सत्यमेव जयते

Ministry of Environment
Forests and Climate Change

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 49th AUTHORITY MEETING

15th November 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

Proceedings of the 49th Authority Meeting of the National Biodiversity Authority held on 15-11-2018.

The forty ninth Authority meeting of the National Biodiversity Authority (NBA) was held on 15th November 2018 at the Conference Hall, National Biodiversity Authority, Chennai and was chaired by Dr. B. Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson, NBA extended a warm welcome to the members and briefed about the activities of NBA from the last authority meeting

The draft proceedings of the 48th Authority meeting, incorporating the suggestions made by some of the members, which could not be included in the Agenda was circulated to the members. The revised proceedings were placed for confirmation. The members discussed the Agenda item No. 48.06 of the 48th Authority meeting with respect to case of M/s Dabur India Limited (Application No. 1472-Form I), where the applicant had accessed 142 bio-resources in 2016-17 that goes into 350 products. The Authority members in the 48th Authority meeting (Agenda item No. 48.06) decided that the benefit sharing may be charged on the purchase price of the bio-resources for the year 2016-17 only. The basis of the benefit sharing will be reviewed for subsequent applications. Based on this decision, Dr. J.B .Bhat opined and suggested that an assess mechanism is required for the products developed using Indian bio resources if sold outside India.

The members also suggested NBA to be involved actively in different social media such as Twitter, Facebook to create more awareness on the compliance of the Biodiversity Act, 2002

After the deliberations, the members confirmed the revised proceedings of the 48th Authority meeting.

Thereafter, the agenda items were considered as under:

49.01: To consider ratification of decisions of Chairperson, NBA for granting exemption to inventions based on biological resources obtained outside of India.

The NOC granted to M/s Indus Biotech by the Chairperson was placed before the members for ratification.

Decision: The members ratified the action taken by the Chairperson.

Action: Secretary, NBA

49.02: : Printing & hosting the comprehensive list of Invasive alien species prepared by CEBPOL and NBA EC on IAS

A document on the list of Invasive Alien species was placed before the members of the Authority. Dr. Sandilyan explained the methods and criteria used to develop the list of Invasive Alien species in India. Dr. J.R. Bhatt suggested that the list to be sent to eminent scientists who have expertise in the flora and fauna of India for their valuable inputs, comments, value addition and vetting. He also suggested that a Scheme can be initiated from the Ministry on developing a concrete list of Invasive Alien Species.

Decision: 1. NBA to send the list of Invasive Alien species prepared to eminent scientists with expertise in flora and fauna of India for their valuable inputs, comments, value addition and vetting.

2. A document on the species listed may be prepared for documentation.

Action: Secretary, NBA

49.03: To seek guidance on Application in Form-I (Appl. No. 1862) submitted by M/s.Shanghai Shen Da Imp & Exp Co. Ltd China for access to Red Sanders wood

Shri. Wang Qiurong of Shanghai Shen Da Imp. & Exp. Co., Ltd, China submitted a Form-I application (Appl. No. 1862) for seeking prior approval of NBA for 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. In spite of repeated reminders, the applicant had not furnished vital information sought by NBA.

In this regard, it is pertinent to mention that the Authority in its 45th meeting, vide agenda item no.45.05, held on 27th March, 2018 and in its 47th Authority meeting, vide agenda item no. 47.05 held on 26th September 2018, considered five such Red Sanders applications (Application Nos.950, 952, 1155, 1156 and 1863) who exported the RS wood to the foreign country without executing the ABS agreement, while their applications were still under process. The Authority observed that applicants submitted their application and also paid 5% of the auctioned amount as benefit sharing to NBA as upfront payment. The RS wood was, however, exported to China with the approval of Customs and DRI before executing agreement with NBA. Further, as per the tender

agreement (APFDC/DRI/STC/MMTC), the exporting agency does all activities on behalf of the applicant, including the transport of RS wood to the destination port. Previously the Authority has decided as follows:

The Authority, in the instant case, decided to forgo the procedure for these four applicants from execution of agreement for accessing biological resources as they had filed the applications and paid the upfront payment as benefit sharing.

The Members decided that the instant case is similar to the previous cases mentioned above and decided to take a consistent stand and forgo the procedure for this particular applicant from execution of agreement for accessing biological resources as they have filed the applications and paid the upfront payment as benefit sharing.

Decision: The Authority decided to forgo the procedure for this particular applicant from execution of agreement for accessing biological resources as they have filed the applications and paid the upfront payment as benefit sharing. The Form I application submitted by M/s Shangahai Shen Da Imp. & Expo Ltd is accepted and ratified.

