NATIONAL BIODIVERSITY AUTHORITY

PROCEEDINGS OF THE 41st AUTHORITY MEETING

27th March, 2017

Venue

Indus Conference Hall,
Ministry of Environment, Forest and Climate Change
New Delhi

Proceedings of the 41st Authority Meeting of the National Biodiversity Authority on 27.03.2017

The forty first meeting of the National Biodiversity Authority (NBA) was held on 27th March, 2017 at Indus Conference hall, Ministry of Environment, Forest and Climate Change, New Delhi under the Chairmanship of Dr.B.Meenakumari, Chairperson, NBA to consider the agenda items circulated to the Members *vide* email dated 20th March, 2017 and by hard copy on 21st March, 2017. The list of participants is placed as **Annex-I.**

2. At the outset, Shri T. Rabikumar, Secretary, NBA, welcomed the members and special invitees to the meeting. Dr.B.Meenakumari, Chairperson, NBA also extended her welcome to all the members and invitees including new three non-official members who have been appointed by the MoEFCC on 21st March 2017. For the benefit of the members, the Chairperson, NBA made presentation on the activities carried out by the NBA as required under the Biological Diversity Act 2002 during the past one year. She emphasized on mass awareness to be created about the provisions of the BD Act and it should be a continuous exercise for different stakeholders. Thereafter, the Secretary, NBA updated the members about the activities carried out since last meeting of the Authority such as status of the ABS applications received, expert Committee meetings organized viz. Access and benefit sharing, Red Sanders, CEG on Nagoya Protocol, etc.

Thereafter, the agenda items were considered as under:

41.01: Confirmation of Proceedings of the 40th Authority meeting

The Secretary informed the members that the draft proceedings of the 40th Authority meeting of the NBA held on 21st December, 2016 at Delhi was circulated to the Members *vide* email dated 24th December, 2016 seeking their comments. In response, The DBT vide letter dated 27th December, 2016 has submitted comments with respect to agenda item no.40.03 & 40.04. In this regard, the DBT vide letter dated 27th March 2017 has reiterated that “there is no requirement for fresh brainstorming. The points which were raised in discussion which was held in DBT on 21st December,

2016 may be considered for access by the foreign repositories. The DBT further reiterates that while appreciating that NBA has made significant changes which has improved the functioning, it is important that Act is revisited. The Authority may consider it in this meeting and a special expert Committee may be constituted to examine the Act and suggested modifications."

2. Further, he mentioned that the Ministry of Tribal Affairs (MoTA), vide letter dated 07th Feb, 2017 has submitted its comments with respect to proceedings of the 39th & 40th Authority meeting relating to revised draft BMC guidelines stating that the provisions of the Scheduled Tribes and other Traditional Dwellers (Recognition of Forest Rights Act, 2006) (FRA) particularly on section 5 and Rule 4 (1) (e) of the said Act/ Rules has to be considered while finalizing the BMC guidelines. It was informed that the proceedings of the 39th and 40th Authority meetings were finalized on 01st Dec, 2016 and 09th Jan, 2017 respectively after giving sufficient time to the members for provide their inputs /comments. Further, the Authority in its 39th meeting has authorized the chairperson to form a Small Group to fine-tune the revised (draft) guidelines on operationalization of BMCs. Keeping these in view, the NBA secretariat has decided to refer the views/ inputs offered by MoTA to the small Group for consideration.

Decision:

The Members confirmed the proceedings of the 40th Authority meeting and took note of the action taken under sl.no.2.

Action: Secretary, NBA

41.02: Action taken report of the 40th Authority meeting

It was informed that action has been taken on most of the items and for the remaining items, action is in progress. The Authority noted the development.

Action: Secretary, NBA

41.03 & 41.04: To consider the Proceedings of the 41st meeting of Expert Committee on ABS and 42nd meeting of EC on ABS

The Secretary apprised the members about the 41st meeting and 42nd Meeting of the Expert Committee (EC) on Access and Benefit Sharing (ABS) held under the Chairmanship of Dr. Mangala Rai on 6th&7th February, 2017 and 7th March, 2017 respectively.

2. It was informed that a total number of 180 applications were placed (106 applications in 41st EC and 74 applications in 42nd EC) before the EC during the said meetings, of which, 103 applications (60 Appl. in 41st EC and 43 Appl. in 42nd EC) belonging to Form III (IPR) have been evaluated and recommended for approval. Subsequently, the NBA Secretariat, as authorized in the 38th Authority meeting, forwarded the draft agreements to the applicants for execution as part of approval process.

3. In addition, NBA Secretariat, authorized by the 40th Authority meeting, forwarded draft agreements to the applicants of two (2) Form-I applications recommended for approval by the 41st EC.

4. The Authority deliberated on the recommendations of the EC on ABS and approved: -

a) the recommendation of the EC to ascertain the details of outcome of the patent applications (such as number of patents granted and details of the commercial exploitation on the patents granted) from the NIF in respect of Form III approvals granted by the NBA; and

b) The EC recommended to form a sub-committee comprising Dr.R.V.Varma, Dr.A.K.Ghosh, Dr.Shivendu Srivastava, Dr.K.A.Subramanian, Ms.Priyankaa Varghese and Dr.Pratibha Brahmi for developing guidelines for non-monetary benefit sharing options and desired the secretariat to adopt electronic consultation with the experts on bio-systematics of bio-resources under various applications and this procedure as far as practicable and on case-by-case basis, as recommended by the EC.

Decisions:

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

b) Authority directed the Secretariat to take action on sl.no. (a) referred to above, without waiting for issuance of approved proceedings of the Authority.

Action: Secretary, NBA

41.05: To consider Form-III applications cleared by the NBA Secretariat for ratification

The Secretary informed that agenda item no.38.03 for the 38th Authority meeting held in July, 2016 proposed that the NBA Secretariat may initiate further action on Form-III applications without placing them before the Authority once the EC recommended for approval of the applications. The Authority had considered the proposal and decided as follows:

"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."

