



NATIONAL BIODIVERSITY AUTHORITY



PROCEEDINGS OF THE 38TH AUTHORITY MEETING

04th July, 2016

Venue

Conference Hall,
National Biodiversity Authority,
5th Floor, Ticel Biopark, CSIR Road, Taramani,
Chennai Tel: 044 2254 2777/ 1075

Proceedings of the 38th Authority Meeting of the National Biodiversity Authority

The thirty eighth meeting of the National Biodiversity Authority (NBA) was held on 04th July, 2016 from 11.00 AM onwards at the conference hall, National Biodiversity Authority, Chennai under the Chairmanship of Dr.B.Meenakumari, Chairperson, NBA to consider the agenda items circulated to the Members *vide* email dated 27th June, 2016 and by hard copy on 28th June, 2016. The list of participants is placed as **Annex-I- pg.no.21.**

At the outset, Dr.B.Meenakumari, Chairperson, NBA welcomed all the Members and the special invitees to the meeting. She also briefed the members about the activities which were taken place since the last meeting, such as conduct of various ABS awareness programmes, expert committee meetings, media workshop, etc. Thereafter, Shri T. Rabikumar, IFS, Secretary, NBA, updated the members about the activities carried out since last meeting of the Authority including the status of the ABS applications and other activities such as celebrations of International Day for Biological Diversity held at Mumbai on 22nd May 2016, Regional State Biodiversity Boards' Meets held at Chennai and New Delhi and series of workshops to create awareness on Access and Benefit Sharing guidelines organised jointly with DBT and also two awareness workshops for media persons on BD Act and national biodiversity targets organized through Centre for Environment and Communication in Delhi and Chennai. The Authority conveyed its appreciation for the initiatives taken by the NBA secretariat particularly for creating awareness about Access and Benefit Sharing Guidelines among the stakeholders.

Thereafter, the agenda items were considered as under.

38.01: Confirmation of Proceedings of the 37th Authority meeting

The Secretary informed the Members that draft Proceedings of the 37th Authority meeting of the National Biodiversity Authority held on 22nd March, 2016 in New Delhi was circulated to the Members vide email dated 08th April, 2016 seeking their comments. Since there were no comments from the members, the proceedings

were approved. Thereafter, the Members confirmed the proceedings of the 37th Authority meeting.

Action: Secretary, NBA

38.02: Action taken report of the 37th Authority meeting

It was informed that the action has been taken on few items and for the remaining items, action is in progress. The Authority noted the action taken report of the previous Authority meeting.

Action: Secretary, NBA

38.03: To consider the Proceedings of the 38th meeting of Expert Committee on ABS held on 18th May, 2016

The Secretary, NBA apprised the Members that the 38th meeting of the Expert Committee (EC) on Access and Benefit Sharing (ABS) was held on 18th May, 2016 at the National Biodiversity Authority, Chennai. A total number of 73 applications and one generic issue were placed before the EC for examination. It was also informed that the representatives of three applicants, viz., M/s. Pioneer Overseas Corporation, M/s Dow Agro Sciences India Pvt. Ltd. and Dr Suneel Pandey of TERI appeared before the EC and made their presentations in connection with their applications.

2. The Authority deliberated the recommendations of the EC on ABS and made the following decisions:-

- Regarding the EC's recommendation on the cases of alleged violation, it will take its view on all cases based on the report of sub-committee to deal with violation cases. The Authority directed the sub-committee to submit their report at the earliest in view of the communication received from the Ministry of Environment, Forest and Climate Change in this regard.

- Dr R.S.Rana opined that more legal experts have to be involved to examine the sub-committee report. The chairperson suggested that to reduce the delay in coming up with a final report, even special meeting can be conducted to look into the report submitted by the sub-committee, as the matter is urgent.

- The Authority also directed the Secretariat to communicate the Authority's decision on the cases where violation of the provisions of the BD Act have been identified, without waiting for the report which are under development by the sub-committee.

