NATIONAL BIODIVERSITY AUTHORITY

PROCEEDINGS OF THE 30TH AUTHORITY MEETING

(Special Meeting)

11th July 2014

Venue

Narmada Hall,
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhavan, Jor Bagh Road,
New Delhi – 110 003

Proceedings of the 30th Authority Meeting (Special Meeting) of the National Biodiversity Authority

Thirtieth meeting of the National Biodiversity Authority (NBA) was held on 11th July 2014 from 1:00 PM at Narmada Hall, Ministry of Environment, Forests and Climate Change, New Delhi under the Chairmanship of Shri Hem Pande, IAS, Chairman, NBA to consider the agenda items circulated to the Members on 9th July, 2014 through email. The list of participants is placed as **Annex-1, Page no. 8**.

2. At the outset, Shri Hem Pande, IAS, Chairman, NBA welcomed all the Members and special invitees to the meeting and informed that this special meeting was convened based on the direction from the MoEF&CC to finalize the Guidelines on Access and Benefit Sharing, in view of certain litigations pending before the Hon'ble National Green Tribunal. He also informed that executive orders/notifications need to be issued for implementing the Nagoya Protocol on Access and Benefit Sharing, which India has ratified, and which is expected to enter into force soon. He thanked the members for attending the meeting which has been convened at a short notice due to the urgency of the issues on hand.

3. Shri T. Rabikumar, Secretary, NBA, then extended a warm welcome to the Members and special invitees and briefed the agenda items placed for discussion.

Thereafter, the agenda items were considered and discussed as under:-

30.01: Confirmation of Proceedings of the 29th Authority Meeting

The Members were informed that the draft Proceedings of the 29th Authority Meeting of National Biodiversity Authority held on 15th May, 2014 was circulated to the Members by email on 3rd June 2014 seeking comments of the Members. The comments received from the MoEF&CC and Dr.R.S.Rana were incorporated appropriately and the approved proceedings were placed and confirmed by the Members. The Secretary, NBA informed the members that the action taken report of the 29th Authority meeting will be placed in the next meeting.

Action: Secretary, NBA

30.02: To Consider and Approve the Draft Guidelines on Access and Benefit Sharing

Members were informed that pursuant to the decision taken in the 29th Authority meeting under item no.29.03, a Core Expert Group (CEG) under the chairmanship of Shri Jitendra Sharma, CEO, NMPB was constituted to examine and incorporate the suggestions/comments on draft ABS guidelines, offered by the ABLE and CII, and other issues, if any. In this regard, the CEG met on 5th July 2014 at New Delhi and considered the draft guidelines on ABS. Since CEG felt that few modifications required consent of the Authority, the draft guidelines was placed before the Special Authority meeting for consideration.

2. The Members appreciated the earnest efforts put forth by the CEG. The Secretary, NBA explained the members about the changes effected in the last draft which was approved in-principle by the 29th Authority. Further, the Members had gone through the current draft and made few changes in it after detailed discussion and deliberations. Dr. Rana proposed that in the example provided in Table C-2-A, forming part of the benefit sharing Template, the 'Trader X' in the market, the next 'Trader Y' in the wholesale market as well as the 'Manufacturer Z' are required to pay "Benefit Sharing" on the basis of their annual sales instead of their purchase price as suggested by the CEG-II. The Chairman advised that this point may be resolved through discussion between Dr. Rana and Shri Jitendra Sharma, Chairmen of the two CEGs. With this modification, the Draft Guidelines were adopted unanimously.

3. Meanwhile, it was informed that there are certain cases where Indian researchers / scientists, who are not covered under Section 3(2) of the BD Act as NRI *per se,* are required to send/carry the biological resources to Universities / laboratories/ institute abroad for higher studies or research which is non-commercial in nature. As there is no specific provision in the BD Act/Rules to regulate such activities, the matter was placed before the EC on ABS which developed a special application form to be submitted by such researcher / scientist along with an undertaking from the Non-Indian who guides the Indian researcher/scientist. Further, the Secretariat incorporated certain clauses in the special form to facilitate sending / sharing of biological resources by Government organizations/institutions abroad to

carry out certain urgent studies to avert emergencies like epidemic, etc. This item was placed in 27th Authority for consideration and approval. Members after detailed discussion reviewed and approved the draft application form with certain modifications. The same was sent to the MoEF&CC for notification. In response, the MoEF&CC sought for clarification as to the Section under which this proposed notification has to be issued. Since, NBA is in the final process of issuing ABS guidelines, it may be appropriate to include the Special Form for research by Indians, along with guidelines. The Members considered the proposal and few modifications were made and agreed to incorporate as a part of the ABS guidelines.

4. Thereafter, the Members of the Authority suggested to incorporate few changes in the draft guidelines in the following areas:- (a) imposing of benefit sharing to the defaulter, (b) include the 1st *proviso* under Sec. 6 wherever the IPR information is given, (c) Annex relating to monetary and non-monetary benefit sharing options and (d) the Form1-A to be filed by trader/manufacturer.

5. Further, the Authority directed the Secretariat to circulate the draft after incorporating the above suggestions to Members by giving a day's time to offer comments, if any. Thereafter, the guidelines may be sent to Ministry of Environment, Forests and Climate Change for necessary approval. The NBA would notify the guidelines in the official gazette after receipt of approval from the MoEF&CC.

6. Apart from the main agenda item, Dr.Renu Swarup, Advisor, Department of Biotechnology (DBT) and Member, NBA observed that Non-Indian researchers from overseas need to take approval of NBA for accessing Indian resources for non-commercial use from National repository, which could be a time taking process. Once the Nagoya protocol comes into force appropriate approvals may also be required for accessing Indian Bioresources from International repository. However at present, as per the existing provision of BD Act, the Application Form I can be submitted by an Agent also. A request for approval could therefore come through the concerned National Repository. Hence, a simplified form for approval to be submitted by National Repository on behalf of an Overseas Researcher for accessing Indian Bioresources for Non-commercial research may be proposed for consideration.

7. In conclusion, the Chairman, NBA wished to place on record his deep appreciation for the sincere efforts taken by the Core Expert Groups headed by Dr.R.S.Rana and Shri Jitendra Sharma and other members. He extended his gratitude to the Members of the Authority who evinced special interest in finalizing the ABS guidelines. He also expressed his profound thanks to Members of the EC on ABS and to all those who extended their valuable contribution for the development of the ABS guidelines.

8. Decisions:

a. Members after detailed deliberations approved the special form with few modifications and agreed to make it as a part of ABS guidelines.
b. Members unanimously approved the ABS guidelines with few changes (Annex-3 – Pg.no.13).
c. The Chairman directed the secretariat to look into the issue raised by DBT and place it before the Authority for consideration.