2. The Authority on being apprised of issue of draft agreements to 103 applicants (41st EC- 60+ 42nd EC -43) recommended suitable for approval, ratified the prospective approval to all the 103 applications.

Decision:

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

Action: Secretary, NBA

41.06: To consider Form–I applications applied by Section 3(2) persons for non-commercial Research cleared by the NBA Secretariat for ratification

The Members were informed that in agenda item no.40.06 for the 40th Meeting, the Authority has decided as follows: -

"The Authority authorized the Chairperson, NBA to consider the recommendation of the EC and grant approval to the applicants with respect to Form-I applications submitted by Individual researcher and institution who fall under Section 3(2), to undertake academic / non-commercial research. However, such approvals will have to be placed before the Authority for ratification."

2. Accordingly, the NBA Secretariat has forwarded draft agreements to two applicants recommended by the EC for approval.

Decision:

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

Action: Secretary, NBA.

41.07: To consider the report of the Expert Committee on Red Sanders

The Secretary gave a brief account on the issue of Red sanders (RS), which is listed as an endangered item in the IUCN Red List and included in Appendix II of the CITES and the export of which is banned by India's Foreign Trade Policy. The Directorate General of Foreign Trade (DGFT), through a notification dated 24th October 2013, relaxed the export policy for Red Sanders and permitted the Govt. of Andhra Pradesh and the Directorate of Revenue Intelligence (DRI) through subsequent notifications to export the confiscated/seized Red Sanders in logs measuring 8584.1363 MT and 1200 MT respectively. 30.04.2017 has been fixed as the cutoff date for completion of the whole export exercise. As per the Regulation 3 (3) of the Guidelines on access to biological resources and associated knowledge and benefit sharing Regulations, 2014, NBA had accorded approvals to successful bidders who applied to the NBA in Form-I seeking approval to access the auctioned Red Sanders wood. Subsequently, Andhra Pradesh Forest Development Cooperation remitted Rs.15,49,65,145/- on 24th February 2015 as benefit sharing component to the NBA account.

2. Pursuant to the decision of the Authority, in its 32nd meeting, an Expert Committee, under the Chairmanship of Shri. B. Vijayan, IAS (Retd.) and Shri B. Somasekhara Reddy, IFS., (Retd.) as Co-chair along with 26 Members from different fields was constituted on 26th March, 2015 for developing a comprehensive policy including modalities for utilizing the BS component realized on the sale of Red Sanders wood and protection, conservation and sustainable use of Red Sanders.

3. He also briefed the members about the activities undertaken by the EC on RS, like constitution of the sub-committees for facilitating submission of the report, field visits to areas where Red Sanders are naturally grown and areas they are being cultivated to get a first-hand feel and information and in-depth understanding of the connected issues. He added that during its tenure, the EC met eleven times and held several small group discussions were held from time to time and studied various critical aspects on conservation, threats to RS survival and sustainable use of RS from the available documents, including data from the secondary sources, the relative laws, procedures, regulations, implementation issues, etc. It also analyzed the information gathered during the field visits as well as consultations with various stakeholders. Based on the inputs from different quarters, the EC prepared a draft report and the same was fine-tuned after several round of consultations. Thereafter, the EC submitted their report, which consists of recommendations on the ToRS, assigned to them.

4. Secretary gave an overview of the salient aspects of the Report. He submitted that there are some recommendations on which actions are to be initiated by various agencies like Government of Andhra Pradesh and its forest department, Ministry of Environment, Forest and Climate change, Ministry of Commerce (DGFT), Central Board of Excise and Customs, National Biodiversity Authority, State Biodiversity Boards and Research Institution. The members were enlightened about the key recommendations of the EC which includes:

a) Sharing of benefits realized from sale of RS by the NBA/SBB among various stakeholders at prescribed percentages for various activities subject to certain conditions and modalities for utilizing the same. The EC devised a structure for utilizing the BS for various activities

b) The Government can resort to sustainable harvest through selective felling, thereby increasing the lawful availability of the RS to meet the international and national demands, subject to pre and concurrent conditions.

c) Encouraging cultivation of Red Sanders as trees outside forest (TOF) so that the demand for wood is met from cultivated source and thereby conserving the natural growth in its own habitat.

d) Enacting a Central legislation to govern all aspects of management of RS forests, its felling, trading and cultivation by private individuals in India. A draft legislation has also been prepared.

e) Establishing International co-operation between India and China to study the requirement of Chinese market and also to make efforts to sign an international co-operation agreement on RS trading with the Chinese government to prevent smuggling and meeting the legitimate demand in the Chinese market.

f) RS to remain in CITES and, if feasible, the powers of CITES management authority / MoEF&CC may be delegated to the State forest departments for the purpose of quick decision making.

g) Establishing a national institute by upgrading the existing BIOTRIM at Tirupathi for conducting research on propagation and management of RS.

5. The Members observed that ToRs of the EC on RS was to develop a comprehensive policy including modalities for utilizing the BS component, protection, conservation, etc. which was very broad in nature. After going through the report, the members felt that the EC has made recommendation after having detailed analysis on various issues tied up with the RS with the help of eminent experts of the Committee. Further, the Authority placed on records its deep appreciation to the expert committee for its contributions and efforts in bringing out the report on Red Sanders conservation.

6. Dr.Sujata Arora, Adviser, MoEFCC felt that the list of recommendations brought out in the report pertain to various Ministries / departments and suggested relevant recommendation to be communicated to the concerned ministries /department for taking action on it. With respect to recommendation on allocation of BS amount to the various stakeholders in percentages, she desired to know whether BS amount suggested in percentage would be released to the concerned stakeholders as one time grant or in installments and wanted a monitoring mechanism in place on the utilization of the BS amount.

