NATIONAL BIODIVERSITY AUTHORITY

PROCEEDINGS OF THE 34th AUTHORITY MEETING

29th June 2015

Venue

Godavari Hall,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi – 110 003

Proceedings of the 34th Authority Meeting of the National Biodiversity Authority

The thirty fourth meeting of the National Biodiversity Authority (NBA) was held on 29th June, 2015 from 02.00 PM at the Godavari Hall, Ministry of Environment, Forest and Climate Change (MoEFCC), New Delhi under the chairmanship of Shri. Hem Pande, IAS, Chairman, NBA to consider the agenda items circulated to the Members *vide* email dated 23rd June, 2015 and hard copy by messenger on 24th and 25th June, 2015. The list of participants is placed as **Annex-1- pg.no.12**.

2. At the outset, Shri. Hem Pande, IAS, Chairman, NBA welcomed all the Members and the special invitees to the meeting. Shri T. Rabikumar, IFS, Secretary, NBA, also extended welcome to the Members and special invitees and briefed the activities carried out since the last Authority meeting.

Thereafter, the agenda items were considered and discussed as under:-

34.01: Confirmation of Proceedings of the 33rd Authority meeting

The draft Proceedings of the 33rd Authority meeting of the National Biodiversity Authority held on 17th April, 2015 in Chennai was circulated to the Members vide email dated 3rd May, 2015 seeking their comments. In response, comments received from Dr.S.Subramaniyan, Member, NBA, Dr. Sujata Arora, Director, MoEFCC and Dr.Renu Swarup, Senior Advisor, DBT were incorporated appropriately and approved. The approved Proceedings was placed before the Authority for confirmation. The Members confirmed the Proceedings.

2. The Members requested the Chairman that important activities under taken by the Secretariat between the meetings of the Authority may be appraised. Further they emphasized the need to create awareness on the provisions of the Biological Diversity Act, 2002 and directed the Secretariat to advertise the various provisions of the BD Act in print media, both national and local.

Decisions:

a) The Authority directed the Secretary to update the Members on important activities under taken between the Authority meetings.
b) The Authority directed the Secretariat to advertise the provisions of BD Act, 2002 in print media, both national and local.

Action: Secretary, NBA

34.02: Action taken report of the 33rd Authority meeting

The Secretary, NBA apprised the Members about the actions taken on the decisions of the 33rd Authority meeting. The observations and decisions of the Authority on the action taken report are given below:

2. With regard to item no. 33.05, the Secretary, NBA informed the Members that the Department of Biotechnology (DBT) submitted a discussion note on certain clauses and provisions of the BD Act 2002 to the Chairman, NBA on 27th June 2015. The Members decided that the same may be examined in the Expert Committee on Access and Benefit Sharing (EC on ABS) and their recommendation may be considered by the Authority thereafter.

3. Based on the decision taken in the 32nd Authority, the Secretariat conveyed the decision to the CSIR for execution of agreement. Since there was no response from the CSIR, and in order to expedite the process, the NBA secretariat requested Dr.R.S.Rana, Member, NBA to approach CSIR in this regard, as he was actively involved in the process from the beginning. In this connection, while discussing the item no. 33.15.02, Dr. R.S Rana, Member, NBA informed that CSIR is of the view that since monetary benefits were agreed upon, clause 5.2 (non-monetary components) of the agreement has no relevance. It was also informed that such a request had not been received by the NBA Secretariat from CSIR. The Members discussed the issue in detail and decided that clause 5.2 of the agreement may be deleted.

Decisions:

a) The Authority decided that the discussion note sent by DBT on certain clauses and provisions of the BD Act, 2002 may be examined by the EC on ABS and their recommendations may be considered by the Authority thereafter.
b) The Authority decided that clause 5.2 of the agreement with CSIR may be deleted as only monetary benefits have been agreed upon.