Action: Secretary, NBA

30.03: To Consider and Approve the Draft Notification / Order to Implement Nagoya Protocol

It was informed that pursuant to the decision taken in the 29th Authority meeting, the Core Expert Group (CEG) constituted by NBA met on 27thJune, 2014 in New Delhi under the chairmanship of Dr.R.S.Rana, and fine-tuned the draft notifications /declaration /regulations /orders to implement the Nagoya Protocol on ABS. The Authority deliberated on two notifications viz., notification designating NBA as the Competent National Authority and Internationally recognized certificate of compliance, as per the recommendations of the CEG. Members of NBA supported taking up of this responsibility and suggested that these notifications may be issued by the MoEF&CC in the form of an executive Order. It was also pointed out that three other notifications viz., User country measures, exemption of Annex-I crops under ITPGRFA and designation of check points may be reexamined and fine tuned by the same CEG, on receipt of inputs from the Ministry of Agriculture.

2. Decisions:

a. Members after certain modifications approved the two draft orders (Annex-2, Pg no. 10.) viz., designation of NBA as the Competent National Authority and Internationally Recognized Certificate of Compliance.
b. Members also agreed to re-examine the other three notifications by the same CEG and requested the CEG to submit its report on or before 11th August 2014.

Action: Secretary, NBA

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

30.04.01: Sending/Sharing of Biological Resources for Non-commercial Research and Related Activities and for Provision of Access to Indian Biological Resources for emergency purposes

The Authority, which already discussed the item under no. 30.02, approved the special form with few modifications.

Action: Secretary, NBA

Annex - 1

Official Members who participated			
1	Shri Hem Pande, IAS, Additional Secretary, Ministry of Environment, Forests and Climate Change, and Chairman, NBA Indira Paryavaran Bhawan Vayu Block, Fifth Floor, Jor Bagh Road, New Delhi	5	Shri. Jitendra Sharma, IFS Chief Executive Officer, National Medicinal Plant Board, Department of AYUSH, Ministry of Health & Family Welfare, 3rd Floor, AYUSH Bhawan, B Block, G.P.O. Complex, I.N.A., New Delhi
2	Shri. Subhash Chandra, IFS, Deputy Inspector General of Forests Forest Policy , Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003 *(Represented Shri A.K. Srivastava)*	6	Dr. Renu Swarup Advisor, Department of Biotechnology, CGO Complex, Block No. 2, Lodhi Road, New Delhi
3	Shri. Bishwanath Sinha, IAS Joint Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, Vayu Block, Second Floor, Jor Bagh Road, New Delhi	7	Dr J.S.Chauhan, Assistant Director General (Seed), ICAR, Krishi Bhawan, New Delhi - 100 001 (*Represented Dr .Swapan Kumar Datta*)
4	Shri. Atanu Purkayastha, IAS Joint Secretary (Seeds), Dept. of Agriculture and Cooperation, Room no. 244, Krishi Bhawan, New Delhi		
Official Members who have not participated			
8	Dr. B. Harigopal Advisor, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi	10	Smt. Nivedita IOFS Director, Ministry of Tribal Affairs, Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi
9	Dr. P. Madeswaran Director, Ministry of Earth Sciences, Block -12, CGO Complex, Lodhi Raod, New Delhi	11	Dr. Swapan Kumar Datta Deputy Director General(Crop Science), Division of Crop Science, ICAR, Krishi Bhavan, New Delhi (Represented by Dr.J.S.Chauhan)
Non-Official Members who participated			
12	Dr.R.S.Rana Chairman, Bio-Link, D-43, Indraprastha Apartments, Sector 14, Rohini, New Delhi		
Non-Official Members who have not participated			
13	Dr. S. Subramaniyan 54, VGP, Golden Sea View, Part-II, 2nd Main Road, 5th Cross Street, Palavakkam, Chennai.	14	Dr.Biswajit Dhar Professor of Economics, Jawaharlal, Nehru University, I Block, 1796A Chittaranjan Park, New Delhi.

15	Prof. M.K.Ramesh Professor of Law, National Law School, Nagarbhavi, Bangalore		
Special Invitees			
16	Dr.Sujata Arora Director , Ministry of Environment, Forests and Climate Change Indira Paryavaran Bhawan Vayu Block Second Floor Jor Bagh Road, New Delhi	17	Shri Ramesh G. Kalaghatgi, IFS Additional Principal Chief Conservator of Forests, Government of Andhra Pradesh "Aranya Bhavan", Saifabad , Hyderabad
18	Shri C. Achalender Reddy, IFS Managing Director Goa Forest Development Corporation 18th June Road ; 1st Lift, 3rd Floor, Junta House Panaji, Goa		
Officials who participated along with Ex-officio Members			
19	Shri R.K.Mishra, IFS., Additional Commissioner (Seeds) Dept. of Agriculture and Coperation, Ministry of Agriculture, New Delhi	20	Dr. R.C. Agrawal Registrar General, Protection of Plant Varieties and Farmers' Rights Act, Ministry of Agriculture, NASC Complex, New Delhi
21	Dr Manoj Kumar Modi, Scientist, Department of Biotechnology, Ministry of Science and Technology, Block-2, 6-8th Floor, CGO complex, Lodi Road, New Delhi-110003		

Annex- 2

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

Date, Month, 2014, New Delhi

ORDER

Sub: Designation of Competent National Authority under the Nagoya Protocol

In pursuance of the ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization, by Government of India on 9th October 2012, the Ministry of Environment, Forests and Climate Change, Government of India, hereby designates the National Biodiversity Authority, Chennai as the Competent National Authority to fulfil the obligations of Government of India under Article 13 of the said Protocol.

2. In its capacity as the designated Competent National Authority, the National Biodiversity Authority, Government of India shall fulfil the obligations under Article 14 and other related provisions of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization, in particular, making available the necessary information required under Article 14 paragraph 2 of the Protocol to the Access and Benefit Sharing Clearing-House established as a part of the Clearing-House Mechanism under Article 18 paragraph 3 of the Convention on Biological Diversity.

3. The National Biodiversity Authority shall, if considered appropriate and necessary, take steps to generate the additional information as required under Article 14 paragraph 3 and Article 6 paragraph 3(e) of the Protocol and submit the information to the Access and Benefit Sharing Clearing-House.

4. This order issues with the approval of the competent authority.

(xxxxx)
Joint Secretary to the Government of India

To

1. The Chairman, National Biodiversity Authority, Government of India, 5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai- 600 113.
2. The Secretary, National Biodiversity Authority, Government of India, 5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai- 600 113.

Copy to:

3. The Executive Secretary, Secretariat to the Convention on Biological Diversity, 413, Saint Jacques Street, suite 800, Montreal QC H2Y 1N9 Canada

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

Date, Month, 2014, New Delhi

ORDER

Sub: Declaration of Permit as Internationally Recognized Certificate of Compliance

In pursuance of the ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization, by Government of India on 9th October 2012, the Ministry of Environment, Forests and Climate Change, Government of India, hereby declares that the access permit granted in terms of section 3, 4, 6 and 20 of the Biological Diversity Act 2002, by the National Biodiversity Authority, Government of India shall be treated as the Internationally Recognized Certificate of Compliance as specified under Article 17 paragraphs 2 to 4 and Article 6 paragraph 3(e) of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization.