7. She also added that the EC recommended certain percentage of BS amount to be utilized for research purpose and development activities on RS and so, NBA may call for proposal on the priority areas from the stakeholders with a view to utilize such amount. For this, a small group can be formed drawing members from the EC on RS, particularly those who handled the recommendation relating to BS, for scrutinizing the

proposal. The chairperson suggested that as and when NBA receive research proposals, it can be sent to experts who served in the committee for their scrutiny and comments before taking a decision on approvals rather than forming a committee to evaluate proposals.

8. The Secretary, NBA has informed that as the EC has recommended the modalities for utilizing the BS amount received by the stakeholders under various heads of expenditure and the NBA will release the BS amount accordingly in installments to the concerned stakeholders along with do's and don'ts; and further amount will be released, based on the utilization certificate.

9. While discussing the report of the EC, the Secretary, NBA appraised the members about an application in Form I received from M/s. Brasif S.A. seeking prior approval from NBA for importing of approximately 4000 bovine cattle embryos (Ongole, Gir and Kankrej) from Bhavnagar, Gujarat to Brazil to upgrade quality of breeding cattle in Brazil. After following due process, the approval was granted to the applicant subject to payment of 5% of the equivalent cost of production of one embryo @ USD 41.4 (5% of USD 828) i.e. 4000 x 41.4=US$165600 as an upfront payment towards benefit sharing. Accordingly, the applicants have also paid the upfront payment to the NBA to the tune of Rs.1.2 crores.

10. It is also informed that though Gir and Kankrej were from Gujarat and Andhra Pradesh, in the instant case, the export took place from Gujarat through a trust which has collected the breed from different parts of the country. Since the trust has been collecting the bovine embryos from various sources and exporting the same, there is no benefit claimers/community in the instant case. Therefore, it is proposed that, similar to the Red sanders, the upfront payment accrued on the access of the bovine cattle embryos may be defrayed for the purpose of conservation of the cattle breeds as per section 27 of the BD Act.

11. The authority recommended the formation of a small group comprising officials from the Department of Animal Husbandry and Dairying, NBAGR, AP and Gujarat, concerned State Biodiversity Boards, and other experts, as deem fit, for developing modalities for utilizing the BS amount accrued on the access of the bovine cattle embryos.

Decisions:

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

b) The Authority authorized the Chairperson, NBA to release the BS amount accrued on sale of RS to the concerned stakeholders in installments, as per the recommendations of the EC on RS. The amount should be routed through concerned SBB to the Forest Departments. And also the details of the same may be placed in the subsequent authority for ratification.

c) It was decided that relevant recommendations of the EC have to be communicated to the concerned State Governments/ Ministries/ Departments/Institutions for taking necessary action. This action may be taken without waiting for the issuance of approved proceedings of the Authority.

d) The report of EC on RS may be communicated to the members of the EC on RS without waiting for the issuance of approved proceedings of the authority.

e) With regard to recommendation on utilizing the BS amount for supporting the research and development activities, Authority decided that NBA may call for proposal on the priority areas from the stakeholders which can be sent to experts of the EC for scrutiny and comments.

f) Authority decided to defray the BS amount accrued on the access of the bovine cattle embryos for the purpose of conservation of cattle breeds as per BD Act. It was also decided to form a small group comprising of officials from the Department of Animal Husbandry and Dairying, NBAGR, concerned Sate Biodiversity Boards, and other experts for developing the modalities for utilizing the BS amount accrued on the access of bovine cattle embryos.

Action: Secretary, NBA

41.08: To consider the report of the National Institute of Ocean Technology on alleged harmful effect of the seaweed *(Kappaphycus alvarezii)* on the coral reefs in the southern coastal districts of Tamil Nadu

The Authority in its 22nd meeting had decided, based on a newspaper report on harmful effects of seaweed (*Kappaphycus alvarezii)* on coral reefs in the Gulf of mannar (GoM), to get the opinion of the specialized government departments/ institutes in the field. Accordingly, opinions from Zoological Survey of India, Central Marine Fisheries Research Institute, Central Salt and Marine Chemicals Research Institute, Chief Wildlife Warden, Tamil Nadu Forest Department, Department of Fisheries, Tamil Nadu and Wildlife Institute of India were sought. The comments / views of these departments /institutes were then referred to the Joint Secretary, Ministry of Earth Science, New Delhi, pursuant to the decision taken in 32nd Authority meeting, endorsing a copy to Dr. R. Kirubagaran, NIOT, Chennai, Member of NBA, with a request to offer their views as well, because of the divergent opinions of the above institutions.

2. Dr. R. Kirubagaran has furnished a detailed report on this subject after conducting surveys covering all the major seasons with the support of the Tamil Nadu State Forest Department.

3. After discussions, the members expressed the view that NBA does not have any regulatory mandate to restrict the introduction of any further strains from exotic environments and conduct study for monitoring of their invasiveness. However, it was resolved that NBA may share the findings to all the Coastal States for information and action as appropriate.

Decisions:

a) The Recommendation of the NIOT for restricting the introduction of any further strain form exotic environments without any background study, is not within the mandate of NBA to decide.

b) NBA may share the report of the NIOT on alleged harmful effect of the seaweed (*Kappaphycus alvarezii*) on the coral reefs with all the Coastal States for information and action as appropriate.

c) NIOT may continue to periodically monitor the effect of said seaweed on coral reefs.

Action: Secretary, NBA.

41.09: To consider exempting IPR applications filed prior to the year 2004 from the purview of the BD Act

The members were informed that the EC on ABS in its 41st meeting held on February, 2017 while examining Form-III applications for seeking prior approval for obtaining intellectual property right, in or outside India, took note of the non-retrospective effect of provisions of the BD Act. The EC had further observed that the applicant, who might have filed patent application in 2004, prior to the notification of the BD Act, 2002 / Rules,2004 must be exempt from the purview of the Act.

2 NBA sought opinion of the legal consultant whether non-filing of applications for permission from NBA (for such of those patents granted after 01.07.2004), will amount to violation of section 6. The NBA's Legal Consultant, offered his opinion on 22nd December, 2015 which concurred with views of the EC. However, the legal consultant advised on 20th February, 2016 that in patent application made before but patent granted subsequent to 15.04.2004, the applicants need to secure permission of NBA as per the first proviso to section 6(1).

