

THE BIOLOGICAL DIVERSITY ACT, 2002
AND
BIOLOGICAL DIVERSITY RULES, 2004

National Biodiversity Authority, India

सत्यमेव जयते

THE BIOLOGICAL DIVERSITY ACT, 2002

AND

BIOLOGICAL DIVERSITY RULES, 2004

राष्ट्रीय जैव विविधता प्राधिकरण
National Biodiversity Authority, India
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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5th February, 2003 / Magha 16, 1924 (Saka)

The following Act of Parliament received the assent of the President on the 5th February, 2003, and is hereby published for general information :-

THE BIOLOGICAL DIVERSITY ACT, 2002

No. 18 of 2003

[*5th February, 2003*]

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

AND WHEREAS India is a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;

AND WHEREAS the said Convention came into force on the 29th December, 1993;

AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of the benefits arising out of utilization of genetic resources and also to give effect to the said Convention.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER-I

PRELIMINARY

Short title, extent and commencement

1. (*1*) This Act may be called the Biological Diversity Act, 2002.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires,-

(*a*) "benefit claimers" means the conservers of biological resources, their byproducts, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

(*b*) "biological diversity" means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

(*c*) "biological resources" means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material;

(d) "bio-survey and bio-utilization" means survey or collection of species, subspecies, genes, components and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;

(e) "Chairperson" means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

(f) "commercial utilization" means 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, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

(*g*) "fair and equitable benefit sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;

(*h*) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article *243Q* of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

(*i*) "member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

(*j*) "National Biodiversity Authority" means the National Biodiversity Authority established under section 8;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "regulations" means regulations made under this Act;

(*m*) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

(*n*) "State Biodiversity Board" means the State Biodiversity Board established under section 22;

(*o*) "sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;

(*p*) "value added products" means products which may contain portions or extracts of plants and animals in unrecognizable and physically inseparable form.

CHAPTER -II

REGULATION OF ACCESS TO BIOLOGICAL DIVERSITY

Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority

3. (*1*) No person referred to in sub-section (*2*) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization.

(*2*) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (*1*) are the following, namely:-

(*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 ; **43 of 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-lndian participation in its share capital or management.

Results of research not to be transferred to certain persons without approval of National Biodiversity Authority.

4. No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India or citizen of India who is non-resident as defined in clause (*30*) of section 2 of the Income-tax Act, 1961 or a body corporate or organisation which is not registered or incorporated in India or which has any non-lndian participation in its share capital or management. **43 of 1961**

Explanation - For the purposes of this section, "transfer" does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

Sections 3 and 4 not to apply to certain collaborative research projects

5. (*1*) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section *(3).*

(*2*) All collaborative research projects, other than those referred to in sub-section (*1*) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (*a*) of sub-section (*3*), be void.

(*3*) For the purposes of sub-section (*1*), collaborative research projects shall-

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government.

Application for intellectual property rights not to be made without approval of National Biodiversity Authority

6. (*1*) 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 resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application.

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned:

Provided further that the National Biodiversity Authority shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof.

(*2*) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial

benefits arising out of the commercial utilisation of such rights.

(*3*) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties enacted by Parliament.

(*4*) Where any right is granted under law referred to in sub-section (*3*), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes

7. No person, who is a citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and *vaids* and *hakims,* who have been practising indigenous medicine.

CHAPTER -III

NATIONAL BIODIVERSITY AUTHORITY

Establishment of National Biodiversity Authority

8. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.

(*2*) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(*3*) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(*4*) The National Biodiversity Authority shall consist of the following members, namely:-

(*a*) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

(*b*) three *ex officio* members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;

(*c*) seven *ex officio* members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with -

(*i*) Agricultural Research and Education;

(*ii*) Biotechnology;

(*iii*) Ocean Development;

(*iv*) Agriculture and Cooperation;

(*v*) Indian Systems of Medicine and Homeopathy;

(*vi*) Science and Technology;

(*vii*) Scientific and Industrial Research;

(*d*) five non-official members to be appointed from amongst specialists and scientists having special knowledge of, or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge-holders of biological resources.

Conditions of service of Chairperson and members.

9. The term of office and conditions of service of the Chairperson and the other members other than *ex officio* members of the National Biodiversity Authority shall be such as may be prescribed by the Central Government.

Chairperson to be Chief executive of National Biodiversity Authority.

10. The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

Removal of members

11. The Central Government may remove from the National Biodiversity Authority any member who, in its opinion, has –

(*a*) been adjudged as an insolvent; or

(*b*) been convicted of an offence which involves moral turpitude; or

(*c*) become physically or mentally incapable of acting as a member; or

(*d*) so abused his position as to render his continuance in office detrimental to the public interest; or

(*e*) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

Meetings of National Biodiversity Authority

12. (*1*) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

(*2*) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.

(*3*) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority , any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.

(*4*) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(*5*) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(*6*) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of :-

(*a*) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or

(*b*) any defect in the appointment of a person acting as a member; or

(*c*) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

Committees of National Biodiversity Authority

13. (*1*) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Explanation – For the purposes of this sub-section, "agro-biodiversity" means biological diversity of agriculture related species and their wild relatives.

(*2*) Without prejudice to the provisions of sub-section (*1*), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.

(*3*) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(*4*) The persons appointed as members of the committee under sub-section (*2*) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

Officers and employees of National Biodiversity Authority

14. (*1*) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(*2*) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

Authentication of orders and decisions of National Biodiversity Authority

15. All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorized by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorized by it in this behalf.