Action: Secretary, NBA

49.04 Dealing with O.M. dated 10-09-2018 issued by MOEF&CC

In compliance to OM dated 10-09-2018, the above OM was placed in the 47th Authority meeting as Agenda item no. 47.10 and the Authority constituted a committee to to scrutinize and categorize the ABS Applications. A committee of experts was constituted vide office order No. NBA/Law Gen/28/51/18-19/2422 dated 10-10-2018. The Committee met on one occasion

(2 days on 01.11.18 & 02.11.18) and examined 80 applications and gave their recommendations and a total of 120 applications was placed before the Authority for consideration.

The 43 applicants who sought time for personal appearance before the Authority were invited to present their case along with 77 applicants recommended by EC for consideration, of which 36 presented themselves and seven (7) provided written submission through mail.

. After considering, recommendations of the committee of experts constituted by NBA to scrutinize these cases for scientific evidence, Member discussed about the benefit sharing in cases were patents have been granted elsewhere without the prior approval of NBA. Secretary NBA explained that the EC on ABS follow a sectoral approval and whenever traditional knowledge is involved, it usually doubles the benefit sharing percentage. After discussion, the members agreed that the benefit sharing may be kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively.

Members also discussed about the compliance of the provisions of the BD Act in future by each of the applicant whose applications have been considered under the O.M. dated 10th September, 2018. The Authority also directed the applicants to spread awareness of the regulatory requirement under the BD Act and it shall be institutionalised to ensure the same and an undertaking should be obtained from the applicants that the provisions of the BD Act shall be complied in future.

There were applications under Form III by 19 IPR 3(2) entities who have failed to get approval under Section 3(1) to access the bio resources from India for doing research. Members suggested that the applicants in all such cases shall seek the approval of NBA under Section 3(1) and inform them to submit application under Section 3(1).

All the applicants were advised to take proactive steps to educate their staff, partners and collaborators about the provisions of the Act. It was decided that in all the cases, the applicants shall organize awareness programs with regards to with compliance to BD Act and submit a report to NBA. In case Form I application where approval is sought to do research of bio resource obtained from India by industries, an upfront payment as per the approved guidelines may be included while communicating the approval.

In the case of M/s Piramal Enterprises (Form I- Application No. 856), where the applicant along with different Institutes in a DBT funded project, assayed 1000 isolates of microbes accessed from NCCS and other related institutes. M/s Piramal Enterprises, after doing the research assigned all the data to DBT, without prior approval from NBA. The Authority members asked the applicants to provide an affidavit stating that the research has been completely assigned to DBT and also to provide a certificate from DBT verifying the above.

M/s Piramal Life Sciences Ltd in their Form-III application No. 396 on *Murraya koenigii* was granted an Indian patent on 3.10.2011 without the prior approval of NBA but was ceased on 29.3.2014. The Authority members asked the applicant to provide an affidavit that no patents have been submitted

elsewhere related to the instant case. The members of the Authority observed that the applications Form I- Application No. 856 and Form-III application No. 396 submitted by the same company had different names in the Application. The Authority members asked the applicant to provide a self-attested Acquisition of the company name.

In the case, M/s Monsanto Holdings Pvt Ltd., (Form II Application No. 289) transferred Bt Cotton to their company in Pakistan through NBPGR and the applicant has seized all operations on Bt Cotton in Pakistan from 2014. The applicant is now a subsidiary of M/s. Bayer Bioscience Pvt Ltd. The Authority members asked the applicants of M/s Monsanto Holdings Pvt Ltd to provide an Affidavit stating that the bio resource used was sent through NBPGR with PVP registration status and no monetary transactions was involved as it was for research purposed and there are no court case present and no investigative enquiry pertaining to it. The members asked the Applicant to also mention about M/s Monsanto Holdings Pvt Ltd being the subsidiary of M/s. Bayer Bioscience Pvt Ltd in the Affidavit. The Authority members decided to close the case after the consideration of the Affidavit.

The lists of recommendations given by the Authority for the Applications are provided in Annexure 2 and 3.

Decision: 1. The Authority approved the Form III applications with the Benefit sharing kept at kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively given in Annexure 2.

2. The applicants shall furnish an undertaking that provisions of BD Act shall be compiled with in the future.

3. The clauses in the approvals (agreements) may be modified appropriately by the NBA Secretariat.

Action: Secretary, NBA

49.05 : Items for Information

The case relating to submission of Form III applications by M/s Ultratech India Ltd., New Mumbai 400 705 was presented before the authority for information and guidance

.**Decision:** The Authority deferred the item to the 50th Authority meeting

49.06: Any other matter with the information of the Chair

An additional Agenda regarding approval for access to Red Sander Wood was circulated to the members along with the recommendation of EC on ABS regarding three Form I applications pertaining to access to Red Sander Wood for consideration.