- The Authority discussed the issue of application submitted by an Indian trader seeking permission for export of 300 cows to Nepal, as part of trading activity. The purpose of import is stated to be for obtaining milk and selling it to the customers. The importer has declared that the livestock will not be used for trading or any other purpose other than obtaining milk. The Authority also noted that the exclusion part in Section 2(f) provides that "*Commercial utilization……does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping".* It also took note of the recommendation of the EC. Thereafter, the Authority decided that transfer of cow from India to Nepal for the said activity will not come under the purview of the BD Act, in the instant case and also directed the Secretariat to send a communication to this effect to the applicant and also informing that prior approval of NBA/SBB is required if any other activity is involved.

- Further, the Members suggested that the agenda note on each application may clearly specify the date on which the application become complete in all respects and taken up for further consideration for the benefit of EC and Authority.

3. The Secretary informed the members that the time line given under the Act for disposal of applications particularly Form-III is 90 days. He added that the intervening time gap between EC and Authority meetings consumes considerable time to dispose the applications. Further, he informed that the EC determines the benefit sharing component according to the percentages provided in the ABS Guidelines. Keeping these in view, it was proposed that the NBA Secretariat may initiate further action on Form-III applications without placing them before the Authority once the EC has recommended for approval of the applications. The Authority considered the proposal and decided to authorize the Chairperson, NBA to

grant approval for such Form-III applications and place the details of approvals granted before the next Authority meeting for ratification.

Decisions:

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

b) As per the Chairperson suggestion, a small committee comprising of Dr R.S.Rana, Prof M.K.Ramesh, Dr Biswajit Dhar and other legal experts can meet to examine the report of the sub-committee to formulate policy on dealing with cases of violations of the BD Act and also directed the sub-committee to complete its task and submit report at the earliest.

c) The Authority directed the Secretariat to communicate the decision of the Authority on the cases where violation of the provisions of the BD Act have been identified so far, without waiting for the guidelines which are under development by the sub-committee.

d) With regard to the issue of export of 300 cows to Nepal for milking purpose, the Authority decided that transfer of cows from India to Nepal will not come under the purview of the BD Act, in the instant case and also directed the Secretariat to send a communication to the applicant that for any other activity other than the one mentioned, the prior approval of NBA/SBB is required.

e) The Authority authorised the Chairperson, NBA to grant approval to the applicants with respect to Form-III in the event of EC on ABS recommends for approval. However, such approvals will have to be placed before the Authority for ratification.

Action: Secretary, NBA

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

The Members were informed of the details and approval / closure accorded by the Chairman NBA on four Form–B applications submitted by 1) Ms.Parvathy Venugopal, 2) Dr. Vibhu Prakash, 3) Dr.Sumit Singh Dagar and 4) Prof S.R. Yadav for research purpose.

Decisions:

a) The Authority ratified the action taken on the applications by the NBA Secretariat.

b) The Authority directed to upload the details (*Name of the applicant, Appl.no., bio-resources, quantity, recipient and purpose*) in the NBA website.

Action: Secretary, NBA

38.05: To consider the procedure for closing the incomplete applications pending for a long time at the Facilitation Desk

The Members were informed that while scrutinizing the ABS applications, incomplete applications devoid of any relevant information sought, including ambiguous replies, absence of proof, etc. are being returned by the Facilitation Desk to the applicants with a request to resubmit them as per Regulation no.16 (2) of the Access and Benefit Sharing Regulations, 2014, retaining the application fee since 2013.

2. In this connection, it was also informed that the Secretariat found that several such applicants have not re-submitted the application despite repeated reminders thereby causing the Facilitation Desk to retain such passive files indefinitely, which occupy much storage space in the premises. Therefore, the NBA Secretariat proposed that such applications may be closed by giving one month's time to all the applicants for resubmitting their applications. In case of non-receipt of applications within the stipulated period, such applications may be closed by the Secretariat without returning the fee.

3. The Authority deliberated the issue in detail and decided that NBA Secretariat in all such cases, provide two months' time for re-submission of applications which are incomplete in nature. If there is no response from the applicant, the application may be closed and fee may be retained in the NBA A/c.

Decision:

a) The Authority decided the NBA Secretariat may give one more opportunity by giving a month's time to the applicant for resubmitting their applications, failing which their applications may be closed by the NBA Secretariat without returning the fee.

b) The Authority also directed the Secretariat that in future, for all fresh applications, two months' time to be given for re-submission.