Action: Secretary, NBA

34.03: To consider the Proceedings of the 32nd meeting of EC on ABS held on 28th May, 2015

The Secretary, NBA informed the Members that the 32nd meeting of EC on ABS was held on 28th May, 2015 at the NBA, Chennai. The EC examined and provided recommendations on 36 applications and also considered the issues raised by the Department of Biotechnology, revision of ABS application formats etc. The Members considered and endorsed the recommendations of the EC and their observations and decisions are detailed below:

2. While discussing the recommendations of the EC on ABS on the issues raised by DBT, Dr. Renu Swarup, Senior Advisor, DBT informed that the DBT will prepare the draft form for the use of Indian researchers depositing Indian bioresources in foreign repositories for non-commercial use, in consultation with the NBA.

3. The Members appreciated the recommendation of the EC for expeditious processing of applications viz., in the case of application (Form I and Form III) where the biological resources are procured/ obtained from NBA-approved repositories or from Government Institutions such as ICAR, CSIR, Universities, there is no need for referring such applications to SBB/ BMC for their consent or otherwise. In addition, the Authority decided where the Members approved/endorsed the recommendation of the EC on ABS, further action on the concerned applications may be initiated without awaiting issuance of approved Proceedings of the Authority meeting.

4. With regard to ABS application no.610 by Dr.Prasanth Neminath Patel, Form-III wherein the applicant requested for reduction of benefit sharing. Accordingly, the Authority fixed 1.0% of ex-factory annual gross sale, as specified in the ABS Regulations 2014, instead of 1.5%, as recommended by the EC. The details benefit sharing component is as follows:-

1. *Where the applicant himself commercializes the process/product/ innovation, the monetary sharing shall be **1.0%** on the annual gross ex-factory sale minus government taxes.*
2. *Where the applicant assigns/licenses the process/product/innovation to a third party for commercialization, the applicant shall pay to NBA **3.0%** of the fee received (in any form including the license / assignee fee) and **2.0%** of the royalty amount received annually from the assignee/licensee.*

5. Further, the Authority took note of the similar request made by the applicant on the remaining applications i.e., 611, 612, 613 and 614. As requested by the applicant, the 31st EC on ABS recommended 1.5% as ABS component and the same was endorsed by the 33rd Authority meeting under item no.33.05. Keeping in view of the reasons mentioned at sl.no.4, the Authority reversed its earlier decision and decided to fix the percentage as 1.0% for the applications as specified in the ABS Regulation 2014.

Decision:

a) The Authority approved the recommendations of the EC on the ABS applications and other issues.
b) The Authority decided that when the members approved the recommendations of the EC on ABS without any modification, the Secretariat may initiate further action on the concerned applications without awaiting the issuance of approved Proceedings of the Authority meeting.

Action: Secretary, NBA

34.04: To consider the decision of the Chairman, NBA on the Form-B applications

The Members were informed of the details and approval of the Chairman, NBA on the Form-B application submitted by Dr.Ramachandran Kotharambath, Professor, Dept. of Zoology, Government College, Chittur, Kerala for carrying Caecilian specimens to London for conducting taxonomic research.

Decisions:

The Authority ratified the approval accorded by the Chairman, NBA on the Form-B application.

Action: Secretary, NBA

34.05: To consider processing of application related to export of Seaweed by Indian individual / entities

The Secretary, NBA informed the Members that the NBA Secretariat is continuously receiving applications from Indian individuals/ entities for export of bulk quantity of seaweed to foreign countries. The guidance of the Authority was sought on processing such applications taking into consideration the decision of the 28th Authority meeting and Regulation 11 of the Guidelines on Access to Biological Resources and Associated knowledge and Benefit Sharing Regulations 2014.

2. The Members deliberated the issue in detail and decided that the NBA Secretariat may process the applications which were received prior to the ABS Regulation came into force.

Decisions:

The Authority decided that the NBA Secretariat may process the applications from Indians for export of seaweed who have applied prior to ABS Regulation came into force.

