NATIONAL BIODIVERSITY AUTHORITY

Proceedings of the 43rd Authority Meeting

28th November, 2017

Venue

Conference Hall,
National Biodiversity Authority,
5th Floor, Ticel Biopark, CSIR Road,
Taramani, Chennai- 600 113
Tel: 044 2254 2777 / 1200

Proceedings of the 43rd Authority Meeting of the National Biodiversity Authority on 29.11.2017

The forty third meeting of the National Biodiversity Authority (NBA) was held on 28th November, 2017 at conference hall, National Biodiversity Authority, Chennai under the Chairpersonship of Dr.B.Meenakumari, Chairperson, NBA to consider the agenda items circulated to the Members *vide* email dated 17th November, 2017 and by hard copy on 20th November, 2017. The list of participants is placed as **Annex-I.**

2. The meeting commenced with extending a warm welcome to the members by Dr. B. Meenakumari, Chairperson, NBA. While welcoming, she briefed about the achievements and activities of NBA after the 42nd Authority meeting. As awareness of BD Act in the country has to be enhanced, training/ awareness programmes were conducted for IRS officers on BD Act at Wildlife Institute of India; training imparted to the senior officials of the Line departments in the state of Nagaland and awareness for conservation and sustainable use of Biodiversity show caused in India-IWACASBI workshop organized by Thiruvalluvar University. She emphasized on mass awareness to be created about the provisions of the BD Act and it should be a continuous endeavour for NBA and SBBs. Five consultative meetings with stakeholders were conducted at Ahmedabad, Lucknow, Chandigarh, Hyderabad and Guwahati as a prelude to preparing the India's National Report-6 to CBD. One whole day session under the theme 'Biodiversity and Environment' was organised by NBA at the 3rd India International Science Festival (IISF) held in Chennai (during 13-16 October), inviting eminent speakers and holding an exhibition for popularising the theme Biodiversity. NBA also participated in the technical sessions and exhibition at the 11th Indian Aquaculture and Fisheries Forum (IFAF) – 21-23 November - under theme SDG 14 which focussed on the protection of life underwater. The celebration of 14th Foundation Day of NBA on 3rd October, 12th National meet of State Biodiversity Boards during 7-8 November, Hindi Diwas celebration on 14th September and Sadbhavana diwas on 30th October were added activities by NBA other than awareness programmes.

3. The meeting of the Authority is the forum where the important decisions are being taken for effective implementation of the BD Act and the participation of the representatives from various ministries/department is essential for taking consensus decision. She requested that the members of the Authority may make it convenient to attend the meetings and guide the Secretariat with suggestions and opinions on various issues.

4. Dr. Dinesh Misra, Member, NBA expressed that for effective implementation of the administrative and technical matters in the Secretariat, if required the secretariat may propose for additional powers to be delegated to the Secretariat.

5. The Secretary, NBA updated the members about the status of the ABS applications received, expert Committee meetings held viz. Access and Benefit Sharing(ABS), Consultative meeting of stakeholders on notification of plants and animals as threatened species u/s 38 of the Biological Diversity Act, 2002 and signing of agreement with GIZ on a Partnership project on ABS. He added that Interim report on implementation of Nagoya Protocol on Access and Benefit Sharing was prepared with the support of CEBPOL and submitted to the Ministry after having consultations with experts. And the same has been uploaded/published in the ABSCH website by the MoEFCC. He informed the house about the partipcation of the Secretary, NBA in the Vilm ABS Dialogue – Informing about Domestic Measures for Access to Genetic Resources organized by CBD in Germany in August 2017 as well as 3rd meeting of the Informal Advisory Committee to the Access and Benefit-sharing Clearing-House held in November 2017 at Montreal, Canada.

Thereafter, the agenda items were considered as under:

43.01: Confirmation of Proceedings of the 42nd Authority meeting

The draft proceedings of the 42nd Authority meeting of the National Biodiversity Authority held on 21st August, 2017 at Chennai was circulated to the Members *vide* email dated 12th September, 2017 for seeking their comments. In response, Dr Manoj Modi, DBT and Dr Yogesh Shouche, NCCS have provided their comments on the draft

proceedings. The comments offered by the two Members were incorporated in the proceedings.

2. In this regard, Dr Yogesh Shouche informed that in the proceedings of the 8th meeting of the NBA's Expert Committee on Agrobiodiversity held on 1st August, 2017, the issue of sending information on Digital DNA/ Protein sequences of biological resources to internationally recognized databases has been discussed. As the subject matter does not pertain only to Agrobiodiversity, it is desirable that a broader discussion on this issue can be undertaken before taking any decision.

Decision:

a) Members confirmed the proceedings of the 42nd Authority meeting.

Action: Secretary, NBA.

43.02: Action taken report of the 42nd Authority meeting

The Secretary, NBA informed that on most of the items action has been taken. With regard to the Agenda Item 42.08 (draft clause on the obligations under the BD Act) to incorporate in the sanction order of the funding agencies/departments), while appreciating the efforts taken by the NBA to enlighten the user groups about the provisions of the BD Act, members suggested for awareness programmes to be conducted for the identified stakeholder groups.

Decision:

a) The Members directed the Secretariat to communicate about the importance of BD Act and its provisions to UGC/IIT/ICAR/ CSIR, etc., periodically.

Action: Secretary, NBA

43.03: To consider the Proceedings of the 45th meeting of Expert Committee on ABS held on 10th November, 2017

The members were informed that the 45th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 10th November 2017. A total of 84 applications were taken up by the EC. The representatives from M/s. Dabur India Limited appeared before the EC for briefing on their application submitted in Form-I.