2. The National Biodiversity Authority shall comply with requirements specified in Article 17 paragraph 4 of the Nagoya Protocol, while granting the permit. The model permit is annexed.

(xxxx)
Joint Secretary to the Government of India

To

1. The Chairman, National Biodiversity Authority, Government of India, 5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai- 600 113.
2. The Secretary, National Biodiversity Authority, Government of India, 5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai- 600 113.

Copy to:

3. The Executive Secretary, Secretariat to the Convention on Biological Diversity, 413, Saint Jacques Street, suite 800, Montreal QC H2Y 1N9 Canada

National Biodiversity Authority
(An Autonomous and Statutory Body under the
Ministry of Environment, Forests and Climate Change, Government of India)
5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai – 600 113,
Tamil Nadu, India

Permit for Access to Biological Resources and / or Associated Traditional Knowledge issued under Section 3, 4, 6 and 20 of the Biological Diversity Act, 2002

1	Reference No.	
2	Name and Address of the Applicant	
3	Form No. (*tick whichever is applicable*)	I. Access for research/commercial utilization/bio survey & bio-utilization II. Transfer results of research III. Seeking prior approval for obtaining IPRs IV. Transfer of accessed bio-resources and / or associated knowledge to a third party
4	Specific Purpose of Application	
5	Name of biological resources and / or associated traditional knowledge accessed or proposed to be accessed	
6	Quantity of the bioresources	
7	Geographical location from where bioresource and / or knowledge accessed or proposed to be accessed	
8	Date of Execution of Benefit Sharing Agreement with NBA	
9	Other details like duration of access, specific condition, if any	
10	Signature of the Authority granting the permit	Date: Signature & Seal:

Final

Guidelines on

ACCESS TO BIOLOGICAL RESOURCES AND SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION

August, 2014

Government of India
National Biodiversity Authority
(An Autonomous and Statutory Body under the
Ministry of Environment, Forests and Climate Change)

Notification

In exercise of the powers conferred under Section 64 read with Section 18(1) and Section 21(4) of the Biological Diversity Act, 2002 (18 of 2003), the National Biodiversity Authority hereby makes the following Regulations:-

This regulation shall be called as Guidelines on Access to Biological Resources and Sharing of Benefits arising from their Utilization, hereinafter referred to as "The Guidelines".

The regulation shall come into force on the date of its publication in the Official Gazette.

PART - I

A. Preamble

The Convention on Biological Diversity (CBD), adopted in June 1992 and ratified by 194 Parties including India, recognizes sovereign rights of States over their biological resources, and authorizes them to determine access to genetic resources subject to national legislation. Providing fair and equitable sharing of benefits arising from the utilization of genetic resources, is one of the three objectives of CBD, the other two being conservation of biodiversity and sustainable use of its components.

2. In conformity with the provisions of CBD, India enacted the Biological Diversity Act, 2002 (hereinafter referred to as 'The Act') and notified the Biological Diversity Rules, 2004 (hereinafter referred to as 'The Rules'). Implementation of this legislation is the combined responsibility of the Central and State Governments, the National Biodiversity Authority (NBA), the State Biodiversity Boards (SBBs) and the Biodiversity Management Committees (BMCs).

B. Developing the Access and Benefits Sharing (ABS) Guidelines

These Guidelines have been framed by the National Biodiversity Authority (NBA), in consultation with the Central Government, in exercise of powers granted under Sections 64, 18(1) and 21(4) of the Act and Rule 20 (1) of the Rules. While providing guidance to the users of biological resources, these Guidelines explain the scheme of processing the applications, including an indicative template for benefit sharing. The actual terms for benefit sharing are to be determined on a case by case basis and following a sectoral approach. The scheme for devolution of benefits to the BMCs and benefit claimers is also provided.

2. These Guidelines may be reviewed as and when required or at least once in three years, based on the experiences in implementation and keeping in view the feedback received from the providers and users of biological resources.

3. The terms used in these Guidelines shall have the same meaning as defined in Section 2 of the Act.

4. Application forms for access to biological resources, and the guidelines for filling them, are available on NBA's website: www.nbaindia.org

5. Agreement formats for benefit sharing are also available on NBA's website: www.nbaindia.org

PART - II

A. Major Activities/Functions under the purview of the NBA, SBBs & BMCs

1. Activities under the purview of the NBA

1.1 A Person who is not a citizen of India, a non-resident Indian (as per Section 2 (30) of the Income Tax Act, 1961) and a body corporate, association or organization not incorporated or registered in India or incorporated or registered in India under any law for the time being in force having any non-Indian participation in its share capital or management shall require the prior approval of the NBA for access to biological resources and / or associated traditional knowledge for research or for commercial utilization or for bio -survey and bio-utilization.

1.2 Any person / entity applying for any intellectual property rights, in or outside India, for any invention based on any research or information on a biological resource obtained from India, is required to obtain the prior approval of the NBA before the grant of patent by the patent authority as per section 6(1) of the Act and also as per the Guidelines issued by the Indian Patents Office.

1.3 Any person / entity transferring results of any research relating to any biological resources occurring in, or obtained from India for monetary consideration, or otherwise, to any person(s) mentioned in para 1.1 above, shall require the prior approval of the NBA. This provision does not include publication of research papers or dissemination of knowledge in any seminars or workshops, if such publication is in conformity with the guidelines issued by the Central Government from time to time.

1.4 Persons / entities who are covered under Para 1.1 above and have been granted approval by the NBA are required to obtain the permission of the NBA for transferring such biological resources or knowledge associated thereto to a third party.

2. Activities under the purview of the SBBs

2.1 Functions of the State Biodiversity Board (SBB), under Section 23 (a), comprise advising the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization of biological resources.

2.2 Functions of the SBB, u/s 23 (b), also include regulation by granting of approvals, or otherwise, for requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indians.

2.3 Indian citizens and a body corporate, association or organization registered in India who are not covered under section 3(2) of the Act intending to undertake any activity referred to in Section 7 of the Act, shall give prior intimation, to the concerned SBB in such form as may be prescribed by the State Government to the concerned SBB (Section 24(1)). On receipt of such intimation, the SBB may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity (Section 24 (2)), after giving opportunity of being heard to the person affected.

3. Activities under the purview of BMCs

BMC may levy collection fees from any person (Indian / Non-Indian) for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.

B. Exemptions under the Act

1. Indian citizens / entities accessing biological resources and / or associated knowledge, occurring in or obtained from India, for the purposes of research or bio-survey and bio-utilization for research in India.

2. Collaborative research projects, involving the transfer or exchange of biological resources or related information, if such collaborative research projects have been approved by the concerned Ministry or Department of the State or Central Government and conform to the extant policy guidelines issued by the Central Government for such collaborative research projects.

3. The local people and communities of the area, including growers and cultivators of biodiversity, and *vaids* and *hakims*, who have been practising indigenous medicine, except for obtaining intellectual property rights.

4. Accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping, in India. However, ‘end uses’ of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used

for improving crops and livestock through genetic intervention, are not exempted.

5. Publication of research papers or dissemination of knowledge, in any seminar or workshop, if such publication is in conformity with the guidelines issued by the Central Government from time to time.

6. Value added products, which are products containing portions or extracts of plants and animals in unrecognizable and physically inseparable form.

7. Items, including biological resources normally traded as commodities as notified by the Central Government, when used solely as commodities.

8. Any application made under Protection of Plant Varieties and Farmers' Rights Act, 2001 for any right, is exempted from the provisions of Section 6 of the Act only.

PART –III
BENEFIT SHARING

A. ABS Mechanism

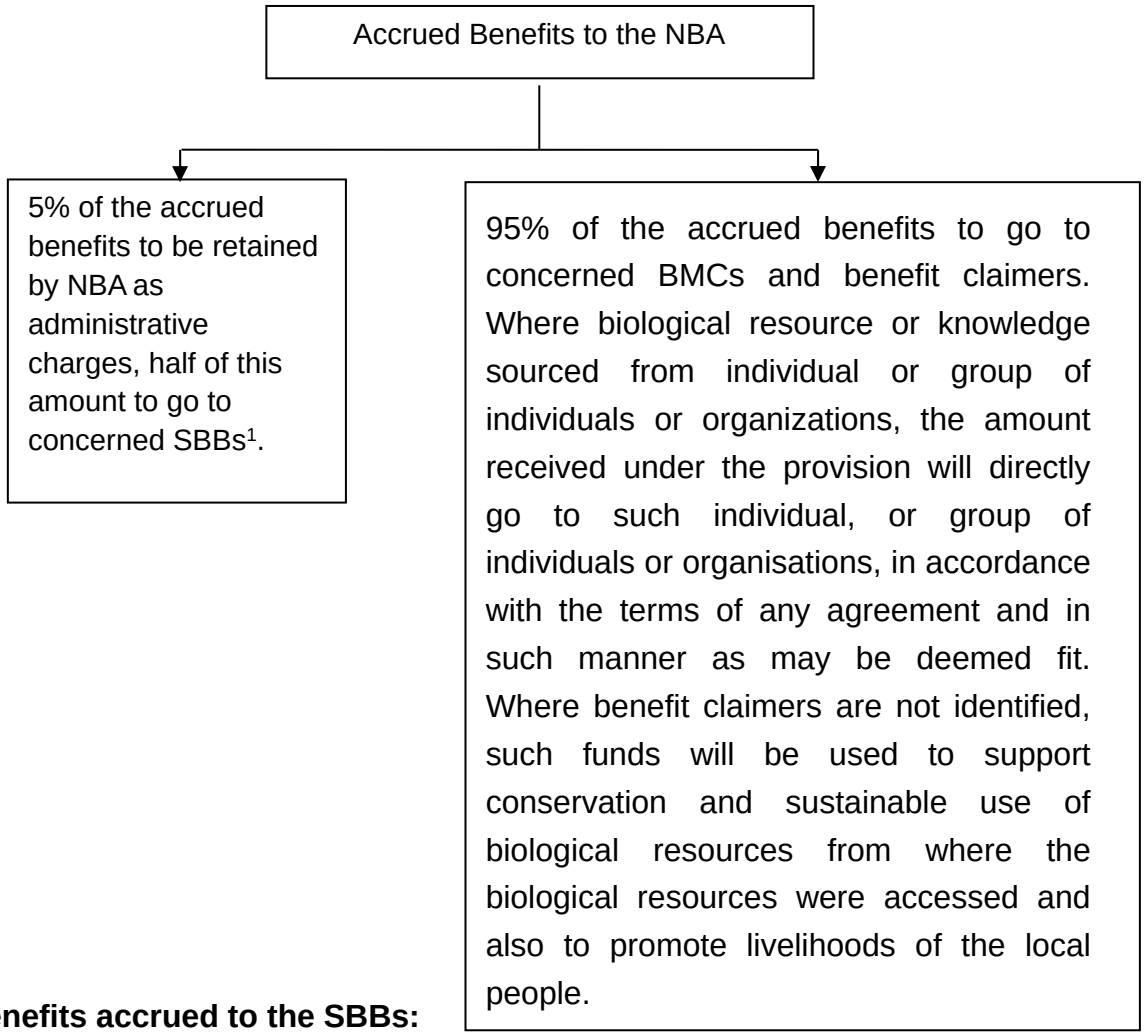
Benefit sharing may be done in monetary and / or non-monetary modes, as agreed upon by the applicant and the NBA/ SBB concerned with the involvement of BMC/Benefit claimer, etc. Indicative templates are given below but the actual terms of benefit sharing shall be decided on a case by case basis. When benefit sharing is done under monetary mode, the competent authority may direct the amount to be deposited in the National Biodiversity Fund/State Biodiversity Fund for sharing with SBBs, BMCs, as the case may be and / or benefit claimers on a case by case basis. Provided that where biological resource or knowledge was a result of access from a specific individual or group of individuals or organizations, the NBA /SBB may direct that the amount shall be paid directly to such an individual or group of individuals or organizations, in accordance with the terms of any agreement and in such manner as it deems fit.

2. Determination of benefit sharing shall be based on considerations such as commercial utilization of the biological resource, stages of research and development, potential market for the outcome of research, amount of investment already made for research and development, nature of technology applied, time-lines and milestones from initiation of research to development of the product, risks involved in commercialization of the product. Options for such benefit sharing are provided in ***Annex - 1***. Special consideration may be given to cases where technologies / products are developed for controlling epidemics / diseases and for mitigating environmental pollution affecting human/animal/plant health.

3. In case of default, the NBA may impose benefit sharing at any stage of use of biological resource and / or associated knowledge or at the end of value chain.

4. The State Biodiversity Boards may take into account the benefit sharing aspect, among other things, while deciding on the grant of approvals, vested under Section 23, on prior intimations received from Indian citizens/entities as per Section 7 of the Act.

B. Sharing of Accrued Benefits through the NBA / SBBs to BMCs and Benefit Claimers



Benefits accrued to the SBBs:

1. For cases of ABS decided at their level the SBB may retain a share, not exceeding 5% of the benefits accrued towards administrative charges.

2. The remaining share of the accrued benefits shall be distributed to the BMC concerned or to benefit claimers, where identified.

3. Where any individual or group of individuals or organizations cannot be identified, the accrued benefits shall be utilized to support conservation and sustainable use of biological resources in the area from where the biological resources were accessed and also to promote livelihoods of the local people.

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1. This is towards administrative and service charges as per Rule 20(9) of the Biological Diversity Rules, 2004. In the 18th Authority meeting under agenda item no. 18.6, it was decided to sharing of assessed benefits of 5% equally (i.e. 2.5% each) between NBA and concerned SBB, to encourage good co-ordination and cooperation between NBA and SBBs in operationalizing the benefit sharing mechanisms.