3. The NBA Secretariat is of the view that "the BD Act doesn't have retrospective effect and any action against applicant is barred by Article 20(1) of the Constitution of India. Hence, the applicant, (who filed patent application prior to the notification of the BD Act, 2002) may be exempted from the purview of the Act."

4. The members discussed the issue in detail and decided to exempt filing Form-III patent applications prior to BD Act / Rules coming into force *i.e., before 15.04.2004*.

Decisions:

a) The Authority decided to exempt filing Form-III applications by those who have filed patent applications prior to the BD Rules 2004 coming into force, i.e., 15.04.2004.

Action: Secretary, NBA.

41.10: To process the Form-III applications submitted by National Innovation Foundation for seeking approval for obtaining IP Rights

The Secretary apprised the members about the clarification needed on mismatch of name furnished in Form-III applications with that in patent applications. Upon enquiry with the patent office on this aspect, it learnt that in general, the patent office does not look into the authenticity of the names provided in the application, as it can be changed by the applicant any time through submission of Form-13 under the Patent Act. With regard to the issue of mismatch of name in the patent application and approval granted by the NBA, it is learnt that IP office goes by the name given in the application as well as the Form-13, in case of any change in name.

2. The Authority was informed that NBA Secretariat had decided to take official cognizance only the name and address indicated in the identity proof submitted by the applicant in the event of any mismatch of name and address.

Decisions:

a) The members decided that standard procedures already in place needs to be adhered to.

Action: Secretary, NBA

41.11: To consider the recommendation of the Expert Committee to formulate the category of awards, procedure, selection process, fund flow mechanism, etc.

The direction of MOEFCC, *vide letter dated* dt.12th May, 2016 to initiate the process of instituting BABS (Biodiversity Access and Benefit Sharing) was considered by 38th Authority meeting held in July, 2016. It was resolved to constitute a committee to formulate categories of awards, procedures, selection process, time period, financial resource mobilization, etc. by inducting experts who are involved in the exercise of

MoEFCC-UNDP–India Biodiversity Award. Consequently, a committee was constituted under the Chairmanship of Prof. M.S Swaminathan to formulate the categories of awards, procedures, selection process, timeline, financial resource mobilization, etc.

2. It was also informed that a meeting of the expert committee was held on 11th January, 2017 at MSSRF, Chennai and the EC developed a comprehensive draft proposal on institutionalization of the India Biodiversity Awards. The key recommendations of the committee have been appraised to the members of the Authority such as title of the award as "India Biodiversity Awards", developed broad guidelines for the selection committee and four categories of awards (biennial).

3. Dr. Sandhu felt that PPVFRA giving Plant Genome Saviour Award/ Reward/ Recognition awards for the conservers of the biodiversity every year. Therefore, the members opined that an Official from the PPVFRA may be inducted as a member of the Award Committee to avoid the same individual getting awards from both organizations for the same contribution.

Decisions:

a) The Authority directed the NBA Secretariat to communicate the developments on institutionalization of India Biodiversity Award to the Ministry expeditiously and initiate immediate action to ensure launching of applications for award on 22nd May 2017.
b) A representative from the PPVFRA may be inducted as a member of the selection committee for awards.

Action: Secretary, NBA

41.12: Information on closure of application no. 956 filed by Prof. Ilkka Aulis Hanski of Finland due to non-execution of agreement

The members were informed about the Prof. Ilkka Aulis Hanski, University of Helsinki, Finland submitted Form-I application on 27.06.2015 seeking prior approval of NBA for accessing two specimens of six dung beetle species belonging to genus *Ochicanthon* from the St. Joshep's College, Devagiri, Calicut for the purpose of research. The application was placed before the 36th EC on ABS held in February 2016 and the EC had recommended for approval subject to certain conditions. The 37th

Authority meeting held in March, 2016 endorsed the EC's recommendation. Pursuant to the Authority's decision, NBA forwarded a draft agreement to the applicant on 18.04.2016 for execution.

2. The contact person of the applicant, Dr. Sabu K. Thomas, Associate Professor in Zoology, St. Joseph's College, Devagiri, Calicut, in his letter dated 27.06.2016, has conveyed about the demise of the applicant. In view of this, the Competent Authority has decided to close this application. Accordingly, Dr. Sabu K. Thomas had been informed about the closure of application on 23.02.2017. The members noted the item as an information.

41.13: Ratification of decisions on Form-B applications

The Secretary informed the Members about the details of approval accorded by the Chairman NBA on six Form–B applications below.

S. no	Appl. No	Date on which application complete in all respects	Name of the Applicant	Purpose	Recipient / Collaborator	Decision
1	B/18	04-07-2016	Prof. S.R. Yasdav, Professor and Head, Dept. of Botany, Shivaji University, Kolhapur – 416 004, Maharashtra	Evolution of the micrairoid grasses	Professor Dr. Melvin R. Duvall Northern Illinois University Herbarium (DEK), Dept. of Biological Sciences, 1425 W Lincoln Hwy, DeKalb,	Approval granted on 23.12.2016
2	B/20	16-12-2016	Ms. Himani Nautiyal Raseersh Associate (NIAS) C/o Om Prakash Nautiyal,	Parasite and primate DNA identification/verification preserved in formalin and lysis buffer Primate Research Institute,	Michael A. Hufman, Associate Professor, Section of Ecology and Conservation,	Approval granted on 17.01.2017