The 42 Form-III and two Form-I applications which were recommended for approval by the EC are being cleared [draft agreement sent to applicant for execution] by the NBA Secretariat in accordance with decision taken in the 38th Authority and 40th Authority meeting respectively. The Authority endorsed the proceedings.

Decisions:

a) The Authority approved the recommendations of the EC on ABS.

b) Authority directed the Secretariat to communicate the decision of rejection to the applicants who have contravened the provisions of the BD Act.

Action: Secretary, NBA

43.04: To consider submission of application Forms for seeking NBA approval, through online portal only by discontinuing the physical format

The Secretary informed the members that users of the biological resources and associated knowledge thereto are submitting their applications manually in the respective Forms to NBA for seeking approval for carrying out activities envisaged in the BD Act 2002. In the past, the applications received in physical form, sometimes lack mandatory information and documents that are necessary for processing the application which warranted exchange of communications with the applicant for obtaining the same which delay in granting approvals to the application within a stipulated period.

2. Now NBA has introduced an online portal "*ABS e-filing*" for submission of application on 30th March 2017 through which around 150 applications were received so far and most of the applications were complete with desired information. Even after launching of e-filing of ABS applications, many stakeholders continue to apply through the conventional method by sending hard copies of applications. NBA in association with NIC developing real time processing of applications in the Secretariat, for which, receipt of application through online mode will be easier to integrate with the real time processing system or otherwise.

3. The members were informed that many Departments of Government of India like *patent office, Passport Service Seva, UPSC, Income tax e-filing, etc*. have

launched their online application portals and after a period of time, the online filing system was made mandatory.

4. In order facilitate the user and also gathering the required information for timely disposal of applications, it was proposed to make it mandatory for the applicants to file their applications only through online portal.

5. The members opined that same incentives to apply online may attract the applicants to submit through online. Information on the real time status of the application would be one way to encourage applicants to file their application through online.

6. MoEFCC vide email dated 27th November, 2017 offered comment on this agenda item that it is appropriate to complete the development of real time processing of applications at NBA before making it mandatory for applicants to file their applications online. Efforts may be made to encourage the applicants to move towards e-filing. Whether this may require amendment to the Rules has to be found out and legal opinion also may be sought. Thereafter, a date for mandatory e-filing can be set. Secretary, NBA informed that NBA in association with NIC is developing the online application processing system (real time processing) and it is expected that the system will be put in operation in the first quarter of 2018.

Decisions:

a) The Authority directed to have more time before making E-filing mandatory.

b) Authority also suggested the NBA secretariat to take necessary steps to encourage the applicants to file their application through E-filing. Publicity has to be given in promoting applications online.

Action: Secretary, NBA

43.05: To consider Form-III and Form-I applications cleared by the NBA Secretariat for ratification

Members ratified the action of the Secretariat in sending the draft agreements to the 42 Form-III applicants and two Form-I applicants which were recommended for

approval by the EC in its 45th meeting held on 10.11.2017 in accordance with the decision taken in the 38th Authority and 40th Authority meeting.

Decision:

The Members ratified the action taken by the Chairperson, NBA.

Action: secretary, NBA

43.06: To consider the Guidelines for Processing of ABS applications received by the State Biodiversity Boards under section 7 of the Biological Diversity Act, 2002

In the 38th Authority meeting held on 04th July, 2016 under Agenda item no.38.16, Authority directed the NBA Secretariat to send communications to all the State Biodiversity Boards with direction to adhere to the provisions of the BD Act in letter and spirit particularly dealing with ABS applications. Authority directed that NBA to develop a guideline to be used by the SBBs for processing ABS applications. NBA has sent a communication to all SBBs directing them to adhere to the provisions of the BD Act in letter and spirit particularly dealing with ABS applications. A draft guideline for processing applications received under Section 7 of the Biological Diversity Act, 2002 is developed by NBA to have uniformity amongst the SBBs in processing the applications.

2. The draft guideline was discussed in the 11th Annual Meet of the SBBs held on 30th September & 01st October 2016, and it was further improved by the NBA and circulated to all the SBBs for comments. In response, Karnataka, Gujarat, Jammu & Kashmir, Telangana, Tripura and Sikkim have offered their comments on the draft. This was again discussed in the 12th Annual meet of the SBBs held on 7th & 8th November 2017.

3. The members felt that this guideline would bring in uniformity for processing the application by the SBB.

Decision:

a) The Members approved the Guidelines for Processing of ABS applications received by the State Biodiversity Boards under section 7 of the Biological Diversity Act, 2002, which is appended as Annex-II.

b) Authority decided that the guidelines can be communicated to all State Biodiversity Boards for implementation and the same may be hosted in the NBA website.

Action: Secretary, NBA.

43.07: To consider closure of application in Form-I (App.No. 304) filed by Ms. Rakesh Minocha, USDA Forest Service, USA due to expiry of validity period of ABS agreement

Ms. Rakesh Minocha, USDA Forest Service, Northern Research Station, USA submitted an application in Form-I for seeking prior approval of NBA for accessing dead leaf samples of few tree species as well as corresponding soil sample from Himachal Pradesh and Chandigarh for conducting research. Pursuant to the decision taken in the 15th meeting of Authority held on 29th October, 2009, NBA executed the agreement with the applicant on 10th October, 2010 subject to conditions. The applicant submitted the status report to NBA on 27th August, 2013 in which it was observed that the conditions laid down by this office are fulfilled by the applicant except deposition of soil samples as Chandigarh could not accept the samples as they are entitled to preserve only the microorganism and not the soil samples.