Action: Secretary, NBA

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

The Secretary informed the members that the Indian researchers / scientists shall provide prior intimation to the NBA in the prescribed format *viz.,* Form – C for

deposition of micro-organisms in other country's repository for claim of novel species for publication in journals in accordance with the decision taken in the 37th Authority meeting under agenda item 37.14.02. Consequently, twelve Form-C applications have been received from the researchers / scientists, so far. The Authority noted the details of the Form-C application.

Decision:

a) The Authority has taken note of the agenda and approved to upload the details of Form-C in the NBA website as provided in the Agenda to the Authority.

Action: Secretary, NBA

38.07: To consider the ABS applications for access to Red Sanders wood approved by the Chairman, NBA

The Secretary, NBA apprised the Members on the procedure followed in processing the Red Sanders applications and various actions taken in this regard. He informed that so far Form-I applications were received from six foreign buyers for accessing the Red Sanders wood since last meeting and the same have been approved by the Chairman, NBA, upon receipt of the benefit sharing amount Rs. 32,583,273/- from them.

Decision:

The Authority ratified the action taken by the NBA Secretariat in processing the Red Sanders applications.

Action: Secretary, NBA

38.08: To consider a proposal for Awards and Fellowships to be given to various organizations for their outstanding contributions in the field of environment, plant and animals

The Secretary informed the members that the Ministry of Environment, Forest and Climate Change (MoEFCC), has requested all Divisional Heads to institute awards for the outstanding contributions in the field of environment, plant, animals, etc. to be given to various organizations and organize functions at their own levels in various parts of the country after obtaining the due approval of the competent authority.

2. It was also informed that MOEFCC has requested that the NBA may initiate the process of instituting BABS award under intimation to the Ministry as the Biodiversity Access and Benefit Sharing (BABS) Award does not figure in the list of approved Awards as per the recommendation of the Committee. Dr.R.S.Rana suggested that the award name (BABS) doesn't convey the full intent of the proposed award and hence may be named as India Biodiversity (ABS) Award which may be abbreviated to IB Award as is done for the Wildlife Act.

3. The Members discussed the matter and decided to constitute a committee to formulate the procedure, financial resources, category of awards, selection process, etc. It was also suggested that the experts who involved in the exercise of MOEFCC-UNDP India Biodiversity Award may be inducted in the committee who have better understanding on the subject.

Decisions:

a) The Authority decided to constitute a committee to formulate the categories of awards, procedures, selection process, time period, financial resource mobilization, etc. Also suggested to induct experts who have involved in the exercise of MoEFCC-UNDP – India Biodiversity Award as members in the said committee. The report of the committee to be placed before the Authority for consideration.

Action: Secretary, NBA

38.09: To consider the Constitution / extension of tenure of Expert Committees, Sub-committees and Core Expert Groups

The Authority has ratified the constitution of Sub-committee, extension of the tenure of Expert Committees /Core Expert Groups for assisting the NBA in order to dispose of the various subject matters.

2. The Members observed that the expert committees need to expedite their tasks to complete in given time as it is much needed to implement the BD Act in an effective manner.

3. The Advisor, MOEFCC suggested that few representations received from the paper industry, plywood industry may be considered by the expert committee on normally traded commodities.

Decisions:

a) The Authority ratified the constitution of Sub-committee, extension of the tenure of Expert Committees /Core Expert Groups.

b) The Authority observed that the expert committees need to expedite to complete their tasks in given time as it is much needed to implement the BD Act in an effective manner.

Action: Secretary, NBA

38.10: To consider the proceedings of the Fifth Meeting of the Expert Committee on Medicinal Plants held on 26th November, 2015 at NBA, Chennai.

The Secretary informed the members that fifth meeting of the Expert Committee on Medicinal Plants under the Chairmanship of Ms. Amarjeet Ahuja, IAS (Retd.) was held on 26th November, 2015 at NBA, Chennai and the Committee reviewed the draft report prepared by the sub-committee, under the chairmanship of Dr.G.A.Kinhal, on the notifications under section 38 of the BD Act. The Members noted the progress of the committee.

38.11: Awareness creation / capacity building activities undertaken by the NBA for sensitizing the different stakeholders about the provisions of the Biological Diversity Act.