			Sangam Vihar Chauras, PO-Kilkileshwar, Tehri Garhwal – 249161, Uttarakhand, India	Kyoto University, Japan	Department of Ecology and Social Behaviour, Primate Research Institute, Kyoto University, 41-2 Kanrin, Inuyama City, Aichi Prefecture	
3	B/26	28.11.2016	Ms. Isha Kumar, F-410, D Block, Sector-18A, Plot-14, IRCON Employees C.G.H.S Ltd, Dwarka, New Delhi - 110078	Quorum Sensing & Anti-Bacterial Properties of Selected Plant species	Dr. Christian R. Pangilinan, MS, Thesis Adviser, Manila Central University, EDSA Morning Breeze, Sub-Division, Caloocan city, Metro Manila – 1400, Philippines	Approval granted on 08.12.2016
4	B/28	28-11-2016	Ms. D K. Bharti,Room. No.244, New Girls Hostel, Indian Institute of Science, Bangalore – 560012, Karnataka	Sending of DNA extract of Marine Snails – Littoraria, Echinolittorina (periwinkles) and Conus (cone snails) to BGI Tech Solutions (Hong Kong) Co., Ltd, Hong Kong	Mr. Jeremy Cao, Director, Asia Pacific, BGI Tech Solutions (Hong Kong) Co., Ltd, 2/F, 16th Dai Fu Street, Tai Po Industrial Estate, Tai Po, Hong Kong	Approval granted on 23.01.2017
5	B/23	22.12.2016	Ms. Prachi Varshney, Ph.D Scholar, C/o. Pramod P. Wangikar, Department of Chemical Engineering, Indian Institute of	To investigation on CO_2 sequestration with microalgae under dry and hot ambient conditions	Prof. John Beardall, School of Biological Sciences, Monash University, Melbourne, Australia	Approval granted on 23.01.2017

			Technology-Bombay, Powai, Mumbai 400 076			
6	B/27	16-12-2016	Dr Shailender Kumar Verma, Assistant Professor, Centre for Computational Biology and Bioinformatics, School of Life Sciences, Central University of Himachal Pradesh, Kangra – 176 206, Himachal Pradesh.	To analyze the grain minerals (Fe) micro-nutrient distribution in all the seed samples	The Research Director, CNRS, Institut de Biologie integrative des plantes, Central national de la recherché scientifique, Montpellier Cedex 1, France	Approval granted on 13-1-2017

Decisions:

The Authority ratified the action taken on six Form B applications by the NBA Secretariat.

Action: Secretary, NBA

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

The Authority had, in its 37th meeting held on 22nd March 2016 under agenda item 37.14.02, decided 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 the repository of another country for making claim of novel species for publication in journals. However, if any non-Indian person / entity intends to access the deposited Indian biological resource from a foreign repository, prior approval of NBA as per Section 3 of the BD Act, 2002 is necessary. Accordingly, 16 researchers / scientists have provided their prior intimation to NBA in Form-C for depositing of microorganism since the last meeting. The Authority took note of this item.

41.15: Sharing of NBA'S publications with Bharatavani Project of the MHRD, Government of India by sharing knowledge repository.

The Secretary apprised the members that Bharatavani Project is an initiative of Ministry of Human Resource Development, Government of India with an objective of delivering knowledge in and about all the languages in India in multimedia formats

through an online portal. He also added that as Bharatavani's knowledge section's (Jnaanakosha) priority topic for the year 2017-18 is Environmental Sciences, NBA had been requested to share all the publications over which NBA has copyright for publishing in their portal and also to give an NOC for publishing such contents in Bharatavani Project portal.

2. It was proposed to consider for permitting the Secretariat to share all publications of NBA and also grant NOC for publishing such contents in the Bharatavani Project portal as this platform would be useful to outreach the public in large about the provisions of the BD Act in all languages.

3. The authority considered the proposal and agreed to share the publications as well as granting NOC for publishing such contents in the Bharatavani Project portal.

Decision:

a) The Authority agreed to share the publications with Bharatavani project and grant NOC for publishing such publications in the Bharatavani Project portal.

Action: Secretary, NBA

41.16: To ratify the decisions taken by the Chairperson, NBA for granting exemption to inventions which are Mechanical/Design improvements.

The members were informed that in the 35th Authority meeting held in October, 2015, the Authority had authorized the Chairperson, NBA to provide NOC directly in cases where IPR is sought on mechanical/ design improvements/ inventions without placing before the EC on ABS and to place such instance before the Authority for ratification.

2. Pursuant to the decision taken in the 35th Authority meeting, the Chairperson, NBA has granted No Objection Certificate for three such cases, the details of which are given below:

1. Dr.Amalesh Sirkar , Dr.Pinaki Battacharya & Ranjan Sebak Roy (127/KOL/2010)
2. The Director General, DRDO (501/DEL/2011)
3. Shri. Ajit Balakrishna Shinde (2506/MUM/2007 & 1167/MUM/2011)

Decisions:

a) The Authority ratified the action of the Chairperson, NBA for issuance of a NoC to the claimants whose IPR is on mechanical/ design improvements/ inventions.

Action: Secretary, NBA.

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

The Secretary informed the members that following the auction of Red Sanders by the Department of Revenue Intelligence (DRI) through STC and MMTC,through global tenders, NBA received 6 applications from foreign buyers seeking access to auctioned 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 accorded by the Chairperson, NBA upon receipt of 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.

41.18: To consider the proceedings of 6th Meeting of the Expert Committee on Agro-biodiversity held on 28th September 2016

The Secretary informed the members about sixth meeting of the expert committee on Agrobiodiversity held on 28th September, 2016 at Chennai. The EC had discussed various issues relating to Agrodiversity raised in this meeting and recommended:

a) To adopt certificate of approval to be given by the concerned Union/State Ministry/ Department for collaborative research project for exemption under Section 5 of the Biological Diversity Act, 2002.

b) To develop specific proposals on the proposed Central Facility and requirements of sending DNA nucleotide sequence data to genetic sequence database while seeking IPR.

c) To recognise local livestock keepers of Kutch area of Gujarat, through BMCs, as primary beneficiaries / legal custodians of Banni buffalo' and 'Kharai camel' breeds with a view to promoting on-farm conservation of these locally adapted breeds and proposed to get this approach approved by the Authority in principle.