2. It was proposed that since the tenure of the agreement was expired in 2012, the application may be treated as closed as per the decision taken in the 34th Authority meeting vide agenda item no. 34.06.

Decision:

a) Authority decided that NBA may close the application (Appl.no.304) and consign file to records.

Action: Secretary, NBA

43.08: To consider the Report of the Expert Committee on Medicinal Plants dealing with notifications issued u/s 38 of the Biological Diversity Act, 2002 and related matters.

An Expert Committee (EC) on Medicinal Plants under the Chairmanship of Smt. Amarjeet Ahuja, IAS (Retd.) *vide* Office Order dated 5th May, 2015 was reconstituted to deliberate on the issues relating to threatened species notifications u/s 38 of BD Act, threat assessment, principles and procedures involved in negative listing of species for exports issued by the DGFT and safeguarding of TK relating to medicinal plants documented through PBRs.

2. After six sittings from 2015 to 2017, the EC prepared their recommendations and the Report was submitted to NBA. Dr J. Soundrapandi, Expert Consultant, Medical Plants made a detailed presentation on the report of the expert Committee on medicinal plants. He highlighted the recommendations of the EC particularly on process for identification and notifying threatened species should be compatible with globally accepted IUCN methodology; status of the notified species to be reviewed periodically preferably once in five years, in the absence of any other viable and uniform methodology of threat assessment, the CAMP process be adopted as a method of threat assessment; notified species should be treated as 'Action List' for NBA to oversee and monitor; Ministry of AYUSH to be involved as an important stakeholder in the documentation of PBRs; with regard to mobilization of financial resources, the funding sources like CAMPA funds, CSR etc.

3. MoEFCC offered their views that some organizations such as NBRI, Lucknow are undertaking activities such as ecological niche modelling that may be relevant to the work relating to Section 38 of the BD Act. It may be useful to consult such organizations. Since notifications have already been issued under Section 38 for several States, and are in advanced stages for some others, a plan of action for adopting the new process outlined in the report would also be necessary.

4. Dr. Sanjay Kumar, Director, Institute of Himalayan Bioresource Technology, explained on the ecological niche modelling which will give information on species distribution and potential areas for reintroduction of species. He added that in addition

to the National Botanical Research Institute, Lucknow, few other institutes are also undertaking activities on ecological niche modelling *i.e* Institute of Himalayan Bioresource Technology and North East Institute of Science and Technology, Jorhat.

5. The members appreciated the chair, co-chair and members of the EC on Medicinal plants for the preparation report covering various issues relating to medicinal plants.

Decision:

a) Authority approved the report of the Expert Committee on Medicinal Plants.

b) Authority also decided that notification of the threatened species may be issued in the new format for following:

   (1) Revision / augmentation of threatened species of the states who have already notified the list u/s 38 of the BD Act.

   (2) Notification of threatened species for the States who are not yet initiated the process.

c) Dr Sanjay Kumar, IHBT; a representative of NEIST, Jorhat and NBRI, Lucknow may be invited to the next meeting for making presentation on ecological niche modeling to understand the threat assessment process.

Action: Secretary, NBA

43.09: To consider the minutes of the consultative Meeting of Stakeholders on Notification of Plants and Animals as threatened species u/s 38 of the Biological Diversity Act, 2002 held on 9th October, 2017 at NBA

A consultative meeting of stakeholders involving representatives of the Ministry of Environment, Forest and Climate Change (MoEFCC), Botanical Survey of India (BSI), Zoological Survey of India (ZSI), and State Biodiversity Boards (SBB) of Andhra Pradesh, Arunachal Pradesh and Telangana was organized by the NBA on 9th October, 2017 at NBA, Chennai. The meeting aimed to resolve the pending issues, both technical and administrative, at various levels with stakeholders relating to notification of plants and animals as threatened species for those non-notified states and to prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species, under section 38 of the Biological Diversity Act, 2002 (BD Act). The meeting resolved all the stakeholders may consult each other

to share information and resolve pending issues to expedite the notifications process. The members took note of the item as information.

43.10: To consider proceedings of the 13th meeting of the Expert Committee on Normally Traded as Commodities held on 21st July, 2017 at NBA, Chennai.

The Secretary informed that 13th meeting of the Expert Committee on Normally Traded Commodities met on 21st July, 2017 at NBA, Chennai under the Chairmanship of Shri. D.K. Ved, IFS (Retd.) and considered various proposals received from stakeholders such as the representation made by Hon'ble MP (LS), Shri. Ramesh Bais relating to the inclusion of *Sal* (*Shorea robusta*), *Kokum* (*Garcinia indica*) and *Mango* (*Mangifera indica*) in the MEIS Scheme. He added that summary of decisions of the 13th Meeting of the EC on NTAC was considered by the authority in its 42nd meeting and Authority, in principle, approved the recommendations of the draft proceedings of the 13th meeting of the EC on Normally Traded Commodities, and directed to take action on the approved proceedings submitted by the Committee.

2. He also informed that MOEFCC recently vide notification. S.O(E) dated 07th November, 2017 has augmented the list of items Normally Traded as Commodities from 385 items to 421 items under section 40 of the BD Act.

