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Notifications Concerning Treaties

Budapest Treaty

Acquisition of the Status of International Depositary Authority

NATIONAL COLLECTION OF FOOD BACTERIA
(NCFB)
(United Kingdom)

The following written communication, addressed to the Director General of WIPO by the Government of the United Kingdom under Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, was received on January 17, 1990, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

I have the honour to refer to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, opened for signature at Budapest from 28 April to 31 December 1977. In accordance with the provisions of Article 7 of the said Treaty, the Government of the United Kingdom of Great Britain and Northern Ireland nominate the National Collection of Food Bacteria as an international depositary authority. The Government of the United Kingdom furnish their assurances that the National Collection of Food Bacteria complies and will continue to comply with the requirements specified in Article 6(2) of the Treaty for an international depositary authority. The requisite information concerning this nominated depositary institution is set out below.

Accordingly I have the further honour to request that you carry out the procedures established by the Treaty and Regulations annexed to it, in connection with the acquisition of the status of international depositary authority by the institution nominated therein.

The National Collection of Food Bacteria is located in the United Kingdom at the AFRC Institute of Food Research, Reading Laboratory, Shinfield, Reading RG2 9AT, United Kingdom. Telephone: 0734 883103, Telex: 9312102022, Telefax: 0734 884763.

The NCFB is the responsibility of the Agricultural and Food Research Council (AFRC), a body

established in the United Kingdom by Royal Charter.

The NCFB has been in continuous existence since 1954. It was previously known as the National Collection of Dairy Organisms (NCDO) until 1986. The NCFB has a staff of two, one of whom holds a university degree and one an equivalent qualification. Additional administrative and technical support staff are available. This staff is fully competent and adequate to perform the scientific and administrative tasks required under the Budapest Treaty. The NCFB is affiliated to the World Federation for Culture Collections and has a recognised reputation for work concerned with the preservation, testing, authentication and distribution of bacteria other than known pathogens. At present the collection contains about 2,500 strains of such microorganisms. The NCFB performs its work in an impartial and objective way and will be available for the purposes of deposit under the Treaty to any depositor under the same conditions.

The NCFB has all the facilities necessary for the culturing, checking and long-term preservation of bacteria. Cultures are maintained routinely by freeze-drying. Patent cultures and records relating to them are stored in locked drawers and files. Only authorised staff have access to them. To minimise the risk of loss, duplicate collections are stored in a building separate from that housing the main collection.

The NCFB is equipped to run in full accordance with the United Kingdom Health and Safety at Work Act, 1974.

Requirements for Deposit

(a) Kinds of Microorganisms that May be Deposited

— Bacteria, including actinomycetes, that can be preserved without significant change to their properties by liquid nitrogen freezing or by lyophilization, and which are allocated to a hazard group no higher than Group 2 as defined by the UK Advisory Committee on Dangerous Pathogens (ACDP), 1984, "Categorization of Pathogens According to Hazard and Categories of Containment" (HMSO, London, ISBN 011 883761 3).

— Plasmids, including recombinants, either

- (i) cloned into a bacterial or actinomycete host, or
- (ii) as naked DNA preparations.

As regards (i) above, the hazard category of the host with or without its plasmid must be no higher than ACDP Group 2. As regards (ii), above, the phenotypic markers of the plasmid must be capable of expression in a bacterial or actinomycete host and must be readily detectable. In all cases, the physical containment requirements must not be higher than level II as defined by the UK Advisory Committee on Genetic Manipulation (ACGM), Guidance Note 15 (Health and Safety Executive, Baynards House, 1 Chepstow Place, London W2 4TF) and the deposited material must be capable of being preserved without significant change to its properties by liquid nitrogen freezing or lyophilization.

— Bacteriophages that have a hazard rating and containment requirements no greater than those cited above and which can be preserved without significant change to their properties by liquid nitrogen freezing or lyophilization.

Notwithstanding the foregoing, the NCFB reserves the right to refuse to accept any material for deposit which, in the opinion of the Curator, presents an unacceptable hazard or is technically too difficult to handle.