Action: Secretary, NBA

34.06: To consider developing process for dealing the files containing agreement which do not require any action

The Secretary, NBA apprised the members that executed agreements may require termination on situations such as expiry of validity period, completion of task, fulfillment of terms and conditions, patent not granted, ceased patent etc., and currently there is no procedure in place to deal with such files. Following detailed discussion, the Members authorized the Chairman, NBA to consign those files to record which do not require further action. Subsequently, the details of such files/applications may be placed in the Authority for information.

Decision:

The Authority authorized the Chairman, NBA to consign those files to record which do not require further action. Subsequently the details of such files/applications may be placed in the Authority for information.

Action: Secretary, NBA

34.07: To consider the proposal for inclusion of Technical Officer (BS), NBA and Technical Officer (IPR), NBA as complainant u/s 61(a)

The Members were informed that in continuation to the decision of the 31st Authority to include Advisor (Law), NBA as an authorized officer to file complaint u/s 61 (a) of the BD act 2002, the Technical officer (Benefit Sharing) and Technical officer (IPR) in the rank of GP (4800) may also be considered for inclusion as complainant u/s 61 (a) of BD Act, 2002. The Members agreed to the proposal.

Decision:

The Authority agreed to include Technical officer (Benefit Sharing) and Technical officer (IPR) as authorized representatives to file complaints u/s 61 (a) of the BD Act, 2002, and directed the Secretariat to send the proposal to this effect to the MoEFCC for notification.

Action: Secretary, NBA

34.08: To consider the minutes of the 1st and 2nd Meetings of EC on Red Sanders

The Secretary, NBA informed the Members that the first and second meetings of Expert Committee on Red Sanders were held on 18th April 2015 at Chennai and 15th & 16th May, 2015 at Goa respectively to develop a comprehensive policy to utilize the benefit sharing component realized from the access of Red Sander wood, covering protection, conservation and sustainable use of Red Sanders. The Members noted the minutes of the meetings.

34.09: To consider the minutes of the first meeting of EC on Biodiversity Management Committees (BMCs) held on 23rd April, 2015

The Members were appraised that the first meeting of Expert Committee on Biodiversity Management Committees (BMCs) was held on 23rd April, 2015 at the office of the NBA, Chennai. The Members were also informed of the regional meetings held thereafter. The Authority took note of the minutes of the meeting and also expressed that the Members of the Authority may be invited to the meetings in order to gain exposure to the workings of BMCs.

34.10: State Environment and Forest Ministers' Conference

The Members were informed that the State Environment and Forest Ministers' conference was held on 6th and 7th April, 2015 at Vigyan Bhawan, New Delhi, where issues such as progress made in the notification of state specific rules under the BD Act, formation of BMCs in the states, preparation of PBRs etc., were discussed in detail and five resolutions in this regard were made. It was also informed that those resolutions were forwarded to SBBs for compliance. The Members noted the resolutions adopted.

34.11: Constitution / reconstitution of Expert Committees

The Secretary, NBA apprised the Members that the Expert Committee on Medicinal plants was reconstituted under the Chairmanship of Smt. Amarjeet Ahuja, IAS (Retd.) vide office order dated 5th May, 2015.

Decisions:

The Authority ratified the reconstituted Expert Committee on medicinal plants.

34.12. The following agenda items were deferred in the 27th Authority meeting held on 24th-25th January, 2014 due to paucity of time and want of detailed discussion

34.12.01: Minutes of the second meeting of the reconstituted Expert Committee on Medicinal Plants held on 26th & 27th November 2013

The Members were apprised that the second meeting of the reconstituted EC on medicinal plants was held on 26th – 27th November, 2013 at Chennai to review the reports of the three sub-committees constituted under the EC. The Authority acknowledged the valuable contribution of the EC in preparing the reports and decided that the same may be examined by the newly reconstituted EC on medicinal plants.

Decision:

The Authority directed the newly re-constituted EC on medicinal plants to examine the minutes of the second meeting of the EC on medicinal plants held on 26th-27th November, 2013.

Action: Secretary, NBA

34.12.02: Brainstorming Meeting on Draft National Working Plan Code - 2012 held on 23rd Feb, 2013 at Indira Gandhi National Forest Academy, Dehradun

The Members were apprised that the NBA organized a one day brainstorming meeting on the Draft National Working Plan Code 2012 at IGNFA, Dehradun. The Members noted the minutes of the meeting.