3. Shri M. Gunasekaran, Assistant Commissioner (Seeds), Department of Agriculture Co-operation & Farmers Welfare, expressed that DAC has notified the seeds before 2002 under different Acts including Seed Act, 1966 and now which were held by the entities/ departments as well as in the public domain. He sought for the applicability of the provision of the BD Act towards export/import of seeds notified before 2002 and also suggested that such notified seeds may be exempted under Section 40 of the BD Act.

4. The EC on NTAC endorsing the recommendations of the Expert Committee on Agro-biodiversity viz a viz, the export of seeds to make its BD Act compliant, in which the representatives of the DACF&W also participated as well as expressed their views on this subject has agreed to the collective decisions taken in the meeting. The issues

raised by the Assistant commissioner (seeds), DACF&W will be referred to the EC on NTC for deliberation and examination.

Decision:

a) Authority endorsed to the recommendations made by the Expert Committee on Normally Traded as Commodities.

b) Authority directed to refer the issue raised by a Member from DAC&WF on applicability of the provision of the BD Act on export/import of seeds which were notified before 2002 (Indian Minimum Seed Certification Standards), to EC on NTC for examination.

Action: Secretary, NBA

43.11: To consider the applications for access to Red Sanders wood approved by the Chairperson, NBA for ratification

Following the auction of Red Sanders by the Department of Revenue Intelligence (DRI) through STC and MMTC, through global tenders, NBA received 4 applications from foreign buyers seeking access to Red Sanders wood. As per the procedure approved by the Authority in its 32nd (32.07) and 33rd (33.04) meetings, the applications have been processed and approval was accorded by the Chairperson after receiving due benefit sharing component.

Decision:

a) The Authority ratified the approvals accorded by the Chairperson, NBA on the Form-I applications seeking access to Red Sanders wood.

Action: Secretary, NBA.

43.12: To consider the Form-B applications disposed by the Secretariat for ratification

Members ratified the approvals accorded by the Chairperson, NBA to the 11 Form-B applications in accordance with the decision of the 32nd Authority.

Decisions:

The Authority ratified the action taken on Form B applications by the NBA Secretariat and the same may be hosted in the NBA website.

Action: Secretary, NBA.

43.13: Details of Form-C applications received by the NBA

The Authority took note of the decision taken in the 37th meeting of the Authority held on 22nd March 2016 under agenda item 37.14.02, that nine (8) researchers / scientists have provided their prior intimation to NBA in Form-C for depositing of microorganism since the last meeting.

43.14 Constitution and re-constitution of expert committee

The members ratified the re-constitution of expert committee on Access and Benefit Sharing (ABS) under the Chairmanship of Dr Giridhar Kinhal IFS *(Retd.)* to evaluate the ABS applications, examine other techno-legal issues with a tenure of one year from the date of issuance.

Decisions:

The Authority ratified the action on reconstitution of Expert Committee on ABS.

Action: Secretary, NBA

43.15 Presentation on scheme for certification of folk healers by Quality Council of India (QCI)

The members were informed that Quality Council of India (QCI) is a pioneering experiment of the Government of India in setting up organizations in partnership with the Indian industry. It was also informed that QCI proposed for a scheme for certification of folk healers in authority meeting. The members deferred the item to the next meeting since the representatives of QCI could not attend the meeting.

Action: Secretary, NBA

43.16: To consider the proposal of National Research Centre on Equines, Hisar to designate the National Centre for veterinary Type Cultures repository under section 39 of the BD Act.

The Secretary informed to the members that so far MOEFCC in consultation with the NBA was designated 15 National Institutions/Organizations as repositories under section 39 of the BD Act to keep safe custody of voucher specimens deposited by the

users of the biological resources. He added that Director, ICAR-National Research Centre on Equines, Hisar has sent a proposal to NBA for designating the National Veterinary Type Cultures (NVTC) as a national repository under section 39 of the BD Act for safe deposit voucher specimens of veterinary / animal / rumen / dairy microbial cultures and parts thereof, of new taxa discovered.

2. It was informed that NBA has not received any application which requires to deposit voucher specimens like veterinary / animal / rumen / dairy microbial cultures and parts thereof. It was also informed that issue has been considered by the Authority in its 42nd Meeting held on 21st August, 2017 and it was decided to invite the Director, ICAR-National Research Centre on Equines for next meeting to make detailed presentation for taking decision on this subject. Authority also decided to form a small group for developing a guideline for eligibility conditions/ parameters for identification of repositories

3. Dr Tripathi, Director, NRCQ, Dr Sanjay Barne, Principal Scientist, NVTC and Dr Y.K.M. Reddy, Nodal Officer, NVTC-TANUVAS, Chennai were presented before the Authority. Dr Sanjay Barne has made detailed presentation about the National Veterinary Type Cultures, Hisar, by highlighting its infrastructure, human resources, facilities and equipment's, numbers of accession held (3000 nos), receipt, duplication, monitoring of microbial cultures and its safety mechanism, etc. During the presentation, he highlighted that NVTC is an only institute having facility of holding Biosafety Level – III Microorganisms (BSL-III). He added that they are having two regional centers at different locations in the country.

4. After being heard, the members also considered the comments of MOEFCC that it *is necessary to first establish a need, in accordance with the decision of 32nd meeting of Authority* and discussed the same. After detailed discussion, the members opined that NVTC is only repository capable of accepting and storing of BSL-III type microorganism which are pathogenic in nature.

Decisions:

a) The Authority decided to recommend to designate the National Veterinary Type Cultures (NVTC) as a national repository as it has facility to hold Biosafety Level–III microorganism & veterinary related microorganisms.

Action: Secretary, NBA.