It was informed to the Members that the NBA is actively undertaking several initiatives are planned for creating awareness amongst various stakeholders about the provisions of the Biological Diversity Act, 2002, the Biological Diversity Rules, 2004 and the Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 through various ways and means which include advertisement in newspapers, electronic media such as radio programmes and organizing meetings with different stakeholders, such as FICCI, CII, ICAR, DBT, PPVFRA, ABLE and ADMA.

2. Continuing its initiatives, it was informed that the NBA has organized an interactive workshop to engage the media on National Biodiversity Targets and Biological Diversity Act at New Delhi. Further, the Biotech Consortium India Limited, with the support of Department of Biotechnology and NBA (CEBPOL) has been organized series of awareness creating workshops on guidelines for ABS 2014 in different parts of the country with participation of stakeholders such as researcher/ scientist who deal with biotechnology, life sciences, etc. in the Universities/ Colleges

/ Institutes, entities, SBBs. So far, four workshops were conducted at Delhi (13 June, 2016), Guwahati (22 June, 2016), Kolkata (24 June, 2016) & Pune (29 June, 2016)

3. Meanwhile, Dr. R. R. Hanchinal, Chairperson, Protection of Plant Varieties and Farmers' Rights Authority in his remarks stated that PPVFRA is planning to have more than 300 awareness workshops through KVK's for creating awareness about the provisions of the PPVFR Act, 2001. He added that NBA may join to make use of this platform for creating awareness amongst the stakeholders on the provisions of the both BD Act and PPVFR Act.

4. Taking note of this, the Authority recorded and appreciated the efforts taken by the NBA Secretariat concerning creation of awareness on Access and Benefit Sharing Guidelines among the user groups. It was also decided that wherever possible, NBA may take part in the programme which is being organized by the PPVFRA to create awareness on the BD Act to the user groups.

5. The members were informed that the Authority in its 37th meeting decided that a quarterly newsletter may be published through the Centre for Biodiversity Policy and Law (CEBPOL). Accordingly, NBA has gathered the information and working out on the designs for the proposed newsletter. Meanwhile, the NBA Secretariat proposed to select the title for the newsletter and invited the names from the officials of the NBA Secretariat. Based on the suggestion, the followings names have been shortlisted:

1. Chandamsi, 2. Biodiversity Matters, 3. Biodiversity-e-Newsletter,
4. Bio-connect and 5. Biodiversity Mail

The members have appreciated the efforts taken by the NBA for publishing newsletter and selected the "BIODIVERSITY MATTERS (NBA Quarterly Newsletter) as the title of the newsletter.

Decision:

a) The Authority placed on its record the appreciation to the Secretariat for undertaking various awareness creation programmes.

b) It was also decided that the NBA wherever possible may use the platform of PPVFRA programmes to create awareness about BD Act to different stakeholders.

c) The Authority selected the name of newsletter as "BIODIVERSITY MATTERS (NBA quarterly Newsletter)".

Action: Secretary, NBA

38.12: Celebrations of International Day for Biological Diversity 2016

The Secretary informed the members that the national level celebrations of the International Day for Biological Diversity 2016 were held at Yashwant Rao Chavan Auditorium, Mumbai which was organised by the Ministry of Environment, Forest & Climate Change, Government of India, through the National Biodiversity Authority with the support of Maharashtra State Biodiversity Board and in partnership with United Nations Development Programme. The event was presided over by Shri Prakash Javadekar, Hon'ble Minister of State for Environment, Forest & Climate Change and Hon'ble the Governor of Maharashtra, Shri. CH. Vidyasagar Rao, as the Chief Guest. Mr. Yuri Afanasiev, UN Resident Coordinator and UNDP Resident Representative also took part in the event. On this occasion the 3rd India Biodiversity Awards 2016 were presented to the winners and the runners-up in four categories to recognize their efforts towards conservation of biodiversity. In addition, an exhibition on the theme of the IDB was organised at the venue to highlight the role of biodiversity and its mainstreaming in sustaining livelihoods.

The members took note of it and appreciated the efforts of the NBA.

