellectual Property Rights

1. This Annex sets out some shared principles for intellectual property in UK-China research and innovation collaborations.
2. For the purposes of this Annex “intellectual property” will have the meaning defined in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967.

General principles

3. The Participants are both committed to promoting effective protection of intellectual property rights, including those owned by third-parties, during all joint research and innovation activities.

Consortia IP agreements

4. Project consortia implementing UK-China research and innovation projects will be expected to negotiate intellectual property agreements in line with best practice in cross-border collaborative research and innovation projects, and in line with UK, Chinese and other relevant laws.
5. Consortia have flexibility to negotiate intellectual property agreements between themselves according to specific circumstances of each project. Consortia intellectual property agreements may specify:
 - a. Approaches to invention disclosure, intellectual property filing, inventor remuneration and academic publication of research outcomes;
 - b. Models for the worldwide commercialisation of foreground intellectual property, including but not limited to:
 - i. Ownership of and access to foreground intellectual property by consortia partners;
 - ii. The formation of joint venture companies or other vehicles to manage commercialisation;
 - iii. Any division of exploitation by geographical territory;
 - iv. Cross-border licensing considerations, for example appropriate and capped levels of third-party infringement liability;
 - c. Legal jurisdiction, language and dispute resolution mechanisms of contracts;
 - d. Other issues ensuring effective management of intellectual property within projects and the mutually-beneficial, worldwide exploitation of foreground intellectual property.

6. In determining intellectual property agreements project consortia may consider factors such as contribution of background intellectual property, financing sources, roles and responsibilities in implementing the project etc.

Support for project consortia

7. The Participants will work together to provide bilingual resources for project consortia when formulating intellectual property agreements. This will include model cooperation agreements, guidance documents, case studies and other materials. This will not include legal advice and project consortia participants will be encouraged to consult legal counsel.

Government permissions and third-party intellectual property

8. Consortia participants will be expected to provide assurances at appropriate stages that they can proceed with approved project activity, and immediately update other consortia participants if there is a change in circumstances.
9. Each project consortia participant will be expected to secure any permissions from government agencies in their respective countries that may impact their ability to participate in any specific research and innovation project. Such permissions may include restrictions on cross-border import/export or licensing of technologies subject to state restrictions.

附件 1：知识产权条款

1. 本声明不具法律约束力，仅就中英研究创新合作涉及的知识产权内容确立一些共同原则。
2. 本声明中对“知识产权”的定义参照 1967 年 7 月 14 日在斯德哥尔摩签署的《建立世界知识产权组织公约》第二条。

总体原则

3. 中英双方承诺在所有联合研究与创新活动中促进知识产权的有效保护，包括第三方拥有的知识产权。

项目合作团队知识产权合作协议

4. 执行中英研究与创新项目的项目成员单位应当共同协商知识产权协议，保证协议遵从跨境研究与创新合作项目的最佳做法，符合中英两国及其他相关法律。
5. 项目合作伙伴之间可以根据项目的具体情况灵活地协商知识产权协议。项目团队的知识产权协议应明确规定以下事项：
 - i. 发明交底书、知识产权申请、发明人报酬和研究成果的学术刊物发表的途径；
 - ii. 前景知识产权的全球商业化模式包括但不限于：
 - 项目合作伙伴对前景知识产权的所有权和获取
 - 组建合资公司或通过其他方式进行商业化管理
 - 以区域为单位分配使用
 - 跨境许可考虑，例如对第三方侵权规定适当的追责程度和责任上限
 - iii. 合同有关的法定管辖权，语言和争议解决机制；
 - iv. 确保项目有关的知识产权得到有效管理，保证前景知识产权实现全球范围内互惠使用的其他问题
6. 在制定知识产权协议时，项目合作团队可以考虑背景知识产权的

贡献比例，融资来源，以及各单位在项目中承担的任务和责任等因素。

政府支持

7. 在制定知识产权协议时，中英双方将共同为项目合作团队提供双语支持服务，包括合作协议模板、指导性文件、案例示范等其他材料。中英双方不提供法律咨询服务，建议项目成员单位自行寻找法律顾问。

政府许可与第三方知识产权

8. 项目参加单位应在合适的项目时间点提供保证材料，证明已立项的项目能够继续执行，如发生变动应第一时间通知其他项目合作伙伴。
9. 项目参与单位应当确保在各自国家获取所有可能影响他们参与具体研究与创新项目的相关政府许可，包括跨境进出口或技术授权限制等。