C. Indicative Template for Access and Benefit Sharing

[Actual terms to be determined on a case-by-case basis, following a sectoral approach].

Purpose of Access	**Procedure for Applying and Terms for Access and Benefit Sharing**
C-1 Access to biological resources and / or associated traditional knowledge for research or bio-survey and bio-utilization for research	
For persons/entities as mentioned under Section 3(2) of the Act. a) a person who is not a citizen of India; b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income Tax Act, 1961; c) a body corporate, association or organization i. not incorporated or registered in India; or **ii.** Incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.	a. Apply to the NBA in Form* I to obtain any biological resource and / or associated knowledge, occurring in India, and providing, *inter alia,* the following information: ❖ Quantity of the biological resource proposed for collection. ❖ Geographical location of the proposed collection. b. A benefit sharing agreement is to be signed by the applicant with NBA. c. In case of biological resource having high economic value, the benefit sharing shall also include an upfront payment by applicant, as agreed upon between the NBA and the applicant. d. Application for IPR on the outcome of the proposed research shall require prior approval of NBA before the grant of the patent as per section 6 (1) of the Act and also as per the Guidelines issued by the Indian Patents Office. e. Third party transfer of biological resources and / or associated knowledge shall not be permitted without prior approval of NBA. f. Annual reports on the progress of research and/or bio-survey and bio-utilization shall be submitted to NBA

C- 2 Access to biological resources for commercial Utilization and Bio-survey & Bio-utilization for Commercial utilization.

C- 2- A : Access to biological resources in bulk quantity (not involving new research propositions) for commercial utilization, by applicants covered under Section 3(2) / Section 7 [read with section 23(b)]:

Applicant to apply, in Form – I to the NBA or as per the Form prescribed by the SBBs as the case may be, for access of bulk biological resources along with Form-I A.

For example, for species 'A' (not exempted under Section-40 of the Act nor prohibited for collection due to conservation concerns by the competent authority) harvested by Joint Forest Management Committee (JFMC)/Forest Dweller/Tribal/cultivator/gram sabha, the NBA/SBB may impose benefit sharing as per the supply chain mechanism proposed as under :

• For part of biological resource 'A' used in household / community, then the ABS obligations shall not be applicable* • Also for the part of biological resource used by village vaids and hakims, then the ABS obligations shall not be applicable* * *Also see section 4 and other relevant provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006.*	**Option – 1** 1.a. Remaining biological resource from 'A' partly sold by a local dweller/JFMC members/cultivator. (Who is not a regular commodity trader), to augment his income: - No ABS obligations. 1.b. This biological resource lands with a regular trader 'X' at the haat/market:- In the market, the trader 'X' has purchased at Rs 2/kg. The ABS obligation at this step will be (1-3%) of the purchase price of Rs 2/kg. 1.c. The purchaser 'X' is able to sell this biological resource to 'Y' @ Rs 6/kg, ABS payable by 'Y' will be (1-3%) of Rs 6/kg. 1.d. 'Y' is able to sell this biological resource to Manufacturer 'Z' @ Rs 18/kg, ABS payable by 'Z' is (3-5%) of Rs 18/kg. 1.e. In the above cases, the trader or manufacturer shall make an application to NBA/SBB as the case may be and seek prior approval. *Provided where a Trader / manufacturer submits proof of benefit sharing made in the previous stage of supply chain, the ABS shall be charged from the purchaser / manufacturer on the difference price between the purchase and the sale price. [For ex. If a biological resource is purchased by X at Rs.5000/- and after paying Rs.100 as ABS @ 2%, sells it to Y for Rs.6000/-, then Y has to pay Rs.20/- (Rs.120-100=20/-) as ABS. If the Y sells at Rs.10,000/- to Z then the Z has to pay @4% is Rs.280/- (Rs.400-120 = 280/-) as ABS].* **Option – 2** 2.a. In case the Trader or Manufacturer (Z) who is falling under section 3(2) / Section 7 of the BD Act,

	intends to access the biological resources from the local tribal/dweller/ JFMC members/cultivators/gram sabha, the ABS payable may be based on the mutually agreed terms, both monetary and/or non-monetary benefits. The monetary benefit sharing shall not be less than 3% of the purchase price in case of traders and not less than 5% in case of the manufacturers. 2.b. The applicant shall make an application to the NBA/SBB, as the case may be, enclosing a copy of the mutually agreed terms in the form of consent from the BMC/provider. This shall be construed as a deemed approval of access of biological resources by NBA/SBB. In case of NBA, the applicant shall enter into agreement with NBA, and shall produce proof of payment of the total benefit sharing component made to the designated Account, before accessing the bio resources. 2.c. If the NBA or SBB considers the benefit sharing component, as agreed upon between the applicant and the BMC, is very low and does not commensurate with the real value of the biological resource, or the information provided in the self-disclosure form does not reflect correct value of biological resources, it shall undertake a review and revise the benefit sharing component, after giving an opportunity of being heard to the person affected. 3. Manufacturer/Trader/Collector/Accessor/Entity- to note that collection charges, if any, levied by the BMC (Sec 41(3)), shall be in addition to the benefit sharing component. 4. The BMC shall maintain information about the traders/ agents / manufacturers/collectors/accessors/Entities who are normally procuring bio resources from their area. 5. An undertaking will have to be given by the trader/manufacturer utilizing biological resources to NBA/concerned SBBs under section 3/7 that they are compliant to various other applicable laws for the biological resources being utilized.

	6. Obligations of users of Biological Resources being registered with the SBBs: The users shall have following responsibilities: i) Users shall apply to NBA/SBB in form 1 A ***(Annex–2)*** and shall be under obligation to maintain record of quantum and source from which they are procuring biological resources/raw material as well as complete details of entities to which they are supplying biological resources/raw material. Every entity using biological resources in various steps of supply chain shall be, under obligation, to satisfy themselves that material being procured from a legal source and is in compliance with the provisions of the Act, in so far as it relates to ABS. ii) Users to furnish/share the records with NBA/SBB, if required. iii) Every manufacturer shall take a declaration from supplier of the biological resource stating the quantum of biological resource procured/collected from different sources/states where material from jurisdiction of different SBBs is being procured by user, the benefit shall be shared on this basis with the concerned SBB/BMCs, as the case may be. 7. In case, the biological resource is having high economic value (e.g. Sandalwood, Red sanders, etc. and their derivatives), the benefit sharing may include upfront payment, not less than 5%, as decided by the Authority on a case to case basis, on the proceeds of the auction or sale amount, and the successful bidder or the purchaser shall pay the amount to the designated fund, before accessing the biological resource.
C-2-B: **Alternate option for Access to biological resources for commercial Utilization and Bio-survey & Bio-utilization for Commercial utilization**	
1. For Indian citizens and Indian entities as mentioned under Section 7	a. Access by prior intimation to the concerned SBB. b. Application for IPR on the outcome of the proposed research shall require prior approval of NBA before the grant of the patent as per section 6 (1) of the Act and also as per the