43.17 Activities undertaken by the UNEP-GEF-MOEFCC ABS Project

The activities undertaken by the UNEP-GEF–MOEFCC ABS project such as participation in the awareness programme on BD Act and SBB Rules was in July at Bengaluru, Karnataka; participation in the interactive capacity building programme on Biodiversity, BD Act and Access Benefit Sharing (ABS) mechanism held in August, 2017 at Vijayawada, Andhra Pradesh; Interactive workshops on the BD Act and Rules alongside ABS mechanism held at Chail, Shimla and Dharmashala in Himachal Pradesh during September, 2017; the interactive exhibition on the Biodiversity and Biological Diversity Act 2002 and Rules in the India International Science Festivals (IISF) 2017 held at the Anna University Campus, Chennai and also a workshop was organized related to theme of framework for the Phase- II of UNEP-GEF ABS Project with the help of Centre for Innovations in Public Systems (CIPS), ASCI, Hyderabad.

43. 18: To consider the draft Annual Report 2016-17

The members considered and approved the draft annual report for the year 2016-17.

Decisions:

The Authority approved the draft Annual report for the year 2016-2017.

Action: Secretary, NBA

43. 19: Items for information

The members were informed about the meeting under the Chairmanship of the Secretary Ministry of Environment, Forest & Climate Change on 31st October, 2017 to discuss issues relating to Biological Diversity Act, 2002 raised by Ayurvedic Drug Manufacturers' Association (ADMA), Mumbai in their representation dated 10th October, 2017 and Ayurvedic Medicine Manufacturers Organisation of India (AMMOI), Kerala. An interactive session with ADMA & AMMOI was held during the 12th Annual meet of the SBB on 07th November, 2017.

2. The 12th National Meet of State Biodiversity Boards (SBBs) held on 7th & 8th November 2017 at Chennai, reviewed various issues relating to implementation of the

Biological Diversity Act more particularly on draft guidelines for processing of Access and Benefit Sharing applications by the State Biodiversity Boards, sharing of information on approvals granted by the State Biodiversity Boards, draft operational guidelines for BMCs, Normally Traded Commodities vis-a-vis ABS / applicability of law and linking activities with Panchayati Raj Institutions with regard to BMCs, Ms.Leena Nair, IAS, Secretary, Ministry of Tribal Affairs, GoI was the Chief Guest for the said meet. Dr.A.K.Goyal, IFS., (Retd), Special Secretary, Ministry of Panchayati Raj also participated in the meet as guest of honour.

43. 20: Any other item(s) with the permission of Chair

NIL

Annex-I

List of Participants

Official Members who participated			
1	**Dr (Mrs) B.Meenakumari** Chairperson, National Biodiversity Authority, Chennai	3	**Dr. G. Dharani,** Scientist-E, National Institute of Ocean Technology, Chennai, Ministry of Earth Sciences, Velachery-Thambaram Main Road, Narayanapuram, Pallikaranai, Chennai – 600 100
2	**Shri. M. Gunasekaran,** Assistant Commissioner (Seeds), Department of Agriculture Co-operation & Farmers Welfare, Cabin no: 16, F-Wing, 2nd Floor, Shastri Bhawan, New Delhi-110001	4	**Dr. Sanjay Kumar,** Director, CSIR - Institute of Himalayan Bio resource Technology P O No:6, Palampur, Himachal Pradesh: 176061
5	**Shri. T. Rabikumar, IFS** Secretary,National Biodiversity Authority, Chennai –600 113.		
Non-Official Members who participated			
6	**Dr. Yogesh Shouche** Senior Microbiologist, National Centre for Cell Science Department of Biotechnology Lab, University of Pune Campus, Ganeshkhind, Pune, Maharashtra – 411 007	7	**Dr. Dinesh Misra,** No: 65, Sector 8 Gandhi Nagar, Gujarat - 382008
Members who did not participate			
8	The Additional Director General of Forests, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003.	13	**Dr. B.K Shukla,** Scientist G & Head Planning, Coordination and Performance Management, Department of Science & Technology, New Mehrauli Road, New Delhi – 110 016.
9	**Smt. Shomita Biswas, IFS.,** Chief Executive officer, National Medicinal Plant Board, Department of AYUSH, Ministry of Health & Family Welfare, 3rd Floor, AYUSH Bhawan, B Block, G.P.O. Complex, I.N.A., New Delhi-110 023	14	**Shri. K. Chandra Sekhar,** Under Secretary, Ministry of Tribal Affairs, Room no. 216, J-Wing, 7th Floor, Shastri Bhawan, New Delhi – 110001
10	**Dr Sujata Arora** Adviser / Scientist 'G' Ministry of Environment, Forest and Climate Change Government of India Room No. V 235, Vayu Block, Second Floor Indira Paryavaran Bhawan Jor Bagh Road New Delhi-110 003	15	**Shri Darshan Shankar,** Chancellor, TransDisciplinary University, C/o Foundation for Revitalization of Local Health Traditions (FRLHT), 74/2, Jarakabande Kaval, Post Attur via Yelahanka, Bangalore - 560 064

