





NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 47th AUTHORITY MEETING

26th September 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

Proceedings of the 47th Authority Meeting of the National Biodiversity Authority held on 26-09-2018.

The forty seventh Authority meeting of the National Biodiversity Authority (NBA) was held on 26th September 2018 at the Conference Hall, National Biodiversity Authority, Chennai chaired by Dr. B.Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson extended a warm welcome to the members. She also welcomed the new nominee of the MoES, Dr M. A. Atmanand of NIOT, Chennai.

Chairperson briefed the members about the activities of NBA from the last authority meeting which included participation in national and international workshops/conferences, conducting awareness programmes on the Biological Diversity Act and hosting a workshop on 'Mainstreaming biodiversity concerns into Forestry and Forest Management'. NBA observed Independence Day on August 15th and Hindi week from September 10th – 14th, 2018.

Chairperson informed the Authority that NBA has taken over an office space of around 5000 sq. ft. vacated by the Animal Welfare Board of India, Chennai and proceeding with the renovations of the building.

The Secretary, NBA then apprised about the status of ABS applications received, trends in receipt of application and their disposals.

Thereafter, the agenda items were considered as under:

47.01: Confirmation of Proceedings of the 46th Authority meeting

The draft proceedings of the 46th Authority meeting of the National Biodiversity Authority held on 24th July, 2018 at New Delhi was circulated to the Members for seeking their comments. No comments for revision of the draft proceedings were received. The proceedings were placed for confirmation.

Decision:

a) The members confirmed the proceedings.

47.02 Action taken report of the 46th Authority meeting

Most of the decisions taken during the 46th Authority meeting are being acted upon and the members noted the action taken report on the decisions.

47.03: Compliance of Decision in the 17th to 21st Authority meeting

The Action report on the decisions of 17th to 21st Authority meeting was summarized.

Decision:

a) Members noted the action taken report and approved.

ACTION:SECRETARY,NBA.

47.04 To consider Form-III and Form-I applications cleared by the EC on ABS for ratification

The decision under agenda item no.44.03 in the 44th Authority meeting was as follows:

"The Authority authorized the Chairperson to convey approval to the applications, which have recommended by the EC on ABS, except applications, which are identified as violation of the BD Act and have disputes. Such approvals will be placed before the Authority for ratification."

While clarifying to members, the Chairperson and Secretary replied that NBA has already communicated to UGC and other scientific Institutions to add a clause in the project guidelines itself on the mandates of the Biological Diversity Act.

Dr. PC Battacharjee and Dr. Yogesh Souche suggested that a similar exercise can be carried out and inform the State Science, Technology and Environment Institutions to create awareness and make a provision in their guidelines to follow the mandates of BD Act, 2002 while they sanction projects. Dr Darshan Shankar added that e-mails can be directly sent to all the Universities (around 900) about the mandates of the BD Act.

Secretary mentioned that NBA is active in Facebook and also in some related groups in the social media. In addition, the Chairperson added that all the organizations who receive NBA funds, are being asked to put up a write up about the BD Act in the Proceedings as well as Abstract book. She also mentioned that one page advertisement year round has been given in journals such as Current Science, Down to Earth and Threatened Taxa.

Decision:

a) Form-III and Form-I applications cleared by the EC on ABS are ratified.

b) NBA to communicate with State Boards to include the provisions of BD Act in the State Scientific project sanction orders so as to create awareness,

c) NBA may also write to all to Universities in India also regarding the same.

ACTION:SECRETARY,NBA.

47.05: To seek guidance on Application in Form-I (Appl. No. 1863) submitted by M/s. Shanghai Shen Da Imp & Exp Co. Ltd China for access to Red Sanders wood

Secretary elaborated the details on the Form I application submitted on 23rd December 2016 by Shri. Wang Qiurong of Shanghai Shen Da Imp. & Exp. Co., Ltd, China for accessing 74.216311 MTs of Red Sanders from M/s. Andhra Fogaku Pvt Ltd, Hyderabad, India for the purpose of commercial utilization (furniture making) pursuant to the permission issued by the DGFT.

The Members had a long deliberation and Dr Atmanand and Dr Darshan Shankar expressed their view that the application for export of Red sander's wood can also be considered by EC on ABS, so that all the aspects of such application can be discussed by the experts rather than going for internal decision making process. In reply to it, the Secretary elaborated that the decision of exclusion of Red Sanders was taken in the 30th EC on ABS which was held in Hyderabad. The members and the Chairperson have opined that the earlier decision can be revisited and accordingly henceforth RS applications may also be referred to EC on ABS for consideration by it as the EC have representatives from all fields.

Decision:

a) Form I application submitted M/s Shanghai Shen Da Imp. & Exp. Co., Ltd,is accepted and ratified.
b) Henceforth, NBA to refer applications related to Red Sanders also to the Expert Committee on ABS.

ACTION:SECRETARY,NBA.

