

NCIMB POLICY ON ACCESS TO GENETIC RESOURCES¹ AND BENEFIT SHARING

The National Collection of Industrial Food and Marine Bacteria (“NCIMB”) is one of the United Kingdom’s major public bacterial culture collections. It is owned and managed by NCIMB Ltd., a limited company whose registered address is Ferguson Building, Craibstone Estate, Bucksburn, Aberdeen, AB21 9YA, United Kingdom.

NCIMB is engaged in the accession, curation and *ex situ* conservation of micro-organisms from a variety of habitats. Many of these organisms are available (for a fee) to the national and international scientific community as authenticated reference and research materials. Additionally, NCIMB may also acquire organisms to screen for biologically active compounds which may have potential pharmaceutical or biotechnological applications.

NCIMB is committed to implementing the letter and the spirit of the 1992 Convention on Biological Diversity (“CBD”). In particular, it embraces the objectives laid out in Article 1 of the CBD: the conservation of biological diversity; the sustainable use of its components, and a fair and equitable sharing arising from the use of genetic resources¹. It also recognises the sovereign rights of States over their natural resources together with the fact that authority to determine access to genetic resources rests with national governments and is subject to national legislation.

However, as specified in the Convention, it is not intended that any legislation, or policies developed by NCIMB as a result of such legislation, should impede the transfer of genetic resources either into or from the NCIMB open culture collection. NCIMB views it ultimately as the responsibility of the isolator or exporter of an organism to comply with the Convention in terms of obtaining PICs and MTAs from relevant parties in the country of origin. Similarly, it is the responsibility of the end user of any culture obtained from NCIMB to address issues of benefit sharing with the country of origin which may result from the commercial exploitation of said organisms. NCIMB, for its part, will ensure best efforts are made to make depositors and users of its cultures fully aware of their obligation under the CBD; but bears no responsibility for any breach of the letter or spirit of the convention.

In the course of its business, NCIMB uses micro-organisms in a number of different ways. These can broadly be divided into the following categories:

1. **Accession of Micro-Organisms into the NCIMB Open Collection**
2. **Sale of Micro-Organisms from the NCIMB Open Collection**
3. **Acquisition of Micro-Organisms for Research Purposes**

NCIMB will address these categories as follows:

1. Accession of Micro-Organisms into the NCIMB Open Collection

NCIMB is a major global public source of microbial biodiversity. One of its key functions is to facilitate the exchange of micro-organisms by the sale or exchange of authenticated reference and research materials to the wider scientific community.

In order to continue this flow of samples and to promote the objectives of the CBD, NCIMB has adopted the following approach to the accession of micro-organisms into the NCIMB Open Collection:

- a. NCIMB will not accept any new micro-organisms into the collection unless the provider of the organism declares the country of origin of that organism.
- b. NCIMB will make all depositors aware of their obligations under the CBD in respect of obtaining appropriate consent (Prior Informed Consent) from an appropriate authority in the country of origin prior to exportation of any organisms. Further, NCIMB will encourage all depositors to seek and provide evidence of such permission being obtained.
- c. NCIMB will negotiate, if requested by the depositor², appropriate benefit sharing options for the deposition of new organisms in the Open Collection: see attached leaflet QF106 for a list of available options.

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- d. NCIMB, in its role as custodian of culture for the scientific community, does not claim outright or sole ownership of any of its cultures, BUT all culture sales and subsequent use of these strains are subject to the terms and conditions laid out in the NCIMB Material Transfer Agreement (MTA) QF203.

2. Sale of Micro-Organisms from the NCIMB Open Collection

- a. Every micro-organism sold will be accompanied by a document drawing the attention of the recipient(s) to the CBD and its implications for microbial research and conservation; specifically the need to share benefits equitably (monetary and/or non-monetary), which may arise from the utilisation, commercialisation or exploitation of the genetic resources received: see attached leaflet QF106.
- b. NCIMB will also keep records of all sales of micro-organisms for a period of at least 6 years.

3. Acquisition of Micro-Organisms for Research Purposes

As part of its ongoing research and development, including the screening of cultures for biologically active compounds which may lead to the commercial development of some or all of the organisms involved; NCIMB may, from time to time, work with international collaborators to acquire either existing *ex-situ* collections or new isolates.

In line with article 15 of the CBD, prior to obtaining any material:

- a. NCIMB will obtain Prior Informed Consent (“PIC”) from the competent national authority(ies) and/or relevant stakeholder(s) in the country of origin and ensure that the collection and transfer of the material is in conformity with the national laws and regulations of that country.
- b. In order to ensure that access and associated sharing are upon “mutually agreed terms”, NCIMB undertakes to agree a written Material Transfer Agreement (“MTA”) setting out the terms and conditions of *inter alia* access to the material and associated fair and equitable benefit sharing.
- c. For the avoidance of doubt, benefits may be monetary and/or non-monetary. They may include royalties, where there is a successful subsequent commercial use of micro-organisms or their derivatives. Benefits may also include:
 - Advice and/or training in the isolation, identification and preservation of new organisms.
 - Advice on how to set up and manage a collection within the country of origin.
 - An exchange of staff involved in training.
 - Transfer of technology.
 - The development of future collaborative links.

1. “Genetic resources” are defined as any material of plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.

2. If the depositor of an organism in NCIMB is not the person who isolated the culture, NCIMB reserves the right not to offer such benefit sharing options or to refuse the deposit if there is evidence to suggest that the organism(s) was/were removed illegally from the country of origin.

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