38.13: Submission of Annual Report for the year 2013-14

The Members were informed that Annual Report for the year 2013-14 was approved in the 33rd Authority meeting with minor modifications. Thereafter, the printed copies of the Annual Report were forwarded to the Ministry of Environment, Forest and Climate Change for placing the report before both the Houses of the Parliament. Members took note of the agenda.

38.14: To consider the proposal submitted by Dr.S.Subramaniyan, Member, Assessment of Loss of Biodiversity due to floods during November-December 2015 in Tamil Nadu and restorative measures using remote sensing and GIS techniques

It was informed that the Authority in its 37th meeting under agenda item no. 37.14.05, has considered the proposal of Dr.S.Subramaniyan, Member, NBA for assessment of loss of biodiversity due to floods during November-December 2015 in Tamil Nadu and restorative measures using remote sensing and GIS techniques and

decided *"to send communications to the concerned agencies to ascertain whether any studies are already taken up to assess the loss of biodiversity in Tamil Nadu".*

2. It was also informed that Dr.S.Subramaniyan, Member has suggested to constitute a small committee to identify major species under each category and the subject matter may be referred to the concerned agencies to take up a study and undertake restoration measures with suitable advance preparatory works in future.

3. The members opined that since the NBA has already sent communication to various agencies as per the decision of the 37th Authority Meeting, further action on the same may be taken up on receipt of response from those organization/agencies.

Decision:

The Authority decided to take further action on the subject, upon receipt of response from those organization/agencies.

Action: Secretary, NBA

38.15: To consider the proposal of Dr S.Subramaniyan, Member, NBA for strengthening of official functionary positions of Junior Officers and Office Staff in the NBA, Chennai.

It was informed that Dr.S. Subramaniyan, Member stated in the proposal that since the matter relating to creation/filling up of 58 posts is in the advanced stage, he requested for an expeditious action. The members were apprised that the subject-matter is under active consideration under the Ministry. The Authority took note of it.

38.16.: Decision of the Hon'ble High Court of Uttarakhand on the powers of State Biodiversity Board in calling for information relating to use of biological resources collected within its territorial jurisdiction

The members were informed that the Uttarakhand SBB (Resp. 2) had sent notices to the petitioners (predominantly Paper Manufacturers) for giving prior intimation for obtaining the biological resources under Sections 7 and 24 of the Biological Diversity Act, stating that the contravention of these provisions is punishable under Section 55(2) of the Act. Several Writ Petitions were filed by the companies, engaged in the manufacture of papers and boards by using bagasse,

rice husk, waste paper and wheat waste as raw materials, before the Hon'ble High Court of Uttarakhand.

2. It was informed that the Hon'ble High Court of Uttarakhand, Nainital passed an order on the Writ Petition No.1425 of 2016 filed by M/s Vishwanath Paper and Boards Ltd. & seven other petitioners versus the State of Uttarakhand (Resp. no.1), the Uttarakhand State Biodiversity Board (Resp. no. 2) in which MoEFCC and NBA are the 3rd and 4th respondents respectively, by disposing all the writ petitions at the admission stage itself with certain directions. The members noted the item.

3. It was informed to the Members that after the notification of the ABS guidelines in 2014, the SBBs are actively implementing the ABS mechanism in their respective States. While reviewing their activities in various forum, it was observed that few SBBs are entertaining the applications from the Section 3(2) persons, whereas the SBB can process only the application which falls under section 7, similarly, receiving ABS component without entering in to Mutually Agreed Terms with the applicants, etc. The Members discussed this issue in detail and decided that a communication from the Secretariat may be sent to the SBBs to this effect, immediately.

4. The method of processing the access and benefit sharing applications received under section 7 by the State Biodiversity Boards was also discussed. In this regard, the Authority discussed the issue in depth and decided to develop a uniform procedure/ guidance for processing the ABS applications in the States by the SBBs. The task may be assigned to the UNEP-GEF-ABS project.

Decision:

The Authority directed the NBA Secretariat to send an immediate communication 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. NBA may also develop a guidelines to be used by the SBBs while processing ABS applications.