2. The members have expressed that section 36(5) of the BD Act provides that the Central Government shall endeavour to respect and protect the knowledge of local

people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including *sui generis* system. The members also noted applicability of TK not only in the instant case but in general and the fact the local communities are custodians of local bioresources. After discussing the issue, the Members approved, in principle, EC's recommendation on suggested approach of recognition of local livestock keepers as primary beneficiaries/legal custodians.

Decisions:

a) The Authority approved the format at Annexure –II of certificate of approval to be given by the concerned Ministry/ Department for the collaborative research project for exemption under Section 5 of the Biological Diversity Act, 2002.

b) Authority also directed the NBA to communicate the format to concerned Ministries as well as host it on the NBA website.

c) The members approved, in principle, EC's recommendation that the suggested approach to providing legal protection to locally adapted endemic breeds. Incorporation of such breeds in the PBRs of the concerned BMC/SBB. The NBA secretariat may inform the SBB in this regard.

Action: Secretary, NBA.

41.19: To consider the proceedings of the consultative meeting held with Union Territories in connection with constitution of Biodiversity Council in the UTs as per Section 22 (2) of the BD Act, 2002

The Secretary informed the members that NBA had explored the possibility of establishing Biodiversity Council in the Union Territory of Andaman & Nicobar Islands and Lakshadweep as per sub-section (2) of Section 22 of the Biological Diversity Act, 2002. Subsequently, the 32nd Authority under Agenda item no. 32.15 held in December 2014 had observed that the terms and composition of members in draft notification are not compatible and 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 as detailed.

2. Thereafter, the 38th Authority considered the proposal of the NBA Secretariat that the Ministry of Environment, Forest and Climate Change may be requested to issue a notification to all Union Territories to form a group of officials to carry out certain provisions of the BD Act and to decide as follows:

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.

3. As per the above decision of the 38th Authority meeting, NBA sent a communication along with a background note and brief agenda to the Chief Secretaries of Union Territories concerned through MoEFCC, inviting him or his representative to nominate upto four officials belonging to the Departments like Forest, Panchayat Raj, Agriculture, Fisheries and Animal Husbandry for the consultation meeting at Chennai. NBA convened a consultative meeting on 18th January, 2017 with the Officials of the Union Territories during which it was agreed that:

a) Concurrence from all the Union territories is to be received by 1st March 2017 with an indicative list of nominated officials from the concerned departments

b) Union Territories may submit a list of proposed activities along with proposal for funding support to NBA before March 31st 2017.

c) Andaman & Nicobar Administration (Department of Environment & Forests) may send their nominations as per the earlier notification *i.e.* F. No. 10(G-I)/14-EN (Biodiversity)/663 dated 17th October,2006 for taking necessary action by NBA under section 22(2) of the Biological Diversity Act.

4. The Secretary, NBA has informed that NBA has received a list of nominated officials from Andaman & Nicobar Administration.

5. Thereafter, Dr Sujata Arora, Advisor, MoEFCC while suggesting continued consultations with other UTs as well pointed out that the Ministry has already

requested NBA to suggest the powers & functions to be delegated to the UTs. The chairperson, NBA has suggested to restrict the delegation to constituting Biodiversity Management Committees, preparing People's Biodiversity Registers, providing consent or otherwise to the applications referred by NBA for accessing biological resources and / or associated knowledge requested by different stakeholders as per the proviso of subsection (2) of Section 22 of the Act for the time being.

6. The Members deliberated on the terminology "Biodiversity Council" and wanted legal opinion on the use of the word "council "in the term with respect to UTs.

Decisions:

a) The Authority decided that list of officials received from the Union Territories may be communicated to MOEFCC for consideration duly mentioning the delegation of powers & duties to the UTs.
b) The Authority directed NBA Secretariat to seek legal opinion on the use of term – Biodiversity Council for UTs.

Action: Secretary, NBA

41.20: To Consider the proceedings of the Twelfth Meeting of the Expert Committee on Normally Traded Commodities held on 19th December, 2016 at NBA, Chennai.

The secretary apprised the members that NBA had organized the 12th Meeting of the Expert Committee on Normally Traded Commodities on 19th December, 2016 at NBA, Chennai under the Chairmanship of Shri. D.K. Ved, IFS (Retd.) and Shri. C. Achalender Reddy, IFS as Co-Chair. He also informed that EC considered the proposals received from Indian Paper Manufacturers Association (IPMA), Shellac and Forest Products Export Promotion Council (SHEFEXIL), Uttarakhand *Jadi-Buti Evam Kirana* Association, Department of Agriculture, Co-operation & Farmers Welfare (DAC&FW), MoA&FW, Marine Products Export Development Authority (MPEDA) as well as a 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. The Joint Secretary (Seeds), DAC raised the issue of status of notified seeds of cultivated crop under Seed Act. He also opined that EC may

be asked to examine it for inclusion in the list of NTC and suggested to invite the concerned from DAC, ICAR and non-official members to the meeting of the EC. Thereafter, the Authority decided to invite the concerned from Dept. Agricultural Co-operation, ICAR and a non-official member to the meeting of the EC.

Decisions:

a) Authority approved the list of 35 species for inclusion as NTCs.

b) Authority directed the secretariat to invite the representatives from DAC, ICAR and a non-official member to the next meeting of the EC on NTC.

Action: Secretary, NBA

41.21: Activities undertaken under by the UNEP-GEF-MOEFCC ABS Project

The Members were informed about the extension UNEP-GEF –MOEFCC ABS project got until 31st December, 2017 to accomplish the remaining activities in the project, without any further cost contribution. Further, a brief on various activities undertaken during the period like organizing the side event at the Conference of the Parties (COP 13), exhibition at 104th Indian Science Congress (ISC was given. Members were also apprised on participation in the 1st International Agro-biodiversity Congress held at NASC Complex at Delhi, India International Science Festival (IISF) held at National Physical Laboratory, Delhi and National Conference on Tree Improvement, Bengaluru was also given.

The members noted the activities undertaken by the project.