(b) *Technical Requirements and Procedures*

(i) *Form and Quantity*

Bacteria (including those containing plasmids) are accepted in any form except agar plate cultures (these are too easily damaged in transit). Bacteriophages should be supplied as cell-free lysates along with a suitable host. NCFB prefers to receive sufficient lysate for direct freezing and distribution but, where this is not possible, smaller volumes from which NCFB may produce its own lysates are acceptable (see below).

Naked plasmids should be submitted as DNA solutions.

The minimum number of replicates to be supplied by the depositor when making his deposit is as follows:

bacteria	2	} cell-free lysate
bacteriophages (at least 10^8 pfu/ml)	2×0.5 ml or 1×10 ml	
* plasmids (DNA at least 20 mcg/ml)	1×10 ml	

(ii) *Time Required for Viability Testing*

The average length of time required for testing the viability for the various kinds of microorganisms accepted by NCFB is given below, but depositors should realise that in some cases viability testing may take longer, as indicated by the figures in brackets:

bacteria	3 days (or up to 14 days);
bacteriophages	3 days (or up to 5 days);
plasmids*	5 days (longer in slow growing hosts).

(iii) *Depositor Checks and Renewal of Stocks*

NCFB prepares its own lyophilized batches of bacteria at the time of deposit by subculturing material supplied by the depositor. New batches are

prepared from these as necessary thereafter for the renewal of diminishing stocks. NCFB prepares its own frozen batches of bacteriophages by subculturing material supplied by the depositor in those cases where insufficient lysate has been provided for large enough batches to be prepared by direct freezing of the depositor's material. New batches are prepared from these as necessary for the renewal of diminishing stocks.

NCFB prepares frozen batches of naked plasmids direct from material supplied by the depositor. Diminishing stocks are renewed by asking the depositor to make a new deposit. The depositor is required to check for authenticity samples of all lyophilized and frozen batches prepared by NCFB.

* For plasmids, "viability" testing consists of inserting the plasmid into a host. If the host is transformed, the "viability test" is regarded as positive.

Whichever method is used for preparing batches of samples for distribution, NCFB nevertheless freezes and stores a portion of the original material supplied by the depositor.

(c) *Administrative Requirements and Procedures*

(i) *General*

Language. The official language of NCFB is English. Communications in any other language are not accepted.

Contract. The NCFB application form, which the depositor is required to complete, constitutes a contract by which he is bound:

— to provide all necessary information requested by NCFB;

— to pay all necessary fees;

— to indemnify NCFB against any claims which may be brought against it as a consequence of the release of samples, unless such claims result from negligence on the part of NCFB;

— not to withdraw his deposit during the required storage period;

— to authorize NCFB to furnish samples according to the applicable patent requirements.

When a microorganism has been accepted for deposit, NCFB notifies the depositor and reminds him that he is bound by the terms and conditions of its contract.

(ii) *Making the Original Deposit*

Requirements to be Met by the Depositor. As well as NCFB application form referred to in (i), above, depositors are required to complete the NCFB accession form for patent deposits (copies of both forms attached).¹ NCFB does not require a special form to be completed in the event of a later indication or amendment of the scientific description and/or proposed taxonomic designation, or for a request for attestation that NCFB has received such information.

¹ Not reproduced here (*Editor's note*).

Official Notifications to the Depositor. The receipt and viability statement are issued on mandatory "international forms" BP/4 and BP/9, respectively. Attestation of receipt of a later indication or amendment of the scientific description and/or proposed taxonomic designation is issued on model form BP/8. Notification of the furnishing of samples to third parties is issued on model form BP/14. NCFB has its own standard forms for notifying the depositor of acceptance of a microorganism (see (i), above) or refusal to accept a microorganism, and for notifying the depositor of the inability of NCFB to furnish samples. Individual letters, rather than standard forms, are used for other official notifications.

Unofficial Notifications to the Depositor. If requested, NCFB will telephone or telex the date of deposit and accession number after the microorganism has been received, but before the official receipt is issued. However, the depositor is told that such information is provisional, pending the outcome of the viability test. NCFB will similarly communicate the result of the viability test before the viability statement is issued.

Supply of Information to Patent Agent. NCFB routinely asks the depositor for the name and address of his patent agent and, if requested, will supply copies of the receipt, viability statement and any other information to both the depositor and his patent agent.