Action: Secretary, NBA

38.17: Any other item(s) with the permission of the Chair

38.17.01: To consider the minutes of the fifth Meeting of the Expert Committee to revise the existing agreement formats held on 10th June, 2016

The members were apprised that the fifth meeting of the Expert Committee (EC) to revise the existing agreement formats was held under the Chairmanship of Dr. R.S.Rana on 10th June, 2016 at New Delhi. It was informed that EC had detailed clause-by-clause deliberation on the draft agreement format and approved the formats after making certain modifications.

2. After having the detailed discussion on draft agreement formats, the Authority approved the agreement formats unanimously.

Decision:

a) The Authority approved the agreement formats unanimously and directed the Secretariat may use these formats for the applications considered in this authority under agenda.no. 38.03.

b) Further Authority decided that Secretariat may use the formats without waiting for the issuance of approved Proceedings of the Authority.

c) The Authority authorized the Chairperson, NBA to modify/ change the clauses as appropriate whenever a situation warrants.

Action: Secretary, NBA

38.17.02: To consider an amendment to the Procedure for Closing of Applications received under the Biological Diversity Act, 2002

The members were informed that the Authority in its 29th meeting has approved a procedure for closing of applications received under the Biological Diversity Act 2002 and the same is being followed by the Secretariat while examining the applications.

2. It was also informed that there are some cases where the applicant requests the NBA to close his application submitted in Form-III as his patent application filed with the Patent office (in India or abroad) has been abandoned or rejected or closed or dead. In the existing procedure, such cases are to be placed before the EC on ABS for examination and EC's recommendation to be placed before the Authority for consideration. This exercise consumes considerable time to dispose of the cases.

3. After detailed discussion on various aspects, the Authority has approved the proposal for closing such applications by the NBA Secretariat itself without making reference to the Expert committee on ABS or Authority. In this connection, the Authority authorized the Chairperson of NBA to dispose of such cases. Also necessary modification has been made in the closing procedure to give effect the proposal.

Decision:

The Authority authorized the Chairperson, NBA to dispose of the Form-III applications after making such enquiry or calling for document as deem fit. Also can make necessary changes in the closing procedure to give effect on the above score.

Action: Secretary, NBA

38.17.03: To consider establishment of the Biodiversity Council in the Union Territories as per sub-section (2) of Section 22 of the Biological Diversity Act, 2002.

The members were apprised that 32nd Authority considered the establishment of the Biodiversity Council in the Union Territories and decided not to approve the draft notification to establish Biodiversity Councils in the Union Territories of Andaman & Nicobar Islands and Lakshadweep since the terms and composition of members were not compatible. However, Authority advised that the Chairman, NBA may send a communication to the Chief Secretaries of Delhi and A&N islands to form a group of officials.

2. It was also informed that *proviso* clause of subsection (2) of Section 22 of the Biological Diversity Act empowers the NBA to delegate its powers or functions to a person or group of persons as specified by the Central Government.

3. The Advisor, MoEFCC enquired about whether the proposed council to be established in all the UTs and who are all to be inducted in the council; and what are all the powers & functions to be delegated to the proposed council.

4. The Authority discussed the issue of delegation of NBA powers and functions to a person or group of persons for all Union Territories in detail. Thereafter, the Members decided that as a prelude, the NBA may have a consultation meeting with officials of the Union Territories in order to brief them on the salient features of the

BD Act and ascertain their views on this subject before delegating its powers or functions. It was also decided that the secretariat may send a communication to the MoEFCC along with a background note and brief agenda for the consultation for onward transmission to the Chief Secretary of the Union Territories inviting him to participate in the meeting along with upto four officials from the Departments like Forest, Environment, Panchayat Raj and Agriculture/ Animal Husbandry.

Decisions:

a) The Authority decided that NBA may have a consultation meeting with officials of the Union Territories on this subject.

b) The Authority decided that NBA Secretariat may send a communication to MOEFCC along with a background note and brief agenda for onward transmission to the Chief Secretary of the Union Territories concerned through Ministry inviting him or his representative *as well as* to nominate upto four officials belonging to the Departments like Forest, Panchayat Raj, Agriculture, Fisheries and Animal Husbandry for the consultation meeting at NBA, Chennai.