<table>
<tr>
<td></td>
<td>Guidelines issued by the Indian Patents Office.

c. Applicant to pay the charges if levied by the BMC (Sec 41(3)), in addition to the benefit sharing component.

d. When the biological resources are accessed for commercial utilization or the bio-survey and bio-utilization leads to commercial utilization, the applicant shall pay the benefit sharing ranging from 0.1 to 0.5 % at the following graded percentages of the annual gross ex-factory sale of the product. The benefit sharing component shall be worked out based on the annual gross ex-factory sale minus government taxes as given below.
<table>
<tr><th>Annual Gross ex-factory sale of product</th><th>Benefit Sharing component</th></tr>
<tr><td>Up to rupees 1,00,00,000</td><td>0.1 %</td></tr>
<tr><td>Rupees 1,00,00,001 up to 3,00,00,000</td><td>0.2 %</td></tr>
<tr><td>Above rupees 3,00,00,000</td><td>0.5 %</td></tr>
</table>
</td>
</tr>
<tr>
<td>2. For persons/entities as mentioned under Section 3(2)</td>
<td>a. Apply to NBA in Form* I to obtain any biological resources and / or associated knowledge occurring in India.

b. The NBA may impose benefit sharing ranging from 0.1% to 0.5% of annual gross ex-factory sale of the product. The benefit sharing component shall be worked out based on the annual gross ex-factory sale excluding government taxes as given below.
<table>
<tr><th>Annual Gross ex-factory sale of the product</th><th>Benefit Sharing component</th></tr>
<tr><td>Up to rupees 1, 00,00,000</td><td>0.1 %</td></tr>
<tr><td>Rupees 1,00,00,001 up to 3,00,00,000</td><td>0.2 %</td></tr>
<tr><td>Above rupees 3,00,00,000</td><td>0.5%</td></tr>
</table>
c. An agreement on benefit sharing is to be signed by the applicant with NBA.

d. Applicant to pay the charges if levied by the BMC (Sec 41(3)), in addition to the benefit sharing component.

e. Application for IPR on the outcome of the proposed research shall require prior approval</td>
</tr>
</table>

	of NBA before the grant of the patent as per section 6 (1) of the Act and also as per the Guidelines issued by the Indian Patents Office. f. Annual reports on the progress of bio-survey/bio-utilization / Commercial utilization are to be submitted.
C-3-Transfer of the Results of Research relating to biological resources, occurring in or obtained from India, to persons /body corporate / association / organization as defined u/s 3(2) for monetary consideration or otherwise	
For persons / entities, as mentioned under Section 4 comprising the following i. Persons/ entities under Section 3(2) are: a) a person who is not a citizen of India; b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income Tax Act, 1961; c) a body corporate, association or organization - 1. not incorporated, or registered in India; or 2. Incorporated, or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management. --- ii. Persons/entities mentioned under Section 7 are: - who is a citizen of India, or - a body corporate, association or organization which is registered or incorporated in India.	a. Apply to NBA in Form* II to seek prior approval to transfer the results of research relating to biological resources occurring in or obtained from India for research to person / entities under Section 3(2) shall seek approval of NBA. b. Persons/entities mentioned u/s 3(2) are required to provide evidence of authorized access to the biological resource and/or associated knowledge involved in the research, i.e., NBA's approval for access to biological resources and/ or associated knowledge. c. Complete known information on potential commercial value, as within the knowledge of the applicant, of the results of research is also to be provided. d. Applicant shall pay to NBA 3.0 - 5.0 % of the monetary consideration, if received, by him, on case to case basis. e. Commercialization of the transferred research results, or their outcome, to be done only after obtaining the approval of NBA and entering into a fresh benefit sharing agreement by transferee. f. When the outcome of further research is put to commercial use, the applicant, along with transferee, shall enter into benefit sharing agreement with NBA. g. Application for IPR on the outcome of the proposed research shall require prior approval of NBA before the grant of the

	patent as per section 6 (1) of the Act and also as per the Guidelines issued by the Indian Patents Office. h. Annual reports on the progress of further research are to be submitted regularly to NBA by transferee.
C-4- Seeking prior approval for obtaining IPR for any invention based on any research or information on biological resource obtained from India	
1. Applicant as referred under Section 7 and Section 3(2), himself commercializes the process/ product/ innovation	a. Apply to NBA in Form* III to seek prior approval of NBA for this purpose. b. No person shall apply for any intellectual property right by whatever name called, in or outside India for any invention based on any research or information on a biological resources obtained from India without obtaining the approval of the NBA but before the grant of the patent as per section 6 (1) of the Act and also as per the Guidelines issued by the Indian Patents Office. c. The NBA may impose benefit sharing in the form of monetary and / or non-monetary mode. d. In the case of monetary mode, it may impose ranging from 0.2% to 1.0% (on a case by case basis and following a sectoral approach) of ex-factory annual gross sale (excluding Government taxes) of the product. e. Options for non-monetary mode will be decided on mutually agreed terms by NBA and the applicant on a case-by-case basis f. Annual reports on the commercialization of innovation/product/process shall be submitted with supportive documents. g. The applicant, if he is an Indian, shall give prior intimation to the concerned SBB for the quantity and location of the biological resource to be accessed by him, and shall follow the restrictions, if any, imposed by the SBB in the interest of promoting conservation and sustainable use. h. If the applicant, granted IPR, falls under Section 3(2), then he shall also apply in Form-I to NBA for access to biological resources.

	i. Any person applying for any right under the Protection of Plant varieties and Farmers' Rights (PPVFRA) Act shall be exempted from the provisions of Section 6, and the PPVFR Authority shall enclose a copy of such right to NBA.
2. Applicant as referred under Section 7 and Section 3(2), assigns/ licenses the process/ product / innovation to a third party, the Licensee, for commercialization.	a. Apply to NBA in Form* III to seek prior approval of NBA for this purpose. b. No person shall apply for any intellectual property right by whatever name called, in or outside India for any invention based on any research or information on a biological resources obtained from India without obtaining the approval of the NBA but before the grant of the patent as per section 6 (1) of the Act and also as per the Guidelines issued by the Indian Patents Office. c. The NBA may impose benefit sharing in the form of monetary and / or non-monetary mode. d. In the case of monetary mode, the Applicant shall pay to NBA 3% to 5% of the fee received (in any form including the license /assignee fee). e. Applicant shall pay to NBA 2% to 5 % (as decided by NBA on a case by case basis and following a sectoral approach) of the royalty amount received annually by the applicant from the assignee /licensee, as benefit sharing, throughout the term of the agreement. f. Options for non-monetary mode will be decided on mutually agreed terms by NBA and the applicant on a case-by-case basis g. The assignee/ licensee, if he is an Indian, shall give prior intimation to the concerned SBB for the quantity and location of the biological resource to be accessed by him, and shall follow the restrictions, if any, imposed by the SBB in the interest of promoting conservation and sustainable use. h. If assignee/ licensee falls under Section 3(2), then he shall again apply to NBA in Form-I for