(iii) *Converting a Previous Deposit*

Deposits made outside the provisions of the Budapest Treaty may be converted by the original depositor to Budapest Treaty deposits, whether or not they were originally made for patent purposes. However, in the case of deposits previously made for scientific purposes and which are already generally available from NCFB, the depositor is requested to authorize the NCFB to continue to make them so available and to waive his right to be notified of the release of samples. If the depositor is unwilling to accede to this request, he must make another deposit of the same organism under the Budapest Treaty. These constraints do not apply to deposits made confidentially for safekeeping. Any deposit previously made free of charge is subject, on conversion, to the storage fee normally levied for Budapest Treaty deposits. With the exceptions noted above, the administrative requirements for conversion are the same as those to be met in respect of an original deposit made under the Treaty.

(iv) *Making a New Deposit*

The depositor is required to complete model form BP/2 when making a new deposit, and to supply copies of the relevant documents required by Rule 6.2. The receipt and viability statement for a new deposit are issued on mandatory "international forms" BP/5 and BP/9.

Furnishing of Samples

(a) *Requests for Samples*

NCFB advises third parties of the correct procedures to follow in order to make a valid request. In the case of requests requiring proof of entitlement, NCFB will provide requesting parties with copies of model request form BP/12 and/or request forms used by individual industrial property offices (where it has been supplied with such forms).

Notwithstanding any entitlement of third parties to receive samples under patent regulation, samples of plant pathogens requiring a permit to be worked with are not released to requesting parties in the United Kingdom until NCFB has confirmed that such parties have obtained the necessary permit. Also, samples of all microorganisms are delivered only to recognised microbiological laboratories and not to private addresses. When responding to requests from abroad, NCFB assumes the requesting party has met the import requirements of his own country.

All samples of bacteria furnished by NCFB are from batches of its own preparations; samples of bacteriophages may be from its own preparations or from material supplied by the depositor; samples of plasmids are from material supplied by the depositor.

(b) *Notification of the Depositor*

Depositors are notified on model form BP/14 when samples of their microorganism have been furnished to third parties.

(c) *Cataloguing of Budapest Treaty Deposits*

NCFB lists Budapest Treaty deposits in its published catalogue only with the specific written authorisation of the depositor.

Schedule of Fees

Storage	£ 350
Issue of viability statement	50
Furnishing of a sample	30
	(plus cost of carriage)

Where applicable, charges are subject to Value Added Tax at the current rate.

Guidance for Depositors

NCFB publishes a leaflet containing guidance notes for prospective depositors.

[End of the text of the communication of the Government of the United Kingdom]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the National Collection of Food Bacteria (NCFB) acquires the status of international depositary authority as from February 28, 1990.

Budapest Communication No. 59 (this Communication is the subject of Budapest Notification No. 86, of February 5, 1990).

Studies

The Future of the Patent System from a User's Point of View

H. BARDEHLE*

News Items

HUNGARY

*President,
National Office of Inventions*

We have been informed that Dr. István Iványi has been appointed President of the National Office of Inventions.

SUDAN

Commercial Registrar General

We have been informed that Mr. Saeed Abdul Mahmoud has been appointed Commercial Registrar General.

Calendar of Meetings

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1990

March 12 to 16 (Geneva)

Working group on the application of the Madrid Protocol of 1989 (First Session)

This working group will consider the draft of new Regulations under the Stockholm Act of the Madrid Agreement Concerning the International Registration of Marks and the Protocol (adopted in Madrid in June 1989) relating to the said Agreement and will suggest other measures required by the co-existence of the Madrid (Stockholm) Agreement and the said Protocol.

Invitations: States members of the Madrid Union, States having signed or acceded to the Protocol, Greece, Ireland, the European Communities and, as observers, other States members of the Paris Union expressing their interest in participating in the Working Group in such capacity and certain non-governmental organizations.

May 28 to June 1 (Geneva)

Committee of Experts on the International Protection of Indications of Source and Appellations of Origin

The Committee will advise the International Bureau of WIPO on the possible conclusion of a new treaty on the international protection of indications of source and appellations of origin or the possible revision of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and on the possibilities of increasing the use of the registration facilities of that Agreement.