11	**The Deputy Director General,** Division of Crop Science, ICAR, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi -110 001	16	**Dr Parimal Chandra Bhattacharjee,** A/3 Asiyana Housing Complex Maligon, Guwahati – 781011, Assam.
12	**Dr. Renu Swarup** Senior Advisor, Department of Biotechnology Ministry of Science & Technology, Govt. of India, Block No:2, 6-8th Floor, CGO Complex, Block No. 2 Lodhi Road, New Delhi 110 003.	17	**Prof. Umesh Rai** Director,Department of Zoology, South Campus, University of Delhi New Delhi- 110 007
Special Invitee who participated			
18	**Dr B.N.Tripathi,** Director, ICAR-National Research Centre on Equines, Sirsa Riad, Hisar-125 001 Haryana	19	**Dr. Sanjay Barne,** Principal Scientist, NCVTC, ICAR-National Research Centre on Equines, Sirsa Riad, Hisar-125 001, Haryana
20	**Dr. Y. K. M. Reddy** Nodal officer NCVTC- Tamil Nadu Veterinary and Animal Sciences University, Madhavaram, Chennai		
Special Invitee who did not participate			
21	**Smt. Amarjeet Ahuja, IAS (Retd.),** (Chair, EC on Medical Plants) Senior Fellow, Aravali Foundation for Education, Aravali House, 431-432/D-22, Chattarpur Hills, New Delhi - 110 074.		

Annex-II

Operational Guidelines to the State Biodiversity Boards for Processing of Applications for Access to Biological Resources received under section 7 of the Biological Diversity Act, 2002

1. Preamble and Scope

a) The objectives of the Biological Diversity Act (BD Act), 2002 are to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources and associated knowledge. Under Section 7 of the BD Act, the State Biodiversity Board (SBB) is the competent authority for granting approvals to Indian citizens (other than NRIs)/ entities (body corporate, association or organization incorporated or registered in India under any law for the time being in force which has no non-Indian participation in its share capital or management) who give prior intimation to the SBB for obtaining biological resources for commercial utilisation or bio-survey and bio-utilisation for commercial utilisation.

b) The SBBs are also mandated to advise the State Government on matters relating to biological diversity. The operational guidelines in the following sections act as an aiding tool for SBBs in processing of access and benefit sharing (ABS) applications received by them under Section 7 of the BD Act.

c) The operational guidelines aim to ensure that the regulatory activities of SBBs are compliant with the provisions of the BD Act and the Biological Diversity Rules (BD Rules), 2004**.**

d) These guidelines provide clarity with respect to examination and processing of the applications submitted by the Indian citizens/ entities who fall under section 7 of the BD Act, in the Form prescribed in the relevant State Biodiversity Rules, seeking approval to access biological resources for specific purposes. The set of guidelines shall also provide a framework to ensure uniform procedure to be adopted by the SBBs in processing the applications.

2. Procedure for scrutiny of applications by the officer or person concerned:

2.1 Receipt of application

On receipt of the completed application form,

a) The officer or person concerned shall allot a reference number to the application.

b) See whether the requisite application fee has been received and if so arrange for depositing the same in the State Biodiversity Fund.

c) Generate a receipt for the application fee and forward the same to the applicant.

2.2 Status of the applicant

The officer or person concerned shall *prima facie* satisfy that the applicant is covered under Section 7 of the BD Act. This shall be done by examining the identity proof and address proof of the applicant furnished along with the Form. If the applicant is an entity (company / institution/ organization), the share holding pattern of the entity needs to be examined or a declaration on status of nationality/entity shall be obtained from the applicant. A copy of the format is appended as **Annex-01**.

Provided, if the applicant falls under Section 3(2) of the BD Act, he should apply to NBA in Form-I seeking approval to access the biological resources. Hence, the SBB shall return the application to the applicant with the intimation that the NBA is the competent authority to grant approval under Section 3 of the BD Act.

2.3 Screening of application

a) On receipt of the application, the officer or person concerned shall ensure that the applicant has filled in the respective columns appropriately and all the requisite documents (Address proof and identity proof of the applicant, authorisation letter for representative/ agents (if any), copies of board resolutions, declaration of nationality, etc.) are duly attached with the application form. If the application is complete in all respects and the requisite application fee has also been paid, then the application can be taken up for further processing.

Provided, if the application lacks vital information such as details of biological resources, geographical locations, purpose, without signature in the application, etc., the same may be returned to the applicant along with the fee.

b) If the application form is incomplete and needs certain minor details or clarification, the applicant may be addressed to provide the same by giving reasonable time. If there is no response, two reminders ought to be given after a gap of one month between the two reminders. In the event of non-response within the time limit specified or receipt of ambiguous replies, such applications may be treated as closed with the approval of the competent authority and the applicant informed accordingly without returning the application fee.

2.4 Purpose of access

a) The officer or person concerned shall verify whether the applicant has mentioned the exact purpose of accessing biological resources i.e, for commercial utilisation or for bio-survey and bio-utilisation for commercial utilisation.

b) It should be noted that no application should be entertained by SBBs if the purpose is for

- Research on a biological resource or associated knowledge.
- Obtaining Intellectual Property Rights for inventions based on any research or information on a biological resource obtained from India,
- Transfer of results of research related to biological resources occurring in, or obtained from India, to any non-Indian/ non-Indian entity, as defined u/s 3(2) of the BD Act
- Transfer of biological resource and/ or associated knowledge to any non-Indian/ non-Indian entity.

2.5 Biological resources

a) The officer or person concerned shall verify whether the biological resources to be accessed are clearly specified in the application along with common and scientific names, their parts and quantity.

b) The officer or person concerned shall also verify if the biological resource to be accessed is from wild (forest area) or cultivated or sourced from traders or communities or Joint Forest Management Committee. In case of any discrepancy or lack of information, the same shall be got clarified from the applicant.