47.06: Ratification of decisions on Form-B applications

Under agenda item 32.06 of 32nd Authority meeting, it was decided as follows: - "The Chairman, NBA is authorized to accord approval or otherwise for Form- B applications, without referring to the SBB and the EC on ABS and it shall be placed in the subsequent authority meetings for ratification".

Decision:

a) Members noted the decisions and ratified.

ACTION:SECRETARY,NBA.

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

The Authority, in its 37th meeting held in 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 other country's repository for claim of novel species for publication in journals. However, if any non-Indian person /entity intend to access the deposited Indian biological resource from the foreign repository, he/she should obtain prior approval of NBA as per Section 3 of the BD Act, 2002.

Secretary elaborated that NBA has received 71 such intimations since March 2016 - 24th July, 2018 and the same have been reported to the Authority from time to time. Since July, 2018, NBA has received 16 Form-C applications of which twelve (12) intimations were received through online and four (4) through offline.

Members noted the improvement in the process of clearing application and also the increase in compliance as a result of awareness created among the relevant stakeholders.

Decision:

a) Members noted the improvement.

ACTION:SECRETARY,NBA.

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

In the 32nd Authority meeting (32.07), the Authority authorized the Chairperson, NBA to accord approval of applications on Red Sanders without following the normal procedure and also directed the NBA Secretariat to place such approvals in the subsequent Authority meeting for ratification.

In compliance to the above decision, Chairperson has approved 4 applications for access of Red sander's wood.

Decision:

a) Approvals accorded by Chairperson are ratified.

ACTION:SECRETARY,NBA.

47.09: Proceedings of the 49th Meeting of Expert Committee on Access and Benefit Sharing on ABS held on 10th &11th July 2018 at NBA, Chennai

The 49th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 10th&11th July, 2018 at the National Biodiversity Authority, Chennai. A total of One hundred and twenty three (123) applications and one generic issue were placed before the EC for examination. The representatives of Four (4) applicants appeared before the EC and clarified their position on their applications. As per the decision taken in the 44th Authority meeting, Sixty four (64) Form-III applications and Six (6) Form-I which were recommended for approval by the EC on ABS are being cleared and draft agreement sent to applicants. Further, EC observed violation of Section 3 (1) of the BD Act in respect of 40 applications.

The applicability of Biological Diversity Act on patents for technology development process / products with use of biological resources was discussed by the members.

Dr. Atmanand suggested to develop an utility "App" for the application process of ABS which will facilitate to quicken the process and may encourage more stakeholders to comply with the BD Act. He also suggested to explore the possibility of having a dedicated Computer server for NBA other than NIC cloud server to have more flexibility in managing the application process. He further suggested that it would be desirable if there is a possibility for the Applicant to check his/her application status online.

Decision:

a) Proceedings of the 49th Meeting of Expert Committee on Access and Benefit Sharing on ABS is accepted and ratified.

b) NBA to explore the possibility of checking the application status online.

ACTION:SECRETARY,NBA.

47.10: Directions under Section 48 of the BD Act, 2002 to NBA for enhancing implementation of the Act.

Section 48 of BD Act stipulates that NBA shall in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. The

MoEF&CC has issued an Office Memorandum, dated 10th September, 2018 to NBA by giving directions under Section 48 of the Biological Diversity Act.

The MoEFCC OM, *inter alia,* states that *"in exercise of the powers vested to it under Section 48 of the Act hereby directs that all such cases where prior approval was required but a person/ entity has not obtained such approval ,**shall be heard by the Authority**, which shall then pass appropriate orders with respect to acts that may have occurred in past, taking into account scientific evidence as well as any damage that might have been caused in furtherance of the powers available to the Authority under 18 of the Act, with the objective of ensuring conservation and sustainable use of biodiversity and fair and equitable sharing of benefits arising out of its use. The Authority shall consider all such cases on the basis of merit and shall ensure that only those cases are granted approval for future activities which would have otherwise been approved in the normal course, had the person/entity concerned applied in time for prior approval. The Central Government further directs the Authority to take decisions thereon within a period of 100 days from the date of issuance of this Office Memorandum including course of action for matters related to past. These directions shall come into force with immediate effect. The Authority shall also continue to spread awareness about the Act to various stakeholders to avoid the occurrence of such activities"*

Dr Sujatha Arora, Adviser MoEFCC, explained the efforts put in by the Ministry to give the direction and expressed that it is the right time to NBA to consider all the violation/contravention cases and regularize/streamline all the pending cases. She further emphasized that Central Government may not open the window again as was done now. Therefore, clearing all the cases within the time limit is of paramount importance.

As on date, there are around 234 violations/contravention cases with NBA that has to be considered within the 100 days of the issue of OM. The members suggested NBA to utilize the opportunity and to advertise through media for encouraging the ABS applicants to comply with the BD Act.

Secretary also explained the challenge in screening the applications as the legal section may not have enough manpower and expertise on deciding the aspects of bioresources. Dr Atmanand suggested that NBA can invite some experts to support the legal section of NBA in studying and grouping the cases. Dr. Darsan Sankar opined that a hearing of the applicants can be done after the applications are studied, assessed and scrutinized by an Expert Committee as the number of cases for hearing is high. He also suggested NBA to fix a criteria

and categorize the cases that are mostly of procedural violations/contraventions that would have otherwise been approved.

