

# Commercial Material Transfer Agreement: Salah Satu Upaya Perlindungan terhadap Kekayaan Intelektual Sumber Daya Genetik Bidang Kesehatan di Indonesia = Commercial Material Transfer Agreement: One of the Efforts to Protect Intellectual Property of Genetic Resources in the Health Sector in Indonesia

Marina Eka Amalia, author

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## Abstrak

Perlindungan Hak Kekayaan Intelektual (HKI) yang memadai dalam penerapan Material Transfer Agreement (MTA) belum diberikan oleh Indonesia hingga saat ini. Standar Material Transfer Agreement (MTA) yang dimiliki Indonesia masih jauh dari sempurna untuk memberikan perlindungan kekayaan intelektual bangsa Indonesia atas Sumber Daya Genetik (SDG) khususnya yang berasal dari material genetik berupa materi biologi (DNA/RNA), spesimen klinik, dan materi nonbiologi (yang berkaitan dengan kesehatan manusia). Kondisi itu menyebabkan minimnya minat peneliti Indonesia untuk menemukan suatu Invensi yang dapat bersaing di kancah Internasional. Perlu adanya suatu aturan yang lebih rinci yang tidak hanya memuat klausula pertukaran material genetik tetapi juga memuat ketentuan-ketentuan Hak Kekayaan Intelektual seperti Paten, Informed Consent dan Pembagian Kemanfaatan. Pada Tesis ini, penulis mengusulkan suatu kerangka baru Commercial Material Transfer Agreement (CMTA) yang memuat klausul-klausul tambahan dari MTA yang berlaku saat ini, yang diharapkan dapat lebih melindungi sekaligus mendorong lahirnya suatu Invensi dari para peneliti di masa yang akan datang.

.....Currently, Adequate protection of Intellectual Property Rights (IPR) in the implementation of the Material Transfer Agreement (MTA) has not yet been provided by Indonesia. The current standards of Material Transfer Agreement (MTA) in Indonesia are still far from perfect in providing the protection for the Intellectual Property of the Indonesia's Genetic Resources (SDG) particularly those derived from genetic materials such as biological material (DNA/RNA), clinical specimens, and non-biological material (related to human health). This condition has impacted to the lack of encouragement for Indonesian researchers to discover an invention that can compete on the international stage. There is a requirement for a detailed regulation which not only contains clauses on the exchange of genetic material but also contains more detailed provisions on Intellectual Property Rights such as Patents, Informed Consent, and Benefit Sharing. In this thesis, the author proposes a new framework called the Commercial Material Transfer Agreement (CMTA) which contains additional clauses from the current MTA, which is expected to further protect and encourage of new patentable invention from researchers in the future.