2.6 Geographical location

a) The SBB is expected to entertain an application for access to biological resources only if the biological resources specified occur within the territorial jurisdiction of the State concerned. The officer or person concerned needs to verify the exact geographical location like name of the village, panchayat, block, taluk and district is within the State from where the particular biological resource is proposed to be accessed.

b) If the biological resource is proposed to be bought from a trader or from local market, institution or communities, etc. the officer or person concerned needs to verify that the complete details (Name, complete address, contact details, etc.) of such sources are also provided by the applicant. This is important while sharing benefits to the concerned.

c) In case a person other than the applicant is authorised for collecting the biological resources, the name and contact details of the person so authorised have to be verified. The authorisation letter in favour of the person so authorised, needs to be obtained. A format of authorization letter is appended as **Annex-02**

2.7 Quantity of biological resources

a) The officer or person concerned shall verify the exact quantity of biological resources and their parts proposed to be collected from each geographical location. This exercise may also involve a judicious assessment of the availability of some of the biological resources depending on their particular parts to be gathered in the light of sustainable harvesting.

b) The officer or person concerned shall verify whether the applicant furnished the proposed period / duration for collection of biological resources. If the applicant is proposed to collect the biological resources in different time interval, SBB may call for reasons/ justification for the same from the applicant.

c) If the applicant is intending to access of biological resources in a large quantity/ number of biological resources, SBB may call for reasons/ justification for the same from the applicant.

2.8 Threatened species

The officer or person concerned shall verify the threat (Rare, endangered and threatened) status of the biological resources sought to be accessed and evaluate whether obtaining the particular biological resources from their natural habitat is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity. The officer or person concerned shall also check the relevant notifications related to the threat status of the species under question before processing the application further.

2.9 Exemptions under the BD Act

While examining the applications received for access to biological resources, the examiner shall note that certain activities, as indicated below are exempted from the purview of the BD Act:

a) Human genetic material is excluded from the definition of biological resources.

b) Indian citizens or entities accessing biological resources occurring in or obtained from India, for the purposes of research or bio-survey and bio-utilization for research in India;

[Explanatory note: Indian citizens or entities need to obtain prior approval of NBA when they intend to obtain IPR on the results of research related to accessed biological resources and/ or associated knowledge obtained from India.]

c) Accessing value added products, which are products containing portions or extracts of plants and animals in unrecognizable and physically inseparable form;

d) Accessing biological resources, normally traded as commodities as and when notified by the Central Government under section 40 of the BD Act. *(for the specific purposes as indicated in the Notification)*

[Explanatory note: As per MoEFCC notification dated 7th April, 2016 & 07th November, 2017, a list of 421 items of biological resources are exempted from the purview of the BD Act when normally traded as commodities. The products that are derived from these listed items and traded as a matter of common practice are also to be treated as NTACs. However, the provisions of the BD Act shall apply to these items if there is an intention to use them for any other purpose.]

e) The local peoples and communities of the area including growers and cultivators of biological resource and *vaids* and *hakims* who have been practicing indigenous medicines, except for obtaining intellectual property rights.

f) Accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping, in India.

3. Consultation with Biodiversity Management Committees (BMCs)

a) In the event of accessing biological resources from wild or cultivated or from communities or traders, the SBB may consult the BMC, as outlined in the State-specific Rules. Wherever no BMC is constituted, the SBB may consult the respective local body.

Provided, if the biological resources are proposed to be collected from the ex-situ collection like ZSI, BSI, ICAR, CSIR, NBPGR, IARI institutes, etc., the process of consultation may be dispensed with.

[Explanatory note: The biological resources in the ex-situ collections are having no threat to conservation. Hence, the BMC consultation may be waived off.]

- After consulting the BMC or the local body, the SBB may decide the application in consultation with the expert committee, wherever necessary.

4. Consultation with an Expert Committee

The SBB may form a committee having experts drawn from various fields for conclusive examination of the applications, determination of benefit sharing and advising the SBB on the techno-legal issues. The officer or person concerned may prepare an agenda on the application along with remarks of the SBB and place the same before the expert committee for its consideration. Nevertheless, the Board of the SBB (Governing Body) is the competent authority to decide either to accept or reject the recommendations of the EC.

5. Determination of benefit sharing

a) With regard to the determination of benefit sharing, the SBB shall follow the broad principles outlined in the Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014.

b) When the biological resources are sourced from the jurisdiction of two or more BMCs, the total amount of the accrued benefits shall be shared among them in proportion as decided by the Governing body of SBB with due diligence.

c) If the biological resource including high economic value resources is accessed for bio-survey and bio-utilization leading to commercial utilization, the benefit sharing may include an upfront payment as decided by the SBB on a case-by-case basis. The guideline developed by the NBA for upfront payment (hosted in the NBA's website) may be followed. (**Annex-03)**.

d) In the event of IPR holder, who obtained approval from the NBA under Section 6 of the BD Act, applying to SBB for access to biological resources for commercial utilization, the SBB shall not fix benefit sharing as the applicant is already under obligation to NBA for sharing the benefits.

[Explanatory note: The person who falls under Section 3(2) or Section 7 needs to obtain prior approval of NBA before applying for IP rights in or outside India, as required under section 6 of the BD Act. Accordingly, if a person falls under section 7 applied to NBA seeking approval to obtain IP rights, the NBA while granting approval will fix benefit sharing on the commercial sale of the product using biological resources. Here, the approval granted by NBA is only to obtain IP rights from the Patent office. However, the applicant while accessing the biological resources for commercial production on the IP rights, he needs to obtain approval from the SBB. The above clause (d) explains that the SBB need not fix benefit sharing while granting approval to the applicant as the benefit sharing component has already been determined by the NBA.]

