



BCOMING



D1.3 IP Note

Project acronym: BCOMING

Project title: Biodiversity Conservation to Mitigate the risks of emerging infectious diseases

Call: HORIZON-CL6-2021-BIODIV-01



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Executive Summary

The scope of this deliverable is to support partners in capturing results, understand the exploitation and innovation potential of these results as well as to fulfil EC reporting requirements of key exploitable and other results.

The IP Note is a tool and procedure for monitoring results and innovation potential, manage IPR. The IP note is a simple template that partners can fill in when they develop an exploitable result. Based on that specific decisions can be made later for protection and exploitation.

It is however recommended to always refer to articles included in the Consortium Agreement and Grant Agreement and to consult the Project Coordinator for any issue concerning IPR protection.

The first part of the deliverable explains the obligations coming from the Grant Agreement and the Consortium Agreement, the second part introduces the key results of BCOMING and the agreed procedure for capturing these results, analysing their potential and make decisions on protection, dissemination and exploitation measures.





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Intellectual Property rules in Horizon Europe

Intellectual Property management is a very important part of any successful initiative aimed at generating new knowledge and innovation. Horizon Europe, the EU's Research and Innovation programme, has to protect EU-funded research results by establishing set of rules. The IP rules in Horizon Europe are described in the [Rules for Participation](#), the [Programme Guide](#) (considerations for proposal writing stage), the [\(model\) Grant Agreement](#) (GA). The GA articles also related to IP are explained in the [Annotated Grant Agreement](#).

Additional guidance is given by the IP Helpdesk of the European Commission. Read more: https://intellectual-property-helpdesk.ec.europa.eu/ip-eu-funded-projects_en

Project and consortium specific internal agreements on IP and IPR management is discussed in the Consortium Agreement (CA) focusing on project level protection measures.

Definitions

Patent¹

A patent is a legal title granting its proprietor the right to prevent third parties from commercially using an invention without authorisation. An invention is usually a product or a process.

The term of the patent is limited.

Like other forms of intellectual property, the rights provided by a patent do not actually permit their owner to do anything. But they do enable him to stop other people doing things: they enable him to exclude others from practising the invention within the state in which they were granted.

In order to gain patent protection, an invention must satisfy five fundamental requirements:

- (1) There must in fact be an invention.
- (2) The invention must be new.
- (3) It must possess a degree of inventiveness over what has gone before (i.e. it must involve what is known as an inventive step).
- (4) It must be susceptible of industrial application.
- (5) It must not fall within a list of “excluded” subject-matter

Utility Models²

Like an innovation patent, a utility model provides its owner with a monopoly right over an invention, this is the right to prevent others from exploiting the claimed invention without the owner's consent. Utility models are sometimes referred to as “short-term patents”, “utility innovations” or “innovation patents”.

¹ https://e-courses.epo.org/wbts_int/litigation/WhatIsAPatent.pdf

² https://intellectual-property-helpdesk.ec.europa.eu/utility-model_en





Utility models are territorial, i.e. the right can be enforced only within the country in which a utility model is granted. Utility models are used for protecting those inventions that involve small improvements or adaptations of already existing products. They are also useful for products that have a short commercial life due to the lower registration costs compared to patents.

It is difficult to define a utility model since it may vary from one country to another. The differences may concern for instance the protection term (6 to 10 years) or the registration process. Many countries allow the conversion of a patent application into a utility model application. However, in some countries there is a time limit for doing so. If a patent application is refused, some countries allow the patent application to be converted into a utility model within a certain period after the refusal.

Copyright^{3,4}

Copyright is a legal term describing rights given to creators for their literary and artistic works. The kinds of work covered by copyright include literary works, such as novels, poems, plays, reference works, newspapers, computer programs, databases, films, musical compositions, and choreography, as well as artistic works such as paintings, drawings, photographs and sculpture, architectural works, advertisements, maps, and technical drawings. The creators of original works protected by copyright, and their heirs, have certain basic rights. In particular, they have the exclusive right to use or authorize others to use the work on agreed terms. Indeed, they can prohibit or authorize:

- its reproduction in various forms, including printed publication or sound recording.
- its public performance, as in the case of a play or musical work.
- its recording, for example on compact disc, cassette, or videotape.
- its broadcasting, whether by radio, cable, or satellite.
- its translation into other languages, or its adaptation, such as that of a novel into a screenplay.