Decision: The Authority considered and ratified the recommendations of the EC on ABS

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ANNEXURE-1

List of Participants

Official Members

1. Dr (Mrs) B.Meenakumari
Chairperson,
National Biodiversity Authority,
Chennai

2. Dr J.R.Bhat,
Adviser
Ministry of Environment, Forest and Climate Change Government of India
Room No. V 235, Vayu Block,
Second Floor
Indira Paryavaran Bhawan Jor Bagh Road
New Delhi-110 003

3. Shri Elamurugannan, IFS,
AIG Forest, MoEF&CC,
Government of India,
Indira Paryavaran Bhawan Jor Bagh Road New Delhi-110 003

4. Dr. M A Atmanand,
Director,
National Institute of Ocean Technology,
Ministry of Earth Sciences,
Velachery-Thambaram Main Road,
Narayanapuram, Pallikaranai,
Chennai – 600 100

5. Dr. Manoj Kumar Modi,
Scientist-E, Department of Biotechnology,
Government of India,
CGO Complex, Block No.2,
Lodhi Road, New Delhi-110003.

Non-Official Members

6. 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

7. Dr. Parimal Bhattacharjee
Professor & Head,
Department of Zoology,
A/3 Asiyana Housing Complex Maligon
Guwahati-781011

8. Shri Darshan Shankar,
Chancellor,
Trans Disciplinary University, C/o Foundation for Revitalization of Local Health Traditions (FRLHT),
74/2, Jarakabande Kaval, Post Attur via Yelahanka, Bangalore - 560 064

Secretary to the Authority

Shri. T. Rabikumar, IFS
Secretary, National Biodiversity Authority,
Chennai –600 113

ANNEXURE-2

List of Applicants attended the Hearing

Sl No.	Applicant	Names	Form	Application Nos	Number of Applications	Recommendations
1	M/s Laila Neutraceuticals	P.B. Gangadhar	III	1147, 1149, 1150, 1151, 1158, 1160, 1171, 1172, 1193, 1194, 1195, 1196, 1205	13	Approved
2	M/s Laila Pharmaceuticals	P.B. Gangadhar	III	1148, 1157	2	Approved
3	M/s Cadila Pharmaceuticals Ltd	Nilesh Shah, Sunita K. Sreedharan	III	1457	1	Draft Agreement to be sent
4	Katragadda Bhaskara Rao & Mr. Babu P. Vadlamudi	Katragadda Bhaskara Rao	III	922	1	Approved
5	Mr. Shatrughna Prasad Vaidya	Dr. R.K Ravikumar	III	260	1	Approved
6	M/s Metahelix Life Sciences Ltd	Mr. Suresh kumar & Dr. Sandhya Agarwal	III	1116	1	Approved
7	Dr. Pawan Kumar Saharan	Ms. Uma Baskaran, Deepti Sood	III	768	1	Approved
8	M/s Advance Enzyme Technologies Ltd	Ms. Uma Baskaran, Deepti Sood	III	707, 712	2	Apply in Form I
			I	1482	1	Approved
9	Tamil Nadu Agriculture University	Dr. R. Gnnanam & Mr. V. Udayasuriyan	III	718	1	Approved

10	M/s Nagarjuna Energy Pvt. Ltd.	Mr. Arun Kumar	III	1003, 1004, 1005, 1006, 1050	5	Approved
11	M/s Sentiss Pharma Pvt Ltd	Dr. A. Yamuna, K&S Partners	III	676, 975	2	Approved
12	M/s Amplicon Express Inc.	Mr. B. Jaganmay Anand	III	864	1	Approved
13	M/s Piramal Enterprises	Ms. Seema Akhelikar, Yogita Karakkadavath, Sridevi Krishnan	I	856	1	Closure. Affidavit saying that the research is assigned to DBT and a certificate from DBT to verify
			III	396	1	Self attested Acquisition to be given. Affidavit that there are no patents
14	Acharya Vidya Narayan	Ms. Seema Akhelikar, Yogita Karakkadavath, Sridevi Krishnan	III	121	1	Approved. Benefit sharing to be shared from the time of the commercialization
15	M/s Sun Pharmaceuticals Industries Ltd.		I	1640	1	Apply in Form I for all the species that have been screened.
			III	1199	1	Apply in Form I. Upfront payment considered and will be reverted back
16	M/s Indian Oil Corporatioon Ltd.		III	674, 673, 753, 744, 1657, 1658	6	Apply in Form I
17	M/s Bioved Pharmaceuticals Pvt Ltd.	Mr. S.R. Bajekar & Ms. Suneeta Chaskar	III	730, 835, 837	3	Apply in Form I
18	Fiona Rachel Savory	Dr. Uma Ramakrishnan	I	577	1	Approved
19	M/s Ari Healthcare Pvt Ltd.	Dr. Nipanikar Sanjay & Sanjeevan Kanjilal	III	1571	1	Approved

