Necessary Legal Policy for Culture Collections

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CONTENTS

- Context
- Accession policy
- Distribution policy
LAWS CONCERNING ACCESS AND TRANSFER OF MICROBIAL RESOURCES

General rules, valid for microorganisms and other material
- import, export, dual-use

Sometimes rules are more stringent for biological material

General rules, but with some specificities for microorganisms
- IPR: tangible and intangible ownership
- patent: Budapest treaty

Adapted or not to microbiological material

Specific rules for biological material including microorganisms
- biosafety, biosecurity, transport, pathogens
- Convention on Biological Diversity, Nagoya Protocol

Specific but some laws are not yet in place
Providers want
Acknowledgment
Preservation
Benefit Sharing

CBD / NP
Conservation Access
Traceability Benefit sharing

PROVIDER
Country of origin
PIC / MAT

Depositor

MAA

Quality assurance
Safe & Legitimate access

Biosafety Biosecurity

IPR

Research Commons

Warranty

MTA

RECIPIENT
user

PROVIDER
Biological Resource Centre

DESIGN OF A CC’S OWN POLICY

INSTRUMENTS TO MEET LEGAL REQUIREMENTS
- MAA - MATERIAL ACCESSION AGREEMENT
- MTA - MATERIAL TRANSFER AGREEMENT

Users want
Easy access
Quality material
Unrestricted use
CONTENTS

- Context
- Accession policy
- Distribution policy
Material Acquisition Agreement - MAA

Part A. ACCESSION FORM

- Administrative data
- Technical information - collecting data
- Scientific data necessary to identify the material: taxonomical data

Adapted to the need of the collection – related to the kind of material

Part B. MATERIAL ACCESSION AGREEMENT

- Contractual clauses = MAA sensu stricto
  - Definitions
  - Provisions

As far as possible, same content for all partners
PART A. ACCESSION FORM

Administrative data

Authorization of sampling
Global Unique Identifier of the strain – Collection reference

Technical information - collecting data

Place, date of sampling, name of collector, substrate

Scientific data necessary to identify the material: - taxonomical data
Result of analysis, study of the strain

Adapted to the need of the collection – related to the kind of material
PART B. MAA SENSU STRICTO
CONTRACTUAL CLAUSES – GENERAL CONDITIONS

DEFINITIONS

a. COLLECTION (= PROVIDER in MTA)
b. RECIPIENT
c. DEPOSITOR
d. RESEARCH GROUP

e. MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES.
f. ORIGINAL MATERIAL
g. PROGENY
h. UNMODIFIED DERIVATIVES
i. MODIFICATIONS

j. LEGITIMATE EXCHANGE
k. COMMERCIAL USE
l. ACCESSION FORM: Official form of the COLLECTION makes integral part of the Material Accession Form.
TERMS AND CONDITIONS

1. **This MAA applies**, ..., to the use, handling, transfer, supply, distribution, sale, and more generally to any disposition of the ORIGINAL MATERIAL deposited by the DEPOSITOR and of the MATERIAL. = **PURPOSE of the AGREEMENT**

2. The **DEPOSITOR** deposits
3. 
4. The **COLLECTION** receives &
5. The **COLLECTION** distributes
6. **PARTIES TO THE AGREEMENT**
TERMS AND CONDITIONS

7. The **DEPOSITOR**

8.

9.

Duties and rights related to the CBD & the Nagoya Protocol

10. The **COLLECTION**

11.

Duties related to the CBD & the Nagoya Protocol
PART B. MAA SENSU STRICTO
CONTRACTUAL CLAUSES – GENERAL CONDITIONS

TERMS AND CONDITIONS

12. **Disclaimer**: Limited Warranty, Liability link to “biorisks”, IPR

13. 

14. **MAA not assignable**

15. **MAA version in effect**

16. **Choice of law and court of justice**
   (facultative at int’l level, obligatory at national level)
MTA = General conditions of sales
= Contract
- Definitions
- Provisions
This Agreement applies to the use, handling, distribution and any disposition of the MATERIAL supplied by the COLLECTION, and addresses the identified key points:

- Traceability
- Fair and Equitable Benefit Sharing
- Intellectual Property Rights
- Quality
- Safety and Security
DEFINITIONS

a. PROVIDER (= COLLECTION in MTA)
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f. ORIGINAL MATERIAL
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k. COMMERCIAL USE

MTA and MAA Definitions fully compatible
TERM AND CONDITIONS

1. This MTA applies, ..., to the use, handling, transfer, supply, distribution, sale, and more generally to any disposition of the MATERIAL supplied by the PROVIDER = PURPOSE of the AGREEMENT

2. The PROVIDER supplies
3. The RECIPIENT orders and accept the MTA

4. The RECIPIENT Relevant laws
5.
6.
7.
8.
9.

PARTIES TO THE AGREEMENT

Rights and duties concerning
- Relevant laws = 4
- Permitted uses = 5
- IPR and CBD = 6
- IPR = 7, 8 & 9
10. The PROVIDER

11. Disclaimer

12.

13. MTA not assignable

14. MTA version in effect

15. Choice of law and court of justice
   (facultative at int’l level, obligatory at national level)

16. Conditions of payment
   (facultative)
SUMMARY

- Model MAA
  - technical and administrative data
  - legal provisions

- Model MTA
  - legal provisions

Check compatibility with host institutions regulations
Check compatibility with national laws

Use as model
Check and update when necessary (e.g. Nagoya Protocol evolution)
THANK YOU

WDCM GLOBAL CATALOGUE of MICROORGANISMS