Copyright protection also includes moral rights, including the right to claim authorship of a work, and the right to oppose changes to it that could harm the creator's reputation. The creator - or the owner of the copyright in a work - can enforce rights administratively and in the courts, by inspection of premises for evidence of production or possession of illegally made “pirated” goods related to protect works. The owner may obtain court orders to stop such activities, as well as seek damages for loss of financial rewards and recognition. Finally, it is important to note that copyright only protects the expression of ideas represented in a physical embodiment, not the ideas themselves, and provided the expression is original.

Trademarks⁵

Trademarks are signs used in trade to identify products.

Your trademark is the symbol your customers use to pick you out. It distinguishes you from your competitors. You can protect and build upon your trademark if you register it.

³ Definition by WIPO, “What is Intellectual Property”, p. 2:

http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf

⁴ See WIPO Intellectual Property Handbook 2008: Policy, Law and Use. Chapter 2: Fields of Intellectual Property Protection, p. 40.

⁵ <https://euipo.europa.eu/ohimportal/en/trade-mark-definition>





In some countries, you can also get protection even if your trademark is not registered, as long as it is used. However, we strongly advise you to register it in order to obtain the best protection.

The only condition imposed on a registered trademark is that it must be clearly defined; otherwise, neither you nor your competitors will be certain of what it covers.

Trade Secrets⁶

A trade secret is a valuable piece of information for an enterprise that is treated as confidential and that gives that enterprise a competitive advantage.

Whether through laborious and costly research, decades of experience, or a sudden burst of creativity, companies constantly develop information which can help them to perform better, faster or at lower cost. Such knowledge can include new manufacturing processes, improved recipes, or information on whom to buy from and whom to sell to. Information protected through a trade secret can be strategic for decades (for example, a recipe or a chemical compound), or ephemeral (for example, the results of a marketing study, the name, price and launch date of a new product, or the price offered in a bidding procedure).

Information, knowledge, inventiveness, and creativity are the raw materials of the new economy, and trade secrets are important for companies both large and small, in all economic sectors. However, while large companies have the resources to manage a large portfolio of intellectual property rights, such as patents, smaller companies often cannot afford to do this - therefore their reliance on trade secrets is greater.

Creative Commons license⁷

A Creative Commons (CC) license is one of several public copyright licenses that enable the free distribution of an otherwise copyrighted "work". A CC license is used when an author wants to give other people the right to share, use, and build upon a work that he or she (that author) has created. CC provides an author flexibility (for example, he or she might choose to allow only non-commercial uses of a given work) and protects the people who use or redistribute an author's work from concerns of copyright infringement as long as they abide by the conditions that are specified in the license by which the author distributes the work. There are several types of Creative Commons licenses. The licenses differ by several combinations that condition the terms of distribution.

Confidentiality agreements⁸

Confidentiality is an extremely important issue for participants in innovation projects, from the setting-up to the implementation and exploitation phases. Exchanging valuable information with other partners is generally a necessity that regularly occurs in collaborative initiatives or undertakings. Accordingly, confidentiality issues and measures should be taken into consideration to safely exchange information, facilitating the project development, and ensuring the non-disclosure of sensitive technology, business, or commercial confidential information. Confidentiality agreements provide protection and more security to an organisation that is about to share or make available

⁶ https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/trade-secrets_en

⁷ <https://creativecommons.org/>

⁸ https://intellectual-property-helpdesk.ec.europa.eu/system/files/2021-03/Mutual-Non-Disclosure-Agreement-EN_2021.pdf





information to another organisation by ensuring that confidential information will be used only for the permitted purposes agreed between the signatories of the agreement and will not be used or revealed to third parties without consent. Therefore, the signature of a confidentiality agreement can be seen as a very important step to keep confidential information secret to maintain a competitive edge.

IP Helpdesk Summary on IP

Intellectual property matters can be complex and full of legal jargon. The purpose of the IP Helpdesk is to help you navigate this landscape and provide you with the tools to better understand how IP applies to your business, product or R&D activities and results. This will allow you to make informed and strategic decisions regarding your assets.