The number of meetings for hearing the applicants and clearing the cases were discussed and tentatively agreed to have three Authority meetings before the deadline of 18th, December 2018 (100 days).

Decision:

a) NBA to scrutinize the violation/contravention cases and categorize them accordingly and give preference to the cases that have procedural contraventions but for which, would have been approved.
b) NBA to upload the Ministry's direction in the NBA website and in newspapers for publicity.
c) The Authority to meet three times (29.10.2018; 10.12.2018 and 18.12.2018) for hearing the violation applicants.

ACTION:SECRETARY,NBA.

47.11: To consider draft annual report of NBA for the year 2017-18.

The draft Annual Report on the activities of NBA for the year 2017-18 along with audited Annual Account statement was placed before the Authority.

Decision:

a) The draft Annual Report on the activities of NBA for the year 2017-18 was noted and approved.

ACTION:SECRETARY,NBA.

47.12: To consider the Reconstitution of Expert Committee on Normally Traded Commodities.

Expert Committee on Normally Traded Commodities was reconstituted vide Office Order No.F.NBA/2/9/2002-Admin/12/18-19/1676 dated 17 August, 2018 under the Chairmanship of Shri. C. Achalender Reddy, IFS, Director (I/C), CIPS, Hyderabad and Dr. B.S.Prakash, ADG (ANP), ICAR, New Delhi as the co-chair. Dr. Darshan Shanker suggested to add an expert from Transdisciplinary University (TDU) as a member in the committee.

Secretary mentioned that NBA is developing a database on biological resources with the assistance of BSI, ZSI and other collaborators. He requested the access of database of biological resources maintained by Trans-Disciplinary University, (TDU) Bangalore to which Dr Darshan Shankar agreed.

Decision:

a) The Authority ratified the issue of office Order for reconstitution of the Expert Committee on Normally Traded Commodities.

ACTION:SECRETARY,NBA.

47.13. Items for information

1. EXIM Committee for Export and Import of seeds and planting materials:

The Department of Agricultural Cooperation & Farmers Welfare, GOI constituted the EXIM Committee for Export and Import of seeds and plant materials of which Secretary is one of the members in the committee. Based on the 235th EXIM Committee minutes, M/s. JK Agri Genetics Ltd., Hyderabad had provided an affidavit-cum-declaration that the firm does not come under the provisions contained in Section 3(2) of the Biological Diversity Act, 2002. Based on the affidavit, the EXIM committee granted approval to the said export proposal. NBA has informed the DAC that JK Agri Genetics Pvt Ltd will fall under section 3(2) of the BD Act since they have non-Indian participation in its share capital, and NBA sought clarification from the exporter.

NBA has requested EXIM committee to re-examine the case for which DAC has responded favorably.

2. Issuance of Internationally Recognized Certificate of Compliance

NBA has uploaded 145 approvals granted in the ABS CH platform and generated Internationally Recognized Certificate of Compliance. India is a leading country among 198 parties in publishing IRCCs, a tool for monitoring the use of Genetic resources under Nagoya Protocol.

3. Deposition of microbial cultures in DSMZ, German Culture Collection:

As per the decision taken in the 37th Authority meeting, 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. If any non-Indian person / entity intend to access the deposited Indian biological resource from any foreign repository, he/she should obtain the prior approval of NBA as per Section 3 of the BD Act, 2002.

To access the strains which are from Indian origin for the purpose of research or for commercial utilization or for obtaining IP Rights, the buyers/ users of the strain is required to obtain prior approval of the National Biodiversity

Authority, Government of India, Chennai, India as per the provisions of the Biological Diversity Act, 2002

4. Capacity Building Workshop on ABS provisions of the BD Act and e-Filing Process of ABS Applications to the Patent Attorneys

Centre for Biodiversity Policy and Law, NBA organized a Capacity Building Workshop on Access and Benefit Sharing (ABS) provisions of the BD Act and e-Filing Process of ABS Applications to the Patent Attorney's on 14th September, 2018 at NBA, Chennai.

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ANNEXURE –I

LIST OF OFFICIAL/NON-OFFICIAL MEMBERS PARTICIPATED

1. Dr B Meenakumari, Chairperson, National Biodiversity Authority
2. Dr Sujata Arora, Advisor, MoEF&CC
3. Dr P C Battacharjee, Guwahati.
4. Dr. Gunasekaran Asst. Commissioner, Seeds, Department of Agriculture and Cooperation.
5. Dr. Darshan Shankar, VC, TDU, Bangalore.
6. Dr. M A Atmanand, Director, NIOT, Chennai.
7. Dr. Yogesh Shouche, NCCS, Department of Biotechnology, University of Pune.

Secretary, National Biodiversity Authority

Shri T Rabikumar, IFS,

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