Delegation of powers

16. The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under section 50 and the power to make regulations under section 64) as it may deem necessary.

Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India

17. The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

CHAPTER –IV

FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

Functions and powers of National Biodiversity Authority

18. (*1*) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(*2*) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.

(*3*) The National Biodiversity Authority may-

(*a*) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;

(b) advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (*1*) of section 37 as heritage sites and measures for the management of such heritage sites;

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

(*4*) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHAPTER -V

APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

Approval by National Biodiversity Authority for undertaking certain activities

19. (*1*) Any person referred. to in sub-section (*2*) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

(*2*) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (*1*) of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(*3*) On receipt of an application under sub-section (*1*) or sub-section (*2*), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(*4*) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

Transfer of biological resource or knowledge

20. (*1*) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.

(*2*) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section (*1*) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(*3*) On receipt of an application under sub-section (*2*), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(*4*) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

Determination of equitable benefit sharing by National Biodiversity Authority

21. (*1*) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually

agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.

(*2*) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely:

(*a*) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(*b*) transfer of technology;

(*c*) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(*d*) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilization;

(*e*) setting up of venture capital fund for aiding the cause of benefit claimers;

(*f*) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(*3*) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:

Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.

(*4*) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

CHAPTER -VI

STATE BIODIVERSITY BOARD

Establishment of State Biodiversity Board

22. (*1*) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, a Board for the State to be known as the _____ (name of the State) Biodiversity Board.

(*2*) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:

Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(*4*) The Board shall consist of the following members, namely:-

(*a*) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(*b*) not more than five *ex officio* members to be appointed by the State Government to represent the concerned Departments of the State Government;

(*c*) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.

(*5*) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

Functions of State Biodiversity Board

23. The functions of the State Biodiversity Board shall be to-

(*a*) advise 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 utilisation of biological resources;

(*b*) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indians;

(*c*) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation etc.

24. (*1*) Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(*2*) On receipt of an intimation under sub-section (*1*), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(*3*) Any information given in the form referred to in sub-section (*1*) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

Provisions of sections 9 to 17 to apply with modifications to State Biodiversity Board

25. The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:-

(*a*) references to the Central Government shall be construed as references to the State Government;

(*b*) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board;

(*c*) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER –VII

FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

Grants or loans by the Central Government

26. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

Constitution of National Biodiversity Fund

27. (*1*) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto

(*a*) any grants and loans made to the National Biodiversity Authority under section 26;

(*b*) all charges and royalties received by the National Biodiversity Authority under this Act; and

(*c*) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied for –

(*a*) channeling benefits to the benefit claimers;

(*b*) conservation and promotion of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(*c*) socio-economic development of areas referred to in clause (*b*) in consultation with the local bodies concerned.

Annual report of National Biodiversity Authority

28. The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Budget, accounts and audit

29. (*1*) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in

connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority .

(*4*) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Annual report to be laid before Parliament

30. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER -VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

Grants of money by State Government to State Biodiversity Board.

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Constitution of State Biodiversity Fund.

32. (*1*) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto-

(*a*) any grants and loans made to the State Biodiversity Board under section 31 ;

(*b*) any grants or loans made by the National Biodiversity Authority;

(*c*) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government.

(*2*) The State Biodiversity Fund shall be applied for —

(*a*) the management and conservation of heritage sites;

(*b*) compensating or rehabilitating any section of the people economically affected by notification under sub-section (*1*) of section 37;

(*c*) conservation and promotion of biological resources;

(*d*) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24, in consultation with the local bodies concerned;

(*e*) meeting the expenses incurred for the purposes authorised by this Act.

Annual Report of State Biodiversity Board

33. The State Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Audit of accounts of a State Biodiversity Board.

34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon .

Annual report of State Biodiversity Board to be laid before State Legislature

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

CHAPTER -IX

DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

Central Government to develop National strategies plans. etc., for conservation, etc., of biological diversity.

36. (*1*) The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of *in situ,* and ex *situ,* conservation of biological resources, incentives for research, training and public education to increase awareness with respect to biodiversity .

(*2*) Where the Central Government has reason to believe that any area rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed.

(*3*) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

(4) The Central Government shall undertake measures,—

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimize such effects and where appropriate provide for public participation in such assessment;

(ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(*5*) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including *sui generis* system.

Explanation:-For the purposes of this section,-

(*a*) *"ex situ* conservation" means the conservation of components of biological diversity outside their natural habitats;

(*b*) *"in situ* conservation" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

Biodiversity heritage sites.

37. (*1*) Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

(*2*) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

Power of Central Government to notify threatened species

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

Power of Central Government to designate repositories.

39. (*1*) The Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(*2*) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(*3*) Any new taxon discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher specimens with such repository or institution.

Power of Central Government to exempt certain biological resources.

40. Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

CHAPTER-X

BIODIVERSITY MANAGEMENT COMMITTEES

Constitution of Biodiversity Management Committees.

41. (*1*) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge relating to biological diversity.

Explanation.- For the purposes of this sub-section,-

(*a*) "cultivar" means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;

(*b*) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(*c*) "landrace" means primitive cultivar that was grown by ancient farmers and their successors.

(*2*) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity

Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(*3*) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.

CHAPTER -XI

LOCAL BIODIVERSITY FUND

Grants to Local Biodiversity