Please click on the links below to find out more about the different types of IP and IP rights. Or if you would like to get a better grasp of IP in a certain context, you can delve deeper into separate pages on: Getting Started, IP in Business, Enforcement and Infringements, IP & Thematic areas, IP in EU-funded Research Projects.

- [Patents](#)
- [Utility Models](#)
- [Trademarks](#)
- [Industrial Designs](#)
- [Copyrights](#)
- [Trade Secrets](#)

Grant Agreement rules

Agreement on background

The beneficiaries must identify in a written agreement the background as needed for implementing the action or for exploiting its results.

Where the call conditions restrict control due to strategic interests reasons, background that is subject to control or other restrictions by a country (or entity from a country) which is not one of the eligible countries or target countries set out in the call conditions and that impact the exploitation of the results (i.e. would make the exploitation of the results subject to control or restrictions) must not be used and must be explicitly excluded from it in the agreement on background —unless otherwise agreed with the granting authority

Ownership of results

Results belong to the beneficiary that generated/produced them.

Best practice: To avoid or resolve ownership disputes, beneficiaries should keep documents such as laboratory notebooks to show how and when they produced the results.

Joint ownership

Two or more beneficiaries own results jointly if:

1. they have jointly generated them and
2. it is not possible to:
 - establish the respective contribution of each beneficiary, or
 - separate them for the purpose of applying for, obtaining or maintaining their protection.





The joint owners must agree —in writing —on the allocation and terms of exercise of their joint ownership ('joint ownership agreement'), to ensure compliance with their obligations under this Agreement.

Unless otherwise agreed in the joint ownership agreement or consortium agreement, each joint owner may grant non-exclusive licences to third parties to exploit the jointly owned results (without any right to sub-license), if the other joint owners are given:

- at least 45 days advance notice and
- fair and reasonable compensation.

If beneficiaries have jointly generated results and it is not possible to establish their respective contribution or to separate them for protection, the beneficiaries automatically become joint owners.

In this case, the beneficiaries concerned must conclude a joint ownership agreement (in writing).

This agreement should cover in particular:

- a) how the ownership is divided (e.g. equally or not).
- b) if/how the joint results will be protected, including issues related to the cost of protection
- c) (e.g. patent filing and examination fees, renewal fees, prior state-of-the-art searches,
- d) infringement actions, etc), or to the sharing of revenues or profits.
- e) how the joint results will be exploited and disseminated.
- f) how disputes will be settled (e.g., via a mediator, applicable law, etc).

Best practice: Beneficiaries should include at least general principles on joint ownership already in the consortium agreement to make it easier to negotiate a full joint ownership agreement later on.

Protection of results

The beneficiaries having received funding under the grant must:

- examine the possibility of protecting their results and
- if possible and justified taking into account all relevant considerations, protect them.

Best practice: Beneficiaries should consider seeking expert advice to help them decide whether and how to protect results.

Beneficiaries are in principle free to choose any available form of protection, but protection should be adequate depending on the characteristics of the results to ensure effective protection. While some forms of IP protection, such as copyright, do not require registration, others, such as patent, trademarks or industrial design require the filing of an application before the relevant registration body. Although important for commercial and industrial exploitation, IP protection is not mandatory if not justified. Costs related to protection are eligible if they fulfil the cost eligibility conditions.

Best practice: Although a beneficiary is not required to consult the other beneficiaries before deciding whether to protect a specific result it owns, beneficiaries can provide for arrangements (either in the





consortium agreement or in separate agreements), to ensure that where needed decisions on protection take due account of the interests of all beneficiaries concerned. Protection should last for an appropriate period and have appropriate territorial coverage (in view of potential) commercial or industrial exploitation and other elements (e.g. potential markets and countries in which potential competitors are located). Patent applications should identify the rightful inventors. Errors (or fraud) in identifying inventors may lead to the invalidation of patents.

Exploitation of results

Beneficiaries which have received funding under the grant must —up to four years after the end of the action (see Data Sheet, Point 1) —use their best efforts to exploit their results directly or to have them exploited indirectly by another entity, in particular through transfer or licensing.