34.12.03: Interaction Meeting between Consultative Group on International Agricultural Research (CGIAR) Centers and National Biodiversity Authority held on 18th July, 2013 at New Delhi

The Members were informed that the NBA organized a one-day interaction meeting with CGIAR centers at New Delhi. The Members placed on record their appreciation for the efforts extended by CGIAR centers and noted the proceedings of the meeting.

34.12.04: Interaction Meeting of NBA, BSI and ZSI held on 1st October 2013 to facilitate the preparation of PBRs

The Secretary, NBA informed the Members that an interaction meeting of NBA, Botanical Survey of India and Zoological Survey of India was organized on 1s October 2013. The Authority noted the Proceedings of the meeting.

34.13. To consider the augmented list of Normally Traded Commodities

The Secretary, NBA informed the Members that the Expert Committee on Normally Traded Commodities (NTC) in its meetings held on 16th March, 2015, 17th May, 2015 and 11th June 2015 discussed and finalized the draft notification of NTC. The draft notification was placed before the Members for consideration. The observations and decisions of the Members are detailed below:

2. In the list of 426 species / biological resources/ items, against sl no. 40.b. the Members decided that the term 'kernel' may be used in the place of 'seed'. They further decided that under the 'explanatory notes', sl no. 8 may be deleted. Barring the above changes, the draft notification was unanimously approved by the Authority. After detailed deliberation, the following decisions were taken:

Decision:

a) The Authority approved the draft notification of Normally Traded Commodities after certain modifications viz., against sl no. 40.b in the list of 426 species/ biological resources/ items the term 'seed' to be replaced by 'kernel' and sl no.8 of the explanatory notes to be deleted.
b) The Authority decided to host the approved draft notification in the NBA website for 45 days inviting comments/ input from the public.
c) The Authority decided to forward the draft notification to the MoEFCC.
d) The above action may be carried out without awaiting the issuance of approved Proceedings of the Authority meeting.

Action: Secretary, NBA

34.14.01: To consider revision of benefit sharing component

The Secretary, NBA informed the Members that inadvertent typographical errors had occurred in the Proceedings of the 31st meeting of EC on ABS with respect to benefit sharing component of three applications and the same was endorsed by the 33rd Authority. The revised proposals were placed for the Authority's consideration. The Members approved the proposal and the revised benefit sharing component is provided below:

Appl no.	Form	Applicant	Recommendation of the 31st EC on ABS approved by the 33rd Authority	Decision of the 34th Authority
765	III	CSIR	Where the applicant himself commercializes the process/product/ innovation, the monetary sharing shall be **0.1%** on the annual gross ex-factory	Where the applicant himself commercializes the process/product/ innovation, the monetary sharing shall be **0.2%** on the annual gross

			sale minus government taxes.	ex-factory sale minus government taxes.
767	III	CSIR	Where the applicant himself commercializes the process/product/ innovation, the monetary sharing shall be **0.1%** on the annual gross ex-factory sale minus government taxes.	Where the applicant himself commercializes the process/product/ innovation, the monetary sharing shall be **0.2%** on the annual gross ex-factory sale minus government taxes.
739	I	M/s. Ganga Kaveri Seeds Pvt. Ltd.,	The expert committee recommends for approval with BS component of **5%** with the monetary consideration	Approved subject to the **benefit sharing arrangement as provided in regulation 4 of the ABS guidelines** should be applied as and when commercialized.

Decision:

The Authority approved the revision in benefit sharing with respect to three applications viz., 765, 767 and 739.

Action: Secretary, NBA

34.14.02: Annual accounts for the year 2014-15

The annual accounts of the NBA for the year 2014-15 was placed before the Authority for ratification.

Decision:

The Authority ratified the annual accounts of NBA for the year 2014-15.