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

41.22.01: To consider the procedure for processing of application in Form-B for sending / carrying biological resources by Indian Scientist/ Government institutions to outside India for conducing non-commercial research.

The Members were apprised that as per Regulation 13 of the Guidelines on access to biological resources and associated knowledge and benefits sharing Regulations, 2014, NBA are receiving the Form-B applications from scientist

/researchers and processing the same on receipt of necessary documents / information's in hard copy (original) and accord approval as its deem fit.

2. It was also informed that NBA has received around eight (8) Form-B applications along with the scanned / photocopy of the Declaration by the Recipient / Collaborator (foreign scientist) from the Scientists of ICAR-National Bureau of Agricultural Insect Resources, Bengaluru for sending dead specimens of the insects to experts in different countries for identification. As per the procedure followed in the NBA Secretariat, the scanned /photocopy of the declaration has not been taken into account for further processing of the application.

3. Further, upon calling the documents, the Director, NBAIR, Bengaluru has informed that it is hard to tell the international researchers to send documents through post for sending dead insect specimens to other countries for taxonomic research since important documents are now being sent mostly through email.

4. The Secretary also apprised the members that Government institutions like ICAR, CSIR, DSIR, ZSI, BSI, etc. are regularly undertaking various short term and long term research activities in partnership with international experts with the approval of the Competent Authority due to lack of specific expertise on particular field in the country. Since such collaboration may not fall under section 5 of the BD Act, scientists undertaking research activities are applying in Form-B for sending the biological resources to international experts for identification.

5. In order to encourage research activities by the Government institution it was proposed to relax the requirement of submission of original declaration by the recipient/collaborator under Form–B and accept scanned /photocopy of the declaration submitted by the scientists attached to the application, provided such documents containing attestation in original by the Head of the Institution are attached.

6. Similarly, the ICAR institute has expressed their inability to provide exact geographical location as the insects are being collected during different expeditions undertook in the past.

7. The Members discussed the issues and agreed to the proposal of the NBA to further process the Form-B Application, upon receipt of scanned /photocopy of the declaration by the foreign collaborator / recipient, duly attested by the Head of the Institution.

Decisions:

a) Authority decided that the scanned / photocopy of the declaration, duly attested by the Head of the Government Institution be accepted.

b) NBAIR may furnish some general information about the geographical location before sending a consignment for identification.

Action: Secretary, NBA

41.22.02: To consider for exempting the Form-I submitted by M/s. Gangabishan Bhikulal Investment and Trading Limited (GBIT), Mumbai from the purview of the BD Act

It was informed that NBA received an application in Form-I from M/s. Gangabishan Bhikulal Investment and Trading Limited (GBIT), Mumbai [Appl.no.737] seeking approval to access of eggs of Aedes, Anopheles and Culex mosquitos for research purpose to environment friendly control methods for mosquito lead diseases. The application was recommended for approval by 31st meeting of the EC on ABS subject to the benefit sharing arrangements and the same was endorsed by the 33rd Authority in the meeting held on 17.04.2015.

2. Accordingly, the draft agreement was sent to the applicant on 08th June, 2015. In response, the attorney to the applicants have requested for amendments to the clauses of the agreement which was agreed by the NBA and a revised agreement was sent to the applicants.

3. Further, the attorney to the applicant vide letter dated 05th May,2016 requested for a fresh draft agreement due to certain developments in the applicants' company as stating that Form-I application made to NBA as company had a single non-Indian participant in their share capital at the time of filing the application. However, the said foreign participant in the share capital of the applicants' company having resigned, the company no longer has any non-Indian participation in its share capital.

4. The attorneys furnished proof to substantiate the reported change in the shareholding pattern of the applicant company along with the declaration stating that they do not fall under the scope of the provisions of the Section 3(2) of the B.D. Act.

5. After considering the issue, the members decided that the instant case doesn't fall under the requirement of section 3(2) of the BD Act.

Decisions:

a) The Authority decided that the instant case doesn't fall under the BD Act.

Action: Secretary, NBA.

41.22.03: To consider the scheme of engagement of consultants

The Chairperson, NBA enlightened the members that NBA has been established under Section 8 of the BD Act with its hqts at Chennai, and, as of now, a sanctioned strength of officials in the NBA is 15. She also informed that proposal of the NBA for creations of 58 additional posts are still under consideration. She added that lack of adequate skilled manpower coupled with multifold increase in activities has been a cause of great concern to the Authority for the effective discharge of its functions. Therefore, the Secretariat has been reliant on "Consultants" engaged in contract mode to cope up with the work. The 26th Authority has laid down the certain guidelines for engaging consultants at NBA.

2. In this regard, the Chairperson, NBA has expressed that there is a need for a comprehensive scheme for delineating the terminology, procedure for engagement, incremental remuneration, tenure, etc. Consequently, after examining the schemes/

guidelines available in the various Ministries / departments, NBA prepared the draft scheme for engaging consultants by making certain modifications in the existing guidelines. The draft schemes provide for engaging six (6) categories of consultants and the remuneration will be ranges from Rs. 25,000/- to Rs. 80,000 plus conveyance according to their qualification, experience and expertise.

3. After considering the draft scheme, Dr Sujata Arora, Adviser, MOEFCC has expressed that objective stated for proposing this draft scheme for engaging consultants needs to be relooked with the existing guidelines. She added that as the issue has been put forth before the Authority as an additional agenda, there is no sufficient time to go through the matter in detail. She also pointed out that situation/ scenario existing in other Ministries/ autonomous bodies needs to be presented before the Authority for understanding the subject and making conscious decision since it has financial implications.

4. In response, the Chairperson, NBA has informed that draft scheme has been prepared after detailed examination of the situation existing in other Ministries/ departments such as Department of Expenditure, Niti Aayog, Finance, etc. However, the draft scheme will be circulated to the Members of the Authority for comments and the same will be incorporated in the draft scheme.