<table>
<tr><td></td><td>access of biological resources.
i. Any person applying for any right under the Protection of Plant varieties and Farmers' Rights Act (PPVFRA) shall be exempted from the provisions of Section 6, and the PPVFR Authority shall enclose a copy of such right to NBA.</td></tr>
<tr><td colspan="2">C-5 - Transfer of the Accessed Biological resource to Third Party for research/ commercial utilization</td></tr>
<tr><td>An applicant who has already been granted approval for access under Section 19.</td><td>a. Apply to NBA in Form* IV to seek prior approval to transfer any biological resources and / or associated traditional knowledge to third party.

b. Specific purpose for the proposed third party transfer to be provided and adhered to.

c. The third party shall also enter into a tripartite agreement with the Applicant and the NBA.

d. When the biological resource or its product is commercially utilized, NBA may impose benefit sharing from the transferee ranging from 0.1% to 0.5% (on a case by case basis) of annual gross ex-factory sale (excluding Government taxes) of the product.

<table>
<tr><td>Annual gross ex-factory sale of the product</td><td>Benefit Sharing component</td></tr>
<tr><td>Up to rupees 1, 00,00,000</td><td>0.1 %</td></tr>
<tr><td>Rupees 1,00,00,001 up to 3,00,00,000</td><td>0.2 %</td></tr>
<tr><td>Above rupees 3,00,00,000</td><td>0.5%</td></tr>
</table>
e. Applicant (transferor) shall pay to NBA 2.0% to
5.0 % (as decided by NBA on a case by case basis and following a sectoral approach) of the royalty or any amount received from the transferee, as benefit sharing, throughout the term of the agreement.

f. Options for non-monetary mode will be decided on mutually agreed terms by NBA and the applicant on a case-by-case basis.

g. No further transfer of the biological resource, for commercial utilization or for obtaining of</td></tr>
</table>

	IPR is permitted without prior approval of the NBA by the third party. h. In case, the biological resource has high economic value, an upfront payment, as agreed upon by the applicant with the Authority, shall also be paid by the applicant.
C-6- Conducting of non-commercial research or research for emergency purposes abroad by Indian researchers/institutions using the biological resources.	
1. Indian researchers/ institutions who intend to carry/send the biological resources abroad to undertake basic research which does not fall under Section 5 of the Act. 2. Government institution / organization sending bio resources to carry out certain urgent studies to avert emergencies like epidemic, etc.	Special Form, as in Annex-3, shall be used by the Indian researchers / institutions or individuals/organizations for carrying/sending biological resources abroad for undertaking basic research, individually or in collaboration/cooperation with any institution/organization, or Government sending biological resources abroad to carry out certain urgent research/analysis to avert emergencies like epidemic, etc. NBA secretariat shall review the details presented in the Form, and if it is complete in all respects, shall accord approval within a period of 45 days from the date of receipt of the application. The applicant has to deposit voucher specimens in the designated national repositories before carrying / sending the biological resources abroad.
*These application forms are available on the NBA's website: www.nbaindia.org	

Notes:

a) It may be noted that whenever there is a change in the intended purpose for which the application was made, the applicant shall inform the NBA and apply again in the relevant Form, as appropriate, for entering into a fresh agreement with the NBA on terms for benefit sharing.

b) Options for monetary and non-monetary mode for benefit sharing are given in **Annex - 1**.

c) The amount of benefit sharing shall remain the same whether the end product contains one or more biological resources. When the biological resources of a

product are sourced from the jurisdiction of two or more SBBs, the total amount of the accrued benefits shall be shared among them.

d) Indian citizens /entities, accessing biological resources from traders /stockholders in the open market, shall be required to give prior intimation to the concerned SBB, in the prescribed format, who will regulate the access as provided u/s 24 and enter into benefit sharing agreement with the SBB as provided u/s 23. The traders /stockholders, engaged in procurement and commercial sale of these biological resources shall be required to intimate the concerned SBB and also apply for registration for this purpose.

e) Any person who is aggrieved of the determination of benefit sharing by the NBA or order of the SBB may file an appeal to an appropriate Authority, as per the Act.

PART –IV
Processing of Applications Received by the NBA

1. Every application is required to be complete in all respects, including all the enclosures referred to. Incomplete applications that are devoid of any relevant information that is specifically sought, including ambiguous replies, incomplete disclosure, absence of proof that are required as enclosures to the form, etc., shall not be processed by the NBA and shall be returned to the applicants. The time limit provided for processing the applications shall be considered to commence only when the application is complete in all respects and the fee prescribed is received in full. Thereafter, the Authority shall dispose of the application within the prescribed time limit.

2. Any information specified in the Application as confidential should not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

3. While processing the application for access of any biological resource (including plants and/or animals and/or their parts or genetic material or derivatives, as the case may be), NBA may have the following considerations for scrutinizing the application for access to biological resources.

   a) Cultivated/domesticated or wild collected from natural area
   b) Rare/endemic/endangered and threatened species
   c) Accessed directly through the primary collectors living in natural habitat of the biological resource or obtained through intermediaries like traders.
   d) Developed/maintained under *ex*-situ conditions.
   e) Species of high value/ importance to livelihoods of local communities.
   f) Included in the restricted items list of the extant notifications for that purpose.
   g) Included in the list of notified normally traded commodities.

h) Whether included in Annex I crops listed under International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), to which India is a Contracting Party.
i) Whether included in the Appendices of CITES or in the Schedules of the Wildlife (Protection) Act, 1972 (as amended in 1990).

4. The NBA while taking any decision relating to the use of biological resources and/or knowledge associated thereto may consult through the SBBs, those BMCs within whose jurisdiction the biological resources and/or the knowledge associated thereto occur. The SBBs may impose conditions /restrictions for such access after hearing the applicant and in consultation with concerned local bodies / BMCs, including terms for benefit sharing as per these guidelines.

5. On receiving prior intimation of the intended access to biological resources by Indian citizens/entities in the form prescribed, the SBB shall acknowledge receipt and inform the person /entity concerned that its decision on approval or otherwise shall be communicated within the stipulated time given in the rules of the respective SBB and biological resources shall not be accessed until the decision is made.

6. The NBA, if it deems necessary and appropriate, shall take steps to prohibit or restrict the access to biological resources for the reasons specified under Rule 16 of the Rules.

7. After receipt of application, the NBA may make enquiries, as it may deem fit, and if necessary, may consult an expert committee constituted for this purpose;

8. The NBA may upon such enquiry and/or consultation in its decision making process, by order, grant approval or reject application;

9. In cases where the NBA rejects an application for access to biological resources and / or knowledge associated thereto, the reasons for such rejection shall be recorded in writing. However, no such order will be made without giving an opportunity of being heard to the applicant.

10. Approvals are granted by the NBA in the form of agreements (on mutually agreed terms) duly signed by an authorized officer of the NBA, the applicant and others as applicable.