6. Grant of approval

a) The approval for accessing the biological resources shall be in the form of an agreement executed between the applicant and the competent authority of the SBB as per Regulation 2 (2) of the ABS Guidelines of 2014.

b) Upon approval of the Board, the SBB shall send a draft agreement to the applicant with a request to send two copies of the duly signed agreement (on a non-judicial stamp paper of the value in vogue in the respective State) with witnesses' signatures to the SBB for execution. Once the Competent Authority of the SBB signed the agreement, one copy of the agreement shall be sent to the applicant which will be construed as the approval of SBB to the intimation of access to the biological resources for the purpose requested.

c) If a final decision is reached to the effect that no approval can be granted on an application, for any reason, such an application may be rejected, by recording he reasons for non-consideration of the application. However, the applicants shall be given an opportunity to be heard before such rejection.

7. Sharing of benefits and monitoring mechanism

a) SBBs may retain a share not exceeding 5% of the benefits realized towards administrative charges and the remaining 95% share of the benefits shall be passed on to the BMC concerned or to the benefit claimers, if identified.

b) Where benefit claimers are not identified, such funds shall be deposited in the State Biodiversity Fund and it may be applied to support conservation and sustainable use of biological resources and to promote livelihoods of the local people from where the biological resources are accessed as per sub- section (2) of section 32 of the BD Act.

c) SBB may obtain periodical reports from the applicant about the activities carried out on the accessed biological resources. After the Agreement is executed, proper monitoring of the commercialization shall be carried out by obtaining annual reports from the applicant which may contain the quantity of the biological resources accessed and the products developed, gross sales, etc. Annually a certificate of sales attested by a Chartered Accountant shall be obtained from the applicant.

d) Fees, if levied by the BMC for accessing or collecting any biological resources for commercial purposes from areas falling within its territorial jurisdiction shall be in addition to the benefit sharing payable to the SBB.

e) The SBB shall maintain a Register (both in hard and soft) of Benefit Sharing, wherein the details of the Application, approval granted, benefit sharing component fixed and received and the ultimate defraying of the amount realized shall be entered.

---------END----------

Annex-01

DECLARATION

I am aware that the Section 3 (2) of the Biological Diversity Act 2002 states as under: -

Section 3 (2) - The persons who shall be required to take the approval of the National Biodiversity Authority under sub section (1) are the following, namely:

(a) a person who is not a citizen of India;

(b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income Tax Act, 1961;

(c) a body corporate, association or organization-

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

In this connection, I am herewith submitting the following declaration: -

I / we hereby declare that I / we *"fall" / *"do not fall" under the scope of the provisions contained in Section 3(2) of the Biological Diversity Act 2002.

** Strike out which is not applicable*

Signature of the Applicant

Date:

Seal

To

Annex-02

AUTHORISATION LETTER FOR AGENT/REPRESENTATIVE*

I/We/Mr./Ms./M/s.*_____hereby authorize Mr./Ms./M/s.* _____ as my/our* agent/representative* to submit an application under Form…. of the **(name of the State specific Rules)** to the **(Name of the State Biodiversity Board)** for the purpose of obtaining the prior approval as required under the **(Name of the State Rules)** , for access to biological resources for commercial utilization or bio-survey and bio utilization for commercial utilization.*

I/We* hereby authorize and declare that all actions committed by the agent / representative* with regard to the above purpose and all communications by the agent/representative* with the (Name of the State) SBB in this regard shall bind me/us* entirely.

Signature of Applicant
(Common seal if applicable)

Date:

Station:

Signature of Agent
(Common seal if applicable)

Date:

Station:

Instructions

** Strike out whichever is not applicable*

- The signature and seal (wherever applicable) in this authorisation letter must be in original.
- The SBB shall construe that the signature and seal (wherever applicable) of the agent/representative as being verified and confirmed by the applicant.

Annex-03

Guidelines for Upfront Payment

Amount of Upfront Payment for Access to Biological Resources for bio-survey and bio-utilization leading to commercial utilization					
Purpose	1. Quantity of biological resource for one species upto 5 Kg of biomass per site; 2. Upto 500 gm or 500 ml for soil, water (microorganisms) respectively per site				Traditional knowledge associated with biological
	From natural habitat	From cultivated source/ institution / market	From Industrial effluent and	Threatened species fro m natural	
1	2	3	4	5	6
Nutraceutical or Agricultural	Rs.10,000	Rs.3,000	Rs 1,000	Rs.15,000	30% more than the normal rate
Pharmaceutical, Chemical and Diagnostic	Rs.15,000	Rs.5,000	Rs 1,000	Rs.20,000	30% more than the normal rate
Cosmetics and Luxury products	Rs.20,000	Rs.7,000	Rs 1,000	Rs.30,000	30% more than the normal rate
Environmental bio-remediation or waste conversion/	Rs.2,000	Rs.1,000	Rs 1,000	Rs.4,000	---
Other Research	Rs.5,000	Rs.2,000	Rs 1,000	Rs.10,000	30% more than the normal rate

** quantity of biological resources will be decided by the NBA on case by case basis.*

Calculation of Payment:

a) aggregate of each species multiplied by quantity and multiplied by number of sites;
b) wherever the soil/water is being accessed the basis of assessment for this purpose shall be in terms of ml/mg, as the case may be, & multiplied by number of sites.

Note: 1.The accrued amount will be shared as per the provisions given in the ABS Regulations, 2014
2. Above rates may be revised from time to time.