If, despite a beneficiary's best efforts, the results are not exploited within one year after the end of the action, the beneficiaries must (unless otherwise agreed in writing with the granting authority) use the Horizon Results Platform to find interested parties to exploit the results.

If results are incorporated in a standard, the beneficiaries must (unless otherwise agreed with the granting authority or unless it is impossible) ask the standardisation body to include the funding statement (see Article 17) in (information related to) the standard.

Exploitation can also be non-commercial, for example use in non-commercial research or non-commercial teaching activities. When results of the action are used to influence R&I policy or decision making, this is another form of exploitation.

Best practice: Beneficiaries should consider applying for dissemination and exploitation support services, including go to market support and IP management provided by the Commission during and after the end of their action i.e. the Horizon Results Booster.

Beneficiaries are strongly encouraged to consider the use of the Horizon Results Platform to their own benefit, at any stage of the project, during as well as after the end of the project, provided they have key exploitable results.

Key exploitable results are those results which have a high potential to be exploited in the sense of the definition of exploitation (e.g. to be used in a product, process or service, or act as an important input to further research, R&I related policy or education). Results such as "outcomes or announcements of consortia meetings, conferences or other events" are not considered as key exploitable results and all project deliverables are not necessarily key exploitable results either.





Consortium Agreement rules

Key exploitable results

BCOMING partners agreed that IPR management activities will pay specific attention to the following results that will be owned jointly by the partners who generates them:

Result	Detection tool for antibody and pathogen screening; and a rapid, on-site detection tool for detecting pathogens and genomic sequences (portable testing kit).
Partner(s)	IRD (antibody detection), NM (on-site detection tool)
Exploitation, users, benefits	The tools will be available for purchase on the market. In the pathogen detection and disease monitoring market, the bio-testing/pathogen testing segment represents the largest market share and is anticipated to still grow significantly. In Europe, the rapid detection tests for zoonotic and human pathogens represents a fraction of this segment. Therefore, NM has a unique opportunity to launch the tools.
Interaction with users:	NM plans to offer the tools on a B2C basis. Commercial sales and marketing tools will be applied. NM's research network will be targeted first. Preliminary market research has already identified interested users who would like to test/use the tools. IRD is planning to focus on open scientific advancement of the antibody and pathogen screening tool.
IPR Management:	The creators will protect the core IP of the field detection tool to warrant FTO - Freedom to Operate analysis (see more under IPR section).

Result	Digital risk mapping and forecasting tools
Partner(s)	Avia-GIS
Exploitation, users, benefits	Avia-GIS plans integrating BCOMING's epidemiological model into Avia-GIS' software modelling solutions and further develop it for commercial use: 1) Model output will be part of the MOOD platform; 2) data will be on the Ebo-Surv platform (standardised); and 3) if partners agree on algorithm sharing, Avia-GIS can further integrate epidemiological tools in the Avia-GIS commercial suites. Development takes time, thus time-to-market is expected within 12-18 months after the conclusion of BCOMING.
Interaction with users:	Spatial modelling services will be offered on a B2B basis. Commercial sales and marketing tools will be applied.
IPR Management:	Partners must share their algorithm to allow their integration into a commercial Avia-GIS product. Agreement is needed. The code of the spatial decision support systems will be protected by Avia-GIS, and a closed licence will be chosen. Privileged conditions for research & commercial utilisation will be proposed/negotiated to the BCOMING partners. The epidemiological model is made under the VECMAP licence (ensemble modelling on species distribution: GLM, RF, BRF, NLDA, etc. Software can be made available during the project for partners who would require its uses for data collection and data management).

Result	Co-creation process - an agent-based model - with local communities relying on digital and community-led innovations to create innovative biodiversity conservation strategies; Participatory decision-making framework (One Health system-based approach – ChaRL process) for surveillance of emerging zoonotic diseases, thus creating new zoonotic disease surveillance systems
Partner(s)	MERFI, IDE, FFI
Exploitation, users, benefits	Contingent on ethics protocols, part of the socio-economic and livelihood data will be shared upon individual request. However, anonymised data will be shared though and stored in Dataverse. A CC-BY-NC licence will be attached. The CHaRL process is an open access method detailed in numerous publications. The ABM action model will be





	accessible by interested users after completion of a training course. MERFI will use the training material and framework and offer training courses within their business line as a non-profit organisation working at other biodiversity hotspots.
Interaction with users:	Cross-disciplinary scientific collaborations with biodiversity networks and projects will support advancement, use and transferability of the ABM and CHaRL.
IPR Management:	Socio-economic and livelihood data will be fully confidential and in conformity with GDPR. The source code of the ABM will be protected with a closed licence. The action model is openly accessible.

Result	Policy recommendations, evidence collection on innovative biodiversity conservation strategies and new zoonotic disease surveillance systems
Partner(s)	MERFI, IDE, FFI and international organisations serving an advisory function
Exploitation, users, benefits	Evidence-based policymaking and decision-making will be improved in tropical hotspot areas. BCOMING will make an empirically-based contribution, shaping the international biodiversity agenda, Eco Health and One Health approaches.
Interaction with users:	Direct interactions with local, national, European, and international policymakers and authorities through policy events, international biodiversity conferences, UN working groups, direct e-mailing and phone/f2f discussions.
IPR Management:	Full open access to policymakers for all evidence

Result	Scientific knowledge, publications, articles, presentations as well as qualitative and quantitative data and datasets linked to all BCOMING scientific advancements; standardised sampling strategy and innovative analytical framework allowing the study of the link between biodiversity and epidemic risk over a large range of ecosystems on local, regional and global scales; and biological samples in biobanks.
Partner(s)	All science performing partners
Exploitation, users, benefits	Exploitation will happen through advancement of knowledge. Open science practices will be applied unless specific considerations should limit these actions. Joint work between the partners, disciplines and other projects will ensure a high impact. WP3 data will be INSPIRE-compliant (EO assets can be shared more efficiently and permits further downstream services). MERFI and CIRAD plans to further develop a One Health partnership and extend the tools and frameworks elsewhere. Science education has a key role to play here, thus integration of knowledge will happen for master studies, PhD studies as well as local training in tropical hotspot areas.
Interaction with users:	Scientific community members will gain access to knowledge through publications, conferences, trusted repositories (re3data), BioBanks, etc.
IPR Management:	Royalty-free access to biological samples and biodiversity datasets for re-use will be possible upon request and in accordance with the applicable ABS regulations. Publications will follow gold or green open access.

Joint ownership

Joint ownership is governed by Grant Agreement Article 16.4 and its Annex 5, Section Ownership of results, with the following additions:

Unless otherwise agreed:

– each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research and teaching activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s).





– each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given: (a) at least 45 calendar days advance notice; and (b) fair and reasonable compensation. The joint owners shall agree on all protection measures and the division of related cost in advance.

Dissemination of own (including jointly owned) Results

During the Project and for a period of 1 year after the end of the Project, the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the procedure of Article 17.4 of the Grant Agreement and its Annex 5, Section Dissemination, subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least 45 calendar days before the publication. Any objection to the planned publication shall be made in accordance with the Grant Agreement by written notice to the Coordinator and to the Party or Parties proposing the dissemination within 30 calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

By exception, for dissemination (talks, posters...) to be made in the framework of congresses or conferences, prior notice shall be given to the other Parties at least fifteen (15) calendar days before the abstract submission to the organizing committee. Any objection to the planned dissemination shall be made in accordance with the terms of Grant and Consortium Agreements in writing to the Coordinator and to the Party or Parties proposing the dissemination within ten (10) calendar days after receipt of the notice. If no objection is made within the time limit stated above, the dissemination is permitted.

Monitoring and the protection of project results

Innovation Notification note (IP Note)

BCOMING project has specified the IPR management procedures to secure adequate protection of intellectual property of all partners as well as the joint consortium working outcomes. For this reason, the background IPR was defined before the beginning of the project and clearly set in the Consortium Agreement. The partners also agreed on IPR issues related to the foreground knowledge which will be stipulated accordingly in the CA and the IP Note to be developed by EM.