Action: Secretary, NBA

38.17.04: To consider the representation by a few culture collection centres in India with respect to the decision of the authority on the deposition of micro-organisms by the Indian researchers/scientists in other country's repositories

The members were informed that as per the decision taken in the 36th Authority meeting (36.16.04) & 37th Authority meeting (37.14.02), the Indian researchers/ scientists are required to give prior intimation to the NBA in Form–C for deposition of micro-organisms by them in other country repositories for claim of novel species for publication in journals. It was also decided that any non-Indian person/ entity accessing the deposited Indian biological resource from the foreign repository should obtain the prior approval of NBA as per Section 3 of the BD Act, 2002.

2. It was also informed that the scientists of Microbial Culture Collection (MCC), Pune, the National Collection of Industrial Micro-organisms (NCIM) and CSIR-National Chemical Laboratory, Pune have expressed their concerns with respect to accessing the deposited Indian biological resources from the foreign repository by a foreigner for research. It is also stated that the type strains deposited in Indian culture collections are not recognized as valid deposits for publication purpose because they are not available to researchers abroad and Foreign culture

collections, refuse to accept microbial cultures from Indian researchers because of requirement of seeking "prior approval" from NBA as per the Authority's decision. In order to alleviate the problems faced by the researchers, they have suggested that the NBA may allow the designated repositories to follow self-regulatory procedures.

3. The Members discussed the issue and decided to refer the matter to the Expert Committee on ABS for detailed examination.

Decision:

The Authority decided to refer the issue of accessing the deposited Indian biological resources from the foreign repository by a foreigner for research purpose, to the expert committee on ABS for detailed examination.

Action: Secretary, NBA

38.17.05: Annual Accounts for the year 2015-2016

The Secretary informed the Members that as per the decisions taken in the 13th Authority meeting, the Annual Accounts of NBA for the year 2015-16 was approved by the Chairperson, NBA and the same was submitted to the Audit. The Members ratified the Annual Accounts for the year 2015-2016.

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ANNEX-I

Procedure for Closing of Applications Received Under the Biological Diversity Act 2002

Background

The National Biodiversity Authority is the designated statutory body that regulates access to biological resources occurring in or obtained from India and associated knowledge thereto for the purposes of research, commercial utilization and bio-survey / bio-utilization. It decides upon applications preferred by foreigners including foreign entities, non-resident Indians and entities registered in India with non-Indian participation in share capital/management for the above said purposes. Likewise, applications for transfer of results of research by any person to foreign entities are also regulated by the NBA. Applications for intellectual property rights, if any, in or outside India for any invention based on any research or information on a biological resource obtained from India by any person are also dealt with by the NBA.

In deliberating upon such aforementioned applications, the NBA often has to address situations where applicants do not respond to queries made by the NBA relating to the processing of their applications. Lack of response from applicants will result in incomplete applications thereby necessitating the NBA Secretariat to close/terminate the application. In order to follow a due process and eliminate arbitrariness, the NBA secretariat hereby lists the possible situations that would result in the closure/termination of applications under the Biological Diversity Act and the process thereof.

A. Situations resulting in the closure/termination of applications:

1. Where the applicants choose to withdraw the application on their own, if requested by the applicant unconditionally and when there is no adverse implication on granting such withdrawal.

[Provided that the applicant chooses to withdraw his application in the event of patent application abandoned / refused to grant / dead in the patent office, in or outside India, the NBA secretariat may close the Form III application after obtaining necessary document, as appropriate, without referring to the Expert Committee / Authority][1]

2. Where the applicants do not fulfil the conditions stipulated under the Biological Diversity Act and Rules and queries from the NBA Secretariat despite issue of two reminders / notices for compliance by giving 30 days each.

[1] *Inserted vide agenda no.38.17.02, 38th Authority held on 4th July 2016*

3. Where the NBA directs execution of an agreement and the applicant does not execute such an agreement within 60 days.

B. Process for closure/termination of applications:

[1. Other than the applications referred under proviso of para A (1) above] [2], applications that are proposed for closure/termination by the NBA Secretariat, the same shall be examined and deliberated upon by the Expert Committee on ABS, which may consider any one of the following, while making recommendations:

a) May recommend the closure/termination.

b) May seek additional reasons for withdrawal by the applicant and then re-examine it.

c) May recommend an enquiry by designated persons or through SBB or any relevant agency in case of non-response or on suspicion of misappropriation / violation of provisions of the Act.

d) May recommend any other action.