34.14.03: To consider the ABS application for access of Red Sanders wood

The Secretary, NBA informed the Members that the Secretariat received Form-I application from the 16th foreign buyer of auctioned Red Sanders wood - M/s. Diamond Star General Trading LLC, Dubai and the application was processed as per the procedure approved by the 32nd (32.07) and 33rd (33.04) Authority. A benefit sharing amount of Rs.1,26,05,000 was remitted to the NBA on 05.06.2015.

Decision:

The Authority ratified the actions taken by the NBA secretariat in processing the Red Sanders application.

Secretary, NBA Chairman, NBA

Annex-I

List of Participants

Official Members who participated			
1	Shri Hem Pande, IAS, Additional Secretary, Ministry of Environment, Forests and Climate Change, and Chairman, NBA Indira Paryavaran Bhawan Vayu Block, Fifth Floor, Jor Bagh Road, New Delhi	2	Shri S.S.Negi, IFS Addl. Director General of Forests, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003.
3	Shri. Sunil Dutt Research 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 *(Represented the CEO, NMPB)*	4	Shri. Anil Sant, IAS, Joint Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003
5	Shri. Gorelal Dewaker Assistant Commissioner (seeds), Dept. of Agriculture and Cooperation, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi -110 001. *(Represented* Dr. R.K Singh, IAS*)*	6	Dr.Renu Swarup Senior Advisor, Department of Biotechnology, CGO Complex, Block No. 2, Lodhi Road, New Delhi.
7	Dr. R. Kirubagaran Scientist G, National Institute of Ocean Technology, Chennai, Ministry of Earth Sciences, Velachery-Thambaram Main Road, Narayanapuram, Pallikaranai, Chennai – 600 100	8	Shri T. Rabikumar, IFS., Secretary to Authority
Official Members not participated			
1	The 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 *(Represented by Shri. Sunil Dutt)*	2	Dr. R.K Singh, IAS., Joint Secretary (Seeds), Dept. of Agriculture and Cooperation, Room no. 244, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi -110 001. *(Represented by Shri. Gorelal Dewaker)*
3	Dr. Jeet Singh Sandhu Deputy Director General (Crop Science), Division of Crop Science, ICAR,Krishi Bhavan, New Delhi -110 001.	4	Dr. B.K Shukla Scientist G & Head Planning, coordination & Performance Management Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi – 110 016.
5	Shri. Sushilesh Mohan Sahai, Director, Ministry of Tribal Affairs, Room no. 736, A-Wing, 7th Floor, Shastri Bhawan, New Delhi – 110001.		
Non-Official Members who participated			
1	Dr.R.S.Rana Chairman, Bio-Link, D-43, Indraprastha Apartments, Sector 14, Rohini, New Delhi	2	Dr. S. Subramaniyan 54, VGP, Golden Sea View, Part-II, 2nd Main Road, 5th Cross Street, Palavakkam, Chennai.

3	Prof.M.K.Ramesh Professor of Law, National Law School, Nagarbhavi, Bangalore	4	Dr.Biswajit Dhar Professor of Economics, Jawaharlal Nehru University, I Block, 1796A,Chittaranjan Park, New Delhi.
Special Invitees			
1	Dr.Sujata Arora, Director, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi – 110 012	2	Dr. T.P. Rajendran, Officer on Special Duty, National Institute of Biotic Stress Management (Deemed University), Baronda, Raipur 493225, Chhattishgarh.
3	Shri. D.K. Ved, IFS (Retd) Chairman, EC on NTC, Advisor, Foundation for Revitalisation of Local Health Traditions, No. 74/2, Jarkabande Kaval, Post Attur, via Yelahanka, Bangalore – 560 106.	4	Shri. C. Achalender Reddy, IFS Co-Chairman, EC on NTC Managing Director, Goa Forest Development Corporation, 1st Lift, 3rd Floor, Junta House,Panaji, Goa – 403 001
5	Dr.Manoj Kumar Modi Scientist C, Department of Biotechnology, CGO Complex, Block No. 2, Lodhi Road, New Delhi.	6	Dr. M.S.R Rawat, Research Officer (Botany) 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