The IP note - in the form of IP/Innovation notification table aims at capturing all research materials and project exploitable outcomes; it will be open to all partners. The use of the IP Note will be carefully monitored by the PCG. The IPEB members during their quarterly meetings will discuss all IP notes submitted. The IPEB will then make recommendations if needed on protection, dissemination and exploitation. These suggestions will be considered during dissemination and communication activities as well as during the development of the updated/final BCOMING exploitation plan.

Europa Media created an Innovation Notification table (IP Note), available for all partners, that gives the instructions (described below) to be followed.





IP Note Template

RESULT - INTELLECTUAL PROPERTY NOTIFICATION (IP NOTE)		
Notified by:	Date:	Work Package
Title:		
Summary of the result achieved:		
Partners who developed the result and % of input (if relevant): <i>e.g. based on number of hours/PMs spent on the deliverable</i>		
Exploitation potential – IPR issues linked:		
Received by:	Date:	
Reviewed by the IPEB and the Executive Board - Conclusions:		
Action to be taken:		
Result:		

- Each partner shall download the IP Note template
- Whenever a new result (foreseen/ not foreseen) is developed in the project, the author of the result will have to fill in the IP Note and send it to the Project Coordination Group (PCG).
- The submitted documents will be checked by the IPEB (Intellectual Property and Exploitation Board) and on the next Executive Board meeting the protection measures will be discussed.
- In case protection shall be taken care of within a short timeframe, the Coordinator will initiate making a GA decision via e-mail or a teleconference.





- The PCG will monitor the submission of the IP Notes on all achieved results within the internal reporting process.
- The Intellectual Property implications including the IP note will be carefully monitored and taken into account during all stages of BCOMING.





Annex 1: Results – modified table from Continuous reporting

Partner (PLEASE SELECT)	Who to contact	Result type (SELECT from the list)	Key Results (KER) (does result have a high potential? SELECT)	Describe the results and the potential of the result (max 200 char)	Target group (PLEASE SELECT from the list)	Steps undertaken towards exploitation** (PLEASE SELECT from the list)	Market maturity ** (state of the market targeted by the result) SELECT	Any IP issue we need to note? (e.g. require access to background of a partner or third party IPR?)
P1 CIRAD		SCI — Scientific discovery, model, theory (...)	High scientific potential		Citizens	Prototyping in laboratory environment	Not yet existing and not yet clear if market can be created	
P2 EM		PROD — Product (new or improved)	High societal potential (other than climate or environmental)		Civil society	Prototyping in production environment	Market creating: not existing but potential for the new market	
		SERV — Service (new or improved)	High societal potential		EU Institutions and/or agencies	Pilot, demonstration or testing	Emerging, growing demand, scarce supply	
		ROC — Industrial process (new or improved)	High technologic, business or economic potential		Industry, business partners	Intellectual property management	Mature: the market is already supplied with similar products	
		BUS — Business model (new or improved)	High policy or regulatory potential		Innovators	Complying with regulatory framework		
		DSG — Design (new or improved)	N/A		Policy makers and authorities, international	Contribution to standards		
		METH — Method, material, technology, design (new or improved)			Policy makers and authorities, national	Feasibility study		
		PO — Policy recommendation, guidance, awareness raising, advocacy			Policy makers and authorities, regional or local	Market study		
		EVNT — Event (conference, seminar, workshop)			Standardization bodies	Business plan		
		STAFF — (qualified personnel exchanges)			End users, practitioners, farmers, etc	Other		
		LEARN — learning and training (learning modules, curricula)			Business accelerator providers			
		INFRA — new or improved infrastructures or facilities			Other			
					Applicable to all			





Annex 2: Other results (Table from Continuous Reporting)

Partner organisation (PLEASE SELECT your org from the list)	Who to contact	Result type (SELECT from the list)	If the result is needed to validate the conclusions of a publication, describe the provisions whereby you intend to make your output available, either in digital or physical form?	Describe the result (max 300 char)	Type of PID (if available)	PID (if available)	URL to repository landing page for the result service/webpage hosting the result (if available)	What license is the result under SELECT
P1 CIRAD		Software	Open access given to data		DOI			CCBY or equivalent
P2 EM		Workflow	Other		handle			CCO or equivalent
		Protocol	N/A		ARK			Other
		Prototype			URI			
		Other			Other			