Invitations: States members of the Paris Union and, as observers, certain organizations.

June 5 to 8 (Geneva)

Consultative meeting of developing countries on the harmonization of patent laws

This consultative meeting will, on the basis of working documents prepared by the International Bureau of WIPO, study problems of particular relevance to developing countries in connection with the preparation of a treaty on the harmonization of certain provisions in laws for the protection of inventions.

Invitations: Developing countries members of the Paris Union or WIPO.

June 11 to 22 (Geneva)

Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Eighth Session)

The Committee will continue to examine a draft treaty on the harmonization of certain provisions in laws for the protection of inventions.

Invitations: States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

June 11 to 22 (Geneva)

Preparatory meeting for the diplomatic conference on the adoption of a treaty on the harmonization of patent laws

The preparatory meeting will prepare the organization of the diplomatic conference which will negotiate and adopt a new treaty on the harmonization of patent laws. The preparatory meeting will, in particular, establish the draft rules of procedure of the diplomatic conference and decide which States and inter-governmental and non-governmental organizations should be invited to the diplomatic conference and in what tentative capacity.

Invitations: States members of the Paris Union.

June 25 to 29 (Geneva)

Committee of Experts on the Harmonization of Laws for the Protection of Marks (Second Session)

The Committee will continue to examine draft treaty provisions on the harmonization of laws for the protection of marks.

Invitations: States members of the Paris Union, the European Communities and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

July 2 to 6 (Geneva)

PCT Committee for Administrative and Legal Matters (Third Session)

The Committee will examine proposals for amending the Regulations under the Patent Cooperation Treaty (PCT), in particular in connection with the procedure under Chapter II of the PCT.

Invitations: States members of the PCT Union and, as observers, States members of the Paris Union not members of the PCT Union and certain organizations.

- July 2 to 13 (Geneva)** **Committee of Experts on Model Provisions for Legislation in the Field of Copyright (Third Session)**
The Committee will continue to consider proposed standards in the field of literary and artistic works for the purposes of national legislation on the basis of the Berne Convention for the Protection of Literary and Artistic Works.
Invitations: States members of the Berne Union or WIPO and, as observers, certain organizations.
- September 24 to October 2 (Geneva)** **Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-First Series of Meetings)**
Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.
Invitations: As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.
- October 15 to 26 (Geneva)** **Committee of Experts Set up under the Nice Agreement (Sixteenth Session)**
The Committee will complete the fifth revision of the classification established under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.
Invitations: States members of the Nice Union and, as observers, States members of the Paris Union not members of the Nice Union and certain organizations.
- October 29 to November 2 (Geneva)** **Committee of Experts on a Protocol to the Berne Convention (First Session)**
The Committee will examine whether the preparation of a protocol to the Berne Convention for the Protection of Literary and Artistic Works should start, and—if so—with what content.
Invitations: States members of the Berne Union and, as observers, States members of WIPO not members of the Berne Union and certain organizations.
- October 29 to November 2 (Geneva)** **Working group on a possible revision of the Hague Agreement (First Session)**
This working group will consider possibilities for revising the Hague Agreement Concerning the International Deposit of Industrial Designs, or adding to it a protocol, in order to introduce in the Hague system further flexibility and other measures encouraging States not yet party to the Hague Agreement to adhere to it and making it easier to use by applicants.
Invitations: States members of the Hague Union and, as observers, States members of the Paris Union not members of the Hague Union and certain organizations.
- *November 5 to 9 (Geneva)** **Committee of Experts on Measures Against Counterfeiting and Piracy (Second Session)**
The Committee will continue to consider draft model provisions for national laws on protection against counterfeiting and piracy.
Invitations: States members of the United Nations or specialized agencies and, as observers, certain organizations.
- *November 19 to 23 (Geneva)** **Committee of Experts on the Settlement of Intellectual Property Disputes Between States (Second Session)**
The Committee will continue the work started during its first session (February 19 to 23, 1990).
Invitations: States members of the Paris Union, the Berne Union or WIPO or party to the Nairobi Treaty and, as observers, certain organizations.
- November 26 to 30 (Geneva)** **Working group on the application of the Madrid Protocol of 1989 (Second Session)**
The working group will continue the work started during its first session (March 12 to 16, 1990).
Invitations: States members of the Madrid Union, States having signed or acceded to the Protocol, Greece, Ireland, the European Communities and, as observers, other States members of the Paris Union expressing their interest in participating in the working group in such capacity and certain non-governmental organizations.
- December 10 to 14 (Geneva)** **PCT Committee for Administrative and Legal Matters (Fourth Session)**
The Committee will continue the work started during its third session (July 2 to 6, 1990).
Invitations: States members of the PCT Union and, as observers, States members of the Paris Union not members of the PCT Union and certain organizations.
- 1991**
- January 28 to 30 (Geneva)** **Information meeting(s) on the revision of the Paris Convention**
An information meeting of developing countries members of the Paris Union and China and, if it is so desired, information meetings of any other group of countries members of the Paris Union will take place for an exchange of views on the new proposals which will have been prepared by the Director General of

* Dates particularly subject to possible change.

WIPO for amending the articles of the Paris Convention for the Protection of Industrial Property which are under consideration for revision.

Invitations: See the preceding paragraph.

January 31 and February 1 (Geneva)

Assembly of the Paris Union (Fifteenth Session)

The Assembly will fix the further procedural steps concerning the revision of the Paris Convention and will take cognizance of the aforementioned proposals of the Director General of WIPO. It will also decide the composition of a preparatory meeting which will take place in the first half of 1991.

Invitations: States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

***June 3 to 28**

Diplomatic Conference for the adoption of a treaty on the harmonization of patent laws

This diplomatic conference will negotiate and adopt a treaty on the harmonization of patent laws, which will supplement the Paris Convention as far as patents are concerned.

Invitations: To be decided by the preparatory meeting to be held from June 11 to 22, 1990 (see above).

September 23 to October 2 (Geneva)

Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Second Series of Meetings)

All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years.

In the sessions in 1991, the Governing Bodies will, *inter alia*, review and evaluate activities undertaken since July 1990, and consider and adopt the draft program and budget for the 1992-93 biennium.

Invitations: States members of WIPO or the Unions and, as observers, other States members of the United Nations and certain organizations.

***November 18 to December 6**

Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property (Fifth Session)

The Diplomatic Conference will negotiate and adopt a new Act of the Paris Convention.

Invitations: States members of the Paris Union and, without the right to vote, States members of WIPO or the United Nations not members of the Paris Union as well as, as observers, certain organizations.

UPOV Meetings

(Not all UPOV meetings are listed. Dates are subject to possible change.)

1990

April 23 to 27 (a.m.) (Geneva)

First Preparatory Meeting for the Revision of the UPOV Convention

Invitations: Member States of UPOV.

April 27 (p.m.) (Geneva)

Consultative Committee (Forty-First Session)

The Committee will mainly discuss the outcome of the First Preparatory Meeting for the Revision of the UPOV Convention.

Invitations: Member States of UPOV.

June 25 to 29 (Geneva)

Second Preparatory Meeting for the Revision of the UPOV Convention

Invitations: Member States of UPOV.

October 15 and 16 (Geneva)

Third Preparatory Meeting for the Revision of the UPOV Convention

Invitations: Member States of UPOV.

October 17 (Geneva)

Consultative Committee (Forty-Second Session)

The Committee will prepare the twenty-fourth ordinary session of the Council.

Invitations: Member States of UPOV.

October 18 and 19 (Geneva)

Council (Twenty-Fourth Ordinary Session)

The Council will examine the reports on the activities of UPOV in 1989 and the first part of 1990 and approve documents for the Diplomatic Conference to Revise the UPOV Convention.

Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.

* Dates particularly subject to possible change.

Other Meetings Concerned with Industrial Property

1990

May 8 to 11 (Washington, D.C.)

Foundation for a Creative America: Bicentennial Celebration of the Enactment of the United States Patent and Copyright Laws

September 30 to October 4 (Harrogate)

International Federation of Industrial Property Attorneys (FICPI): Congress