Decisions:

a) The Authority in principle agreed to the proposal of engaging consultants and directed NBA to circulate the draft scheme to the Members for perusal along with the comparative table on the situation /scenario existing in other Ministries/ Autonomous bodies.

Action: Secretary, NBA.

41.22.04: To consider the scheme for introduction of internship for students, research scholars/fellows and All India Service Probationers in NBA

The members were informed that NBA is currently dealing with a range of technical, legal, administrative and policy issues related to implementation of the Act

and Rules. Many such issues require in-depth study, research, collection of data and information,analysis and preparation of reports. Recognizing the need and importance, the Authority in its 25th meeting held on 18.09.2012 had agreed to take Interns on Consultant mode under Rule 12 (vi) of BD Rules, 2004. There is a necessity to devise a distinct scheme suiting the novices, comprehensive draft scheme for introducing the internship for students, research scholars/fellows and all India Service Probationers in NBA. The Chairperson, NBA also briefed the members about the scheme for providing interns at NBA.

2. After detailed discussion, the members approved the Scheme for Internship in NBA.

Decisions:

a) The Authority approved the scheme for introduction of internship for students, research scholars/fellows and All India Service Probationers in NBA.

Action: Secretary, NBA

41.22.05: To consider conducting art competition for school students, in association with Kokuyo Camalin Ltd., and NDTV, as part of awareness creation activity.

The Chairperson informed the members that NBA has been actively undertaking several initiatives for creating awareness amongst various stakeholders about the Biological Diversity Act, 2002, Biological Diversity Rules, 2004 and Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 through various means which include advertisement in newspapers, electronic media like radio programmes and organizing meeting with different stakeholders.

2. She informed that Kokuyo Camalin Ltd with NDTV collaboration have approached NBA with a proposal for organizing a painting competition for 8000 schools in the upcoming months in association with NBA. The competitions could cover about 8000 schools throughout the India. It was proposed to institute a prize

worth Rs 800/- for each category. It amounts to Rs 80.00 lakhs, which includes incidental expenditures also.

3. It was proposed that NBA may be permitted to conduct the art competition for school childrens in association with potential partners to create mass awareness on biodiversity conservation among the young minds.

4. The members of the Authority agreed to the proposal and advised that NBA may circulate the publications / brochure about BD Act during the competition which will pave way to create awareness about the BD Act in the public at large.

Decisions:

a) Authority agreed to the proposal of NBA to collaborate with identified partners to fund the drawing and painting competition for students, observing government norms.

Action: Secretary, NBA

Annex-I

List of Participants

Official Members who participated			
1	**Dr (Mrs) B.Meenakumari** Chairperson, National Biodiversity Authority, Chennai	5	**Dr. Manoj Modi,** Scientist D, Department of Biotechnology, CGO Complex, Block No. 2, Lodhi Road, New Delhi 110 003.
2	**Smt. Shomita Biswas, Padmapriya** 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	6	**Dr. Jeet Singh Sandhu,** Deputy Director General, Division of Crop Science, ICAR, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi -110 001.
3	**Dr. Sujata Arora** , Adviser/Scientist-G Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003	7	**Dr. R. Kirubagaran** Scientist G, National Institute of Ocean Technology, Ministry of Earth Sciences, Velachery-Thambaram Main Road, Narayanapuram, Pallikaranai, Chennai - 600100
4	**Dr. R.K Singh,** Joint Secretary (Seeds), Dept. of Agriculture and Cooperation, Room no. 244, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi -110 001	8	**Dr. Sanjay Kumar,** Director, Institute of Himalayan Bioresource Technology P O No:6, Palampur, Himachal Pradesh: 176061
Non-Official Members who participated			
9	**Dr. Parimal Chandra Bhattacharjee,** A\3 Asiyana Housing complex Maligaon, Guwahati – 781011, Assam	11	**Dr. Dinesh Misra,** No: 65, Sector 8 Gandhi Nagar, Gujarat - 382008
10	**Dr. Yogesh Shouche** Senior Microbiologist, National Centre for Cell Science Department of Biotechnology Lab, University of Pune Campus, University Road, Ganeshkhind, Pune, Maharashtra – 411 007		
Members who did not participate			
12	**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	14	**The Director,** Ministry of Tribal Affairs, Room no. 736, A-Wing, 7th Floor, Shastri Bhawan, New Delhi – 110001

13	**Dr. B.K Shukla** Scientist G & Head Planning, Coordination & Performance Management Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi	15	**Prof. Umesh Rai** Director, Department of Zoology, South Campus, University of Delhi New Delhi- 110 007
Special Invitees who participated			
16	**Shri. Binod Kumar Sinha, IFS,** Member Secretary, Gujarat Biodiversity Board, 5th floor,Aranya Bhavan, Sector-10, Opp. St. Xavier's School, Gandhinagar, Gujarat – 382 010	17	**Dr. Vinay Kumar Sinha, IFS.** Member Secretary, Maharashtra State Biodiversity Board , Jaivavividhata Bhavan, Civil Lines, Nagpur – 440 001
18	**Shri Darshan Shankar** Chancellor TransDisciplinary University C/o Foundation of Revitalization of Local Health Traditions (FRLHT) #74/2, Jarakabande Kaval, Post Attur via Yelahanka,Bangalore - 560 064		

Annex-II

FORMAT

Certificate for approval to be given by the concerned Union/State Ministry/ Department for the collaborative research project for exemption under Section 5 of the Biological Diversity Act, 2002

The undersigned hereby conveys the approval of the competent authority for the collaborative research project entitled ---------- (Title of the Project) involving transfer/exchange of biological resources ---------- (Nature of the biological resources) or information relating thereto between ---------- (Name of the Indian Institution) and ----------(Name of the foreign institution), as per the enclosed brief and as provided under Section 5 of the Biological Diversity Act, 2002 and the notification issued by the Ministry of Environment and Forests on 8th November, 2006.

Place Signature of the Authorized Signatory

Dated:

Name and Designation: ----------

Seal of the Ministry/ Department: