सत्यमेव जयते

जहाँ है हरियाली ।
वहाँ है खुशहाली ॥

NATIONAL BIODIVERSITY AUTHORITY

Proceedings of the 23rd Meeting of NBA

28th February, 2012

Venue

National Biodiversity Authority
5th Floor, TICEL Biopark, CSIR Road,
Taramani, Chennai-600 113

Proceedings of the 23rd Meeting of the National Biodiversity Authority

Date: 28th February 2012

Venue: National Biodiversity Authority, TICEL Biopark, Taramani, Chennai

Twenty third meeting of the National Biodiversity Authority (NBA) was held on 28th February, 2012 at the Conference Hall of the National Biodiversity Authority, Chennai under the Chairmanship of Dr. Balakrishna Pisupati, Chairman, NBA to consider the agenda items circulated amongst the members earlier by email on 6th February, 2012 as well as by speed post. The list of participants is given in **Annex-I**.

The meeting commenced at 10.45 AM instead of 10.30 AM to enable the presence of members who were expected to come. The meeting started with the welcome address by Shri C. Achalender Reddy, Secretary, NBA. After self introduction by the participants, Dr.Balakrishna Pisupati, Chairman NBA explained broadly the main agenda points proposed for the meeting and suggested that the agenda item (23.3) on Bt brinjal may be taken up first for consideration. This is in view of the fact that in the earlier meeting (22nd Authority Meeting held on 22nd Nov 2011) two official Members and one non-official member had expressed opposition for the proposed legal action in respect of the alleged violators of provisions of the Biological Diversity Act, 2002. Accordingly, the issue was considered as under.

23.3: Voting on issue of the alleged violation on access of local brinjal varieties

Before taking up voting as proposed in agenda, on request made for Members, Chairman, NBA gave a brief on the Bt brinjal issue to bring home the provisions of the Act to the Members. He reiterated that the issue in question is not the use of biotechnology or issues related to collaborative research but it was about possible alleged violation of Biological Diversity Act in accessing local brinjal varieties. Referring to the various letters received

from the Members of the NBA on the voting issue and related matters, the Chairman, NBA stated that it was the legal view that there has been violation of the Act even assuming that the access made was under a collaborative research project. Accordingly it was decided and reiterated in the previous meetings of Authority to proceed against the alleged violators to take the issue to logical conclusion.

Then the issue was taken up for voting.

The meeting was attended by Chairman, NBA and two (2) non-official Members in person, and five (5) Members nomitated by the Ex-Officio Members as per following details:-

1. Dr.J.S.Sandhu, Asst. Director General (Seeds), ICAR (**Represented Dr.Swapan Kumar Datta**).
2. Dr.Manoj K Modi, Scientist-C, Dept. of Biotechnology, Ministry of Science and Technology (**Represented Dr.Renu Swarup**).
3. Dr.R.Kirubagaran, Scientist-F, National Institute of Ocean Technology, Chennai (**Represented Dr.Madeswaran**).
4. Dr.Sunil Dutt, Research Officer, Nat. Medicinal Plant Board, Dept. of AYUSH, (**Represented Dr.Bala Prasad**).
5. Dr.G.N. Hazarika, Director of Research (Agriculture), Assam Agriculture University (**Represented Dr.Bujarbaruah, Non-official Member**).
6. Dr.S. Subramaniyan, Non- Official Member
7. Dr. Darshan Shankar, Non-Official Member

However, it was informed by Chairman, NBA that 2 Members viz., Dr.R.Kirubagaran and Dr.Sunil Dutt who have not submitted the proxy forms and Dr.G.N.Hazarika who represented the non-official member could not exercise their voting. Accordingly, voting slips/papers were distributed to eligible members to cast their vote. It was announced that **3** (three) members voted **for - initiating legal proceedings against the alleged violators** while **2** (two) Members (Proxy) were **not for such action**. Taking into account the majority it was decided to initiate legal action against the alleged violators subject to completion of all other formalities.

Without prejudice to above, the Chairman informed the Members that the views expressed by the Dept of Biotechnology, ICAR and Dept. of Science and Technology were presumably guided by the incorrect facts. He further stated that suitable reply will be given to the concerned on the points raised by them.

Members pointed out the lack of awareness of the Act and the possibility of inadvertent error made by well-meaning citizens of this country. Therefore, taking into different points into consideration, it was suggested that all parties involved in this case may explore for settlement of case appropriately under the guidance of the Court if feasible.

Shri K.S.Reddy, Min. of Environment and Forests, GoI, Regional Office, Bangalore who represented **Shri Arun K Bansal,** ADG(F), MoEF, New Delhi couldn't vote due to late arrival at 1.00 PM.

Action: Secretary

23.1: Confirmation of Proceedings of the 22nd Meeting of the Authority

It was informed that the comments as received from different members were suitably incorporated and have been circulated. Then the Authority confirmed the proceedings of the 22nd Authority Meeting held on 22nd Nov 2011.

Action: Secretary

23.2: Action taken report

Most of the decisions arrived at in the previous meeting were complied with and action is underway for certain decisions.

Action: Secretary

23.4: To consider review of the Proceeding of 1st Interface meeting of the NBA, ICAR, DARE and NBPGR

The Secretary, NBA informed that there is no term like "non-collaborative research" under the BD Act and that rule of law has to be followed. Further, he informed that the matter was discussed in the meeting of the reconstituted Expert Committee on Agrobiodiversity held on 24th Feb 2012. A sub-committee under the EC is looking into the issue. Also, he informed that

applicants may have to go for either collaborative research project as per guidelines issued by the MoEF, GoI or approach NBA for necessary approval under the Act. The Members endorsed the same. The decision taken earlier in the First Interface meeting of NBA, DARE, ICAR and NBPGR on issues related to exchange of Plant Genetic Resources for research and the Para no (b) relating to non – collaborative research projects has been nullified after review.

Action: Secretary

23.5: For information and ratification

a) Discussion meeting on issues related to linkages between Nagoya Protocol and the Biological Diversity Act & Rules.

Chairman informed that India has signed the Nagoya Protocol (NP) on ABS in Oct 2010 which is yet to be ratified. In this regard, NBA had conducted a meeting with legal experts and inputs have been compiled. It was informed that the most of the provisions in the BD Act are in consonance with the NP. In particular, the BD Act of India focuses on regulating the access of bioresources by non- Indians/other countries but not vice versa i.e., it is silent on obligation of India as a user country. A second meeting is planned that would be held in 3rd week of March 2012 to arrive at consensus on different issues and the same will be forwarded to MoEF.

b) Meeting on issues related to Normally Traded Commodities

Secretary, NBA informed that there are different interpretations for the Section 40 of the Act. Since the Normally Traded Commidities (NTC) play a vital role in commerce, trade, industry etc which will have implication on country's economy we need to look into this carefully. A one-day meeting on issues related to NTC was held at Bengaluru on 21 December 2011 with different stakeholders. To arrive at an implementable solution, a brain storming meeting/national consultation on NTC with different stakeholders was suggested to be organized to obtain inputs from different quarters/sectors.

c) National Consultation cum Workshop on PBR

Secretary, NBA stated that the inputs given by Dr.Darshan Shankar Member, NBA were of much use. Members appreciated the efforts of NBA for having conducted a national consultation on PBRs at Bengaluru on 22nd and 23rd December 2011.

i) Seventh National Meeting of the State Biodiversity Boards

Secretary, NBA informed that the 7th SBB meeting in Jan 2012 was well attended by the Chairperson and Member Secretaries of the SBBs. The meeting was graced by Smt. Jayanthi Natarajan, Hon'ble Minister of E&F and Dr. Kasturirangan, Member, Planning Commission and Dr.T.Chatterjee, IAS., Secretary, Ministry of Environment and Forests, Govt. of India. The other dignitaries who attended the meeting were Dr.Ranjan Chatterjee, Consultant (Environment & Forests), Planning Commission, Dr.Darshan Shankar, Member, NBA; Dr.S.Subramaniyan, Member, NBA, Dr.Hampiah Rallododi, Chairman, Andhra Pradesh SBB; Dr.R.V.Verma, Chairman, Kerala SBB; Dr. Erach Bharucha, Chairman, Madhya Pradesh SBB; Shri B.N.Srivastava, Chairman, Gujarat SBB; Dr.A.K.Malhotra, Chairman, Jharkand SBB and Member Secretaries of 15 States; other technical and legal experts also participated and discussed various issues. It was informed that inorder to strengthen the State Biodiversity Boards, the NBA has given around Rs.70.00 Lakhs as grant-in aid to SBB (on an averages) at the rate of 8.00 Lakhs per SBB for deployment of outsourcing personnel to discharge the provisions of the BD Act effectively in their respective states. Such support will be extended in the coming years also subject to availability of funds. It was also informed that in the aforesaid meeting a decision was taken to conduct such national meetings twice in a year. The Members applauded the efforts of NBA.

k) CoP-11 issues

NBA is currently assisting MoEF for CoP-11 preparation particularly 5 technical papers for High Level Segement, film and theme song, special film on Mahatma Gandhi and his contribution to biodiversity to the Global audience during COP.

Other items such as Special session on Biodiversity Governance – Role of communities, and women in the 99th Indian Science Congress; National Breed Saviour Award ceremony; release of a book titled "Ethnobotany of the Kondh, Poraja, Gadaba and Bonda of the Koraput Region of Odisha"; Expert Consultation on Ecological Indicators, Linking Economic and Ecological Indicators; Consultation meeting with representatives of seed industry on compliance of provisions of BD Act and related matters; and training on implementation of BD Act to the IFS officers were considered and ratified.

23.6: Any other item (s) with the permission of Chair – Additional Agenda

23.6.1: To consider Item proposed by Dr. Darshan Shankar, Member

Dr.Darshan Shankar, Member explained in detail about the proposed agenda of evolving a comprehensive policy on medicinal plants. Given the immense cultural, economic, scientific, regulatory and conservation values associated with the 6500 odd species of medicinal plants of India, he stressed that the NBA may constitute a committee to intiate an "inter-sectoral policy document" on the conservation and sustainable use of medicinal plant resources. The document may be used by different departments of Government as well as by other stakeholders to formulate their plans, programmes and priorities in the 12th Five year plan. This policy should be comprehensive covering action being taken by different organizations while taking into consideration the IUCN guidelines, RET species, taxa, habitats, different Acts, policy guidelines etc. Also, he suggested that the committee may comprise members drawn from MoRD, ICFRE, NMPB, DST, DBT, ICAR, UNDP, representatives of industry and relevant NGOs. In response Secretary, NBA informed the members that the NBA is going to in reconstitute the Expert Committee on Medicinal Plants and that committee may be assigned the above task of coordination, compilation and coopting members to draft policy. The Chairman mentioned that mapping out the priorities set by the different departments have also to be taken into consideration. The members endorsed the same.

Action: Secretary

23.6.2: To consider Designation of National Bureau of Agriculturally Important Insects as National Repository u/s 39 of the BD Act

The proposal of NBAII, Bengaluru to notify it as a designated national repository was agreed to by the Members.

Action: Secretary

23.6.3: To consider the Proceedings of the 18th Meeting of EC on ABS

Recommendations of the 18th Meeting of EC on ABS held on 25th Feb 2012 were considered by the Members. The members suggested for a slight modification on the benefit sharing component with regard to Form-III (IPR) under the opition 'B' 2nd para to read as follows:-

- The assignee/licensee shall enter into a tripartite agreement with the Applicant and the NBA to pay 5% of the lumpsum payment made by him to the licensor and also royalty @ 5% of the highest ex-factory sale price of the product sold and also used for captive consumption to NBA.

23.6.4: To consider item proposed by Dr.Subramaniyan, Member

The items proposed by Dr.Subramaniyan, Member were discussed and the efforts taken by the Member were appreciated. It was informed that the NBA has to move forward inline with the provisions of the Act. However, the optimal way of doing needs further delibrations for operationalization.

Action: Secretary

23.6.5: To consider the proposal of Breed Saviour award by NBA

Draft proposal and guidelines on "Breed Saviour Award" to be given by NBA were placed as an item of additional Agenda for the first time. Though, the proposal is in principle agreed by the members, it was suggested to circulate it to improvise it in respect of operationalisation of the proposal. It was also suggested that the cash award may be fixed as Rs.50,000 to each awardee.

Action: Secretary

The meeting ended with vote of thanks to and from the Chair.

Sd/-
Secretary
National Biodiversity Authority

sd/-
Chairman
National Biodiversity Authority

Annex-I

OFFICIAL MEMBERS

1. Dr. Balakrishna Pisupati,
   Chairman, NBA

2. Dr.J.S.Sandhu,
   Asst. Director General (Seeds), ICAR
   (*Represented Dr.Swapan Kumar Datta).*

3. Dr.Manoj K Modi,
   Scientist-C,
   Dept. of Biotechnology, Ministry of Science and Technology
   (*Represented Dr.Renu Swarup)*

4. Dr.R.Kirubagaran,
   Scientist-F,
   National Institute of Ocean Technology, Chennai
   (Represented Dr.Madeswaran)

5. Dr.Sunil Dutt,
   Research Officer,
   National Medicinal Plant Board, Dept. of AYUSH
   (Represented Dr.Bala Prasad)

6. Shri K.S.Reddy, IFS.,
   Additional PCCF,
   Regional Office of MoEF,
   Kendriya Sadan, 4th Floor,
   E&F Wing, II Block Koramangala,
   Banglore-560034
   (Represented Shri Arun K Bansal)

NON OFFICIAL MEMBERS

1. Dr. S. Subramaniyan
   54, VGP, Golden Sea View,
   Part-II, 2nd Main Road, 5th Cross Street, Palavakkam, Chennai-600 041.

2. Dr. Darshan Shankar,
   Advisor, FRLHT, Chairman, Institute of Ayurveda and Integrative Medicine (IAIM)
   74/2, Jarakabande Kaval, Post Attur, Via Yelahanka, Bangalore - 64.

3. Dr.G.N. Hazarika,
   Director of Research (Agriculture),
   Assam Agriculture University, Jorhat
   (*Represented Dr.Bujar Baruah)*

Secretary, NBA

1. Shri C. Achalender Reddy, I.F.S.,

SPECIAL INVITEE

1. Shri. Yeshwanth Shenoy
   Legal Consultant, NBA

LEAVE OF ABSENCE GRANTED TO OFFICIAL MEMBERS

1. Shri Hem Pande, IAS.,
   Joint Secretary,
   Ministry of Environment and Forests, Paryavaran Bhavan,
   CGO Complex, Lodhi Road, New Delhi - 110003.

2. Dr. Swapan Kumar Dutta,
   Deputy Director General, ICAR, Division of Crop Science,
   Krishi Bhavan, New Delhi 110 114.
   (Represented by Dr.J.S.Sandhu)

3. Dr. Renu Swarup,
   Advisor, Department of Biotechnology, CGO Complex, Block No. 2
   Lodhi Road, New Delhi - 110 003.
   (Represented by Dr.Manoj K Modi)

4. Shri Arun K Bansal, IFS
   Addl. Director General of Forests (FC),
   Ministry of Environment & Forests, GOI,
   Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.
   (Represented by Shri K.S.Reddy)

5. Dr. B. Harigopal,
   Adviser, Dept. of Science & Technology,
   Technology Bhavan, New Mehrauli Road, New Delhi.

6. Shri. S.K.G. Rahate IAS.,
   Joint Secretary (Plant Protection),
   Dept. of Agri. and Cooperation, Krishi Bhavan, New Delhi.

7. Shri A. K. Srivastava,
   Director,
   Ministry of Tribal Affairs, Shastri Bhavan, New Delhi

8. Dr. Bala Prasad, I.F.S.,
   Chief Executive Officer,
   National Medicinal Plants Board, Dept. of AYUSH, New Delhi 110 001
   (Represented by Dr.Sunil Dutt)

9. Shri P. Madeswaran,
   Director, Ministry of Earth Science, Block -12, CGO Complex,
   Lodhi Road, New Delhi – 110003.
   (Represented by Dr.R.Kirubagaran)

LEAVE OF ABSENCE GRANTED TO NON OFFICIAL MEMBERS

1. Dr.R.S.Rana
   Chairman, Bio-Link,
   D-43, Indraprastha Apartments, Sector 14, rohini, New Delhi-110 025.

2. Dr. Uppeandra Dhar,
   11, SBI Apartments, Near Eicher School, Sector 46, Faridabad-121 002,
   Haryana.

3. Dr. K.M. Bujarbaruah,
   Vice-Chancellor, Assam Agriculture University, Jorhat-785013.
   (Represented by Dr.G.N. Hazarika)