20	M/s Monsanto Holdings Pvt Ltd.	Mr. T. Sreenivasan, Dr. Deepak Prem	II	289	1	Affidavit that the bioresource was sent through NBPGR with PVP registration status and no monetary transactions happened; there are no court case present and no investigative enquiry. The Affidavit should also mention about Monsanto being the subsidary of Bayer. Closure after consideration
21	M/s Maharashtra Hybrid Seeds Company Ltd. (MAHYCO)	Mr. T. Sreenivasan	III	577	1	Approved
22	University of Delhi, South Campus & M/s MAHYCO	Mr. T. Sreenivasan	III	1674	1	MAHYCO to apply in Form I
23	M/s Phytomyco Research Pvt Ltd.		III	1749, 1750	2	Apply in Form I
24	M/s Reliance Industries Ltd.	Mr. Tomal Dattaroy, Mr. C. Surendra Raju	III	1722, 1735, 1740, 1805, 1734, 1736, 1737, 1739, 1719	9	Apply one Form I for the organism Spirulina in the case of 1737, 1739, 1736 and 1719 or Form I should be applied based on the research projects.
25	Rajiv Gandhi Centre for Biotechnology	Dr. E. Sreekumar	II	1086	1	Emory University should apply in Form III to comply with the BD Act
26	M/s Bayer Biosciences Pvt Ltd.	Ms. Abhilasha Tripathi	IV	616, 515, 615, 625	4	Application 615, 616: Affidavit to be given stating that Indian biological resource was not used. Application 515, 625: Apply in Form I for ratification.Affidavit for reason for closure. Form IV will be closed after approval of Form I
27	M/s Jamia Hamdard & M/s/ Arbo Pharmaceuticals	Ms. Mita, Khurana & Khurana Law firm	III	976	1	Approved

28	Dr. Shukla Mukesh Harilal, Shri. Trivedi Meetesh Pradipkumar	Ms. Mita, Khurana & Khurana Law firm	III	1485	1	Approved
29	Dr. Shukla Mukesh Harilal	Ms. Mita, Khurana & Khurana Law firm (Gave Authorization letter to present)	III	770	1	Approved
30	M/s/. Bharat Biotech International Ltd.	Mr. B. Karth, Hasan & Singh firm	III	918, 930, 1446, 1030, 1458	5	Apply in Form I. Affidavit to state that there are no cases under subjudice.
31	M/s/. Transpek Industry Ltd.	Mr. Mandar	III	1602	1	Apply in Form I.
32	M/s. Bharat Petroleum Corporation Ltd.	Ms. Gayathri	III	740	1	Apply in Form I. Affidavit to state that there are no cases under subjudice and no commercialization has been done.
33	Prof. Aparna Dixit	Ms. Gayathri	III	964	1	Approved
34	Omni Active Health Technologies Ltd.	S. Majumdar	III	1076	1	Apply in Form I. Benefit sharing to be shared from the time of the commercialization.
35	M/s. Charak Pharma Pvt Ltd.		III	102	1	Rejected/Closure (Draft Agreement to be sent)
36	Dr. Atul M. Desai		III	1034	1	Approved
	Total				81	

ANNEXURE-3

List of Applicants who gave written submission through mail.

Sl No.	Applicant	Form	Application Nos	Number of Applications	Recommendations
1	M/s. Tata Chemicals Pvt. Ltd. (Attended hearing of 48th Authority meeting on 29th October 2018)	III	496	1	Apply in Form I
2	M/s. Sri Biotech Laboratories India Ltd	III	1126, 1128	2	The Original management to apply in Form I
3	Wacker Metroarck Chemical Pvt Ltd.	III	934	1	Apply in Form I
4	ICAR	III	1548, 1549	2	To attend the hearing on 10th December 2018.
5	CSIR (Attended hearing of 48th Authority meeting on 29th October 2018)	III	2035, 2016	2	Approved
6	M/s. Puri Oil Mills	III	1463	1	Approved
7	Dr. Suresh Patankar Balakrishna (Attended hearing of 48th Authority meeting on 29th October 2018)	III	1513	1	Approved
	Total			10	