3. Based on any of the above recommendations, the NBA shall take decision regarding the closure/termination of an application or otherwise.

4. Once the NBA has taken a decision to close/terminate an application, a closure/termination letter shall be sent to the applicant with a copy marked to concerned SBB/BMC or any other relevant agencies. Where required, the decision of closure/termination shall also be communicated to the attorney of the applicant / legal counsel, if any.

5. Once an application has been closed / terminated, the applicant cannot reopen the same application but can apply afresh by paying the prescribed fee and fulfilling the necessary requirements as provided in the Biological Diversity Act and Rules and by the NBA Secretariat.

6. The NBA reserves the right to direct, the applicant filing a new application based on the subject matter of the closed/terminated application, to furnish reasons for their actions or inactions that resulted in the closure/termination of the previous application.

7. Details of closed/terminated applications shall be displayed on the NBA website.

8. These guidelines may be amended by the NBA as and when it may deem fit.

[2] *Inserted vide agenda no.38.17.02, 38th Authority held on 4th July 2016*

List of Participants

Annex-II

Official Members who participated			
1	Dr (Mrs) B.Meenakumari Chairperson, National Biodiversity Authority, Chennai	4	Dr. R. Kirubagaran Scientist G, National Institute of Ocean Technology, Ministry of Earth Sciences, Velachery-Thambaram Main Road, Narayanapuram, Pallikaranai, Chennai
2	Dr. Sujata Arora Adviser, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road,New Delhi - 110 003	5	Dr. Sanjay Kumar Director Institute of Himalayan Bio resource Technology, Post box No: 6, Palampur Himachal Pradesh:176061
3	Dr R.K.Mishra Additional Commissioner , Dept. of Agriculture and Cooperation, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi -110 001. *(Represented Dr. R.K Singh, IAS)*		
Non-Official Members who participated			
6	Dr.R.S.Rana Chairman, Bio-Link, D-43, Indraprastha Apartments, Sector 14, Rohini, New Delhi		
	Secretary to the Authority		
7	Shri T.Rabikumar, IFS., Secretary, NBA		
Members who did not participate			
1	Dr. Anil Kumar, IFS Additional Director General of Forests, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Vayu Block, Fifth Floor, Jor Bagh Road, New Delhi	6	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
2	Dr. Jeet Singh Sandhu Deputy Director General (Crop Science), Division of Crop Science, ICAR, Krishi Bhavan, New Delhi	7	Prof.M.K.Ramesh Professor of Law, National Law School, Nagarbhavi, Bangalore
3	Shri. Sushilesh Mohan Sahai, Director, Ministry of Tribal Affairs, Room no. 736, A-Wing, 7th Floor, Shastri Bhawan,New Delhi – 110001.	8	Dr. S. Subramaniyan 54, VGP, Golden Sea View, Part-II, 2nd Main Road, 5th Cross Street, Palavakkam, Chennai.
4	Dr. B.K Shukla Scientist G & Head Planning, Coordination & Performance Management Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi	9	Dr.Biswajit Dhar Professor of Economics, Jawaharlal Nehru University, I Block, 1796A, Chittaranjan Park, New Delhi.
5	Dr.Renu Swarup Senior Advisor,Department of Biotechnology,CGO Complex, Block No. 2,Lodhi Road, New Delhi.		
Special Invitees who participated			
1	Dr. R. R. Hanchinal Chairperson, Protection of Plant Varieties and Farmers' Rights Authority, DARE ,NASC Complex, DPS Marg, Opp-Todapur Village,New Delhi-110 012	2	Dr T.P. Rajendran, No. 701-A, Vasundhara Apartment, Plot 16, Sector 6, Dwaraka Subcity, New Delhi-11005
Special Invitees who did not participate			
1	Shri. A. V. Joseph, IFS, Chairman, Andhra Pradesh Biodiversity Board, 6th Floor, Chandra Vihar, M. J. Road, Hyderabad	3	Dr. Oommen V. Oommen Chairman, Kerala Biodiversity Board, L-14, Jai Nagar, Medical College, Thiruvanathapuram
2	Dr. Ramesh Kalaghatgi, Chairman, EC on ABS		