11. Based on any complaint or *suo motu,* the NBA may revoke the approvals granted and withdraw the written Agreement on certain grounds, specified under Rule 15.

12. A copy of the order of revocation will be issued to the concerned State Biodiversity Board and the Biodiversity Management Committees for the purposes of prohibition of access.

13. The concerned State Biodiversity Board and the Biodiversity Management Committees shall also assess the damage, if any, caused in this regard and take steps to recover the damage. This activity shall be supported by the NBA.

14. The NBA shall monitor the flow of the accrued benefits in a manner determined by it.

15. Applicant who intends to withdraw application shall apply to the NBA furnishing sufficient reasons and such request will be processed in the light of the procedure for closure of application developed by NBA. If applicant fails to respond to queries of the NBA within the stipulated time, the NBA will close the application. Depending on circumstances of the case the NBA can initiate other appropriate action. If the applicant wishes to revive the application, he/she shall make a fresh application with the requisite fee.

ANNEX – 1

Fair and Equitable Benefit Sharing Options

The following options, either one or more, may be applied in accordance with mutually agreed terms between the applicant and the NBA, on a case by case basis, based on provisions under Rule 20 (3) of the Biological Diversity Rules, 2004. These options are indicative in nature and other options, as approved by the NBA in consultation with the Central Government, may also be adopted:

a. Monetary Benefits Options:

1. Up-front payment;
2. One-time payment;
3. Milestone payments;
4. Share of the royalties and benefits accrued;
5. Share of the license fees;
6. Contribution to National, State or Local Biodiversity Funds;
7. Funding for research and development in India;
8. Joint ventures with Indian institutions and companies;
9. Joint ownership of relevant intellectual property rights

b. Non-Monetary Benefits Options:

1. Providing institutional capacity building, including training on sustainable use practices, creating infrastructure and undertaking development of work related to conservation and sustainable use of biological resources;
2. Transfer of technology or sharing of research and development results with Indian institutions/individuals/entities.
3. Strengthening of capacities for developing technologies and transfer of technology to India and/or collaborative research and development programmes with Indian institutions/ individuals/entities;
4. Contribution/Collaboration related to education and training in India on conservation and sustainable use of biological resources;
5. Location of production, research, and development units and measures for conservation and protection of species in the area from where biological resource has been accessed, contributions to the local economy and income generation for the local communities;
6. Sharing of scientific information relevant to conservation and sustainable use of biological diversity including biological inventories and taxonomic studies;
7. Conducting research directed towards priority needs in India including food, health and livelihood security focusing on biological resources;
8. Providing scholarships, bursaries and financial aid to Indian institutions/ individuals preferably to regions, tribes/sects contributing to the delivery of biological resources and subsequent profitability if any.
9. Setting up of venture capital fund for aiding the cause of benefit claimers.
10. Payment of monetary compensation and other non-monetary benefits to the benefit claimers as the NBA may deem fit.

Annex -2

FORM I-A

Information to be furnished for use of biological resources in bulk quantity or for manufacturing (not involving new research propositions)

Self-disclosure

Common Name of the biological resource proposed to be used: _____

Scientific Name : _____

Plants or animals or parts thereof traded : _____

Specific purpose of access: _____

Locations / source from where procured*	Quantity	Rate	State Biodiversity Board	Prospective Buyers/Users (if known)

*List of local body/BMCs, if already identified shall be attached.

Undertaking

I have read and understood the terms and conditions of ABS guidelines and I undertake to abide by relevant legal provisions applicable to biological resource.

I undertake to obtain the approval of NBA/SBB before making any change in the stated purpose.

I undertake to furnish / share the relevant records with the NBA/ SBB, as and when required.

I further declare that the Information provided in the form is true and correct and I shall be liable for any incorrect / wrong information and wilful suppression of the facts.

Signature
Name of the trader/company/manufacturer /Authorized Representative
Complete Address of the trader/company/manufacturer
along with phone number and email address

Place
Date

Annex-3

Special Application Form

(See Section 18(3)(c))

Conducting of non-commercial research or research for emergency purposes abroad by Indian researchers/institutions using the biological resources

1	Name of the Applicant (Indian researcher/Institution)	
2	Complete Address *	
	a. Permanent	
	b. Present	
3	Name and address of Institution or Organization, in India	
4	Name of the Supervisor or Head of Institution or organization at the place of work in India	
5	Name and contact details of the Institution or organization who shall guide the proposed research / receiving the bioresources.	
6	Details of the Supervisor or Head of Institution or organization who guides the proposed research or recipient of the biological resources	
7	Name of the funding agency supporting the proposed research	
8	Brief description of the research	
9	Details of biological resources proposed to be carried along or sent for the research	
	i. Name of the biological resource (scientific / common name)	
	ii. Location of collection	
	iii. Quantity required	
	iv. Duration of the research	
10	If it is for emergency purpose, specify details such as	

***** *Attach self-attested address / ID proof such as Aadhaar card/ PAN card / Passport, etc***.**

Undertaking

I, _____ Son/Daughter/Wife/Husband of _____ aged_____residing at _____ in _____ holding a permanent. I.D.No_____(PAN Card/ Aadhaar Card/ Passport, etc,) hereby declare that all the information provided above is correct and true. I hereby confirm that the biological resources shall be used only for the purposes as stated in the application. I shall not share/provide/part/leave behind any biological resource at my collaborator's facility/laboratory without approval of the NBA. I, along with my supervisor and collaborator, individually and severally declare that we shall not put to commercial utilization, nor shall seek any IPR claim on the biological resources and associated traditional knowledge used in this research / collaboration. In case such a situation arises we shall apply to National Biodiversity Authority to seek prior approval. Results, process (s), products or other outcomes arising out of this activity shall be shared with NBA during and / or upon completion of research intended along with the copy of relevant documents and publications.

Signature:…….
Date: …….
Place:……..

Declaration by the Supervisor / Head of Institution / organization

I, _____ working as _____ in _____(Name of institution) confirm that the details provided by Mr/Dr/Mrs/Ms._____ are true and correct. This Institute/Organization shall assume full liability for any breach of the terms and conditions as mentioned in the undertaking submitted by the applicant.

Date: …….
Place:…….

Signature:…….
Designation:…….
Official Seal: …….

Declaration by the Recipient / Collaborator

I, _____ working as _____ in _____(*Name of Institution / Organization*) hereby confirm that I or my institution / organization shall use the biological resources for the purposes as stated in the application and which were sent by…….. (*Name of the institution*) or being brought by Mr./Dr./Mrs./Ms……. The said biological resources shall be destroyed in full after the completion of the studies / partnership or upon completion of the studies the biological resources shall be sent back to the institution from where the biological resources were received as the case may be. I or the institution I am associated with shall not claim any ownership under instant application nor shall claim any IP Rights over the biological resources, derivatives or other such components without prior approval of the applicant, institution affiliated and National Biodiversity Authority.

Signature:…….
Designation:…….
Official Seal: …….