

IDAs - 30 YEARS OF EXPERIENCES WORLD-WIDE

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Abstract:

It was in 1977 that the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedures* (1) was done, coming into force 30 years ago, in 1980. It regulates patent deposits in an international frame and coined a new institution – the International Depository Authority (IDA) (Art. 6 of the Treaty). Since 1981 culture collections are recognized as IDAs by the World Intellectual Property Organization (WIPO). Starting with 5 IDAs in 1981 (ATCC/USA, NRRL/USA, FRI, now AIST/Japan, CBS/Netherlands, DSMZ/Germany) in July 2010 thirty-eight centres world-wide (with an uneven distribution) acquired the status of an IDA. The number of states party to the Budapest Union amounts to 73. Twenty-five IDAs are located in European countries. In the developing countries biotechnology starts budding and the establishment of IDAs in Africa and South America probably will follow according to the needs in these areas. The very first step for countries active in innovative biotechnology is to join the Budapest Union in order to profit of the international deposition system of a *single* deposit for its almost world-wide recognition. IDAs, either accepting a broad range of different kinds of biological material or acting as highly specialized depositaries, offer viability and purity testing, skilled preservation and the long-term storage of the biological material as well as the release of samples of the deposited patent cultures. The complexity of transport issues including biosafety and biosecurity considerations should not be underestimated and is only one of numerous problems an IDAs might have to tackle with: contaminated samples; non-viable deposits; mixed cultures; conversion of deposits; co-deposit by more than one depositor; selling the rights on a deposit etc. Most of these issues are either addressed in the Guide to the Budapest Treaty, issued by WIPO or the Code of Practise of IDAs which was established by several IDAs themselves working together on this code in collaboration with WIPO and the European Patent Office. Another problem is the question what will happen with the deposited patent organisms after the prescribed period of storage (30 years and additional 5 years after the most recent request). Are they to be destroyed or to be transferred in the public domain of the collection? There is no jurisdiction existing yet concerning the fate of the organisms after this time! There is no time left ... The development of deposition numbers in the light of increasing numbers of IDAs as well as the influence of submitting DNA sequences to the patent office instead of depositing the biological material itself on the future of IDAs will be discussed. Key words: Budapest Treaty, biosecurity, Code of Practise, IDA, transport **References** (1) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. World Intellectual Property Organization, Geneva.

<http://www.wipo.int/treaties/en/registration/budapest/>

Key words: biosecurity, Budapest Treaty, Code of Practise of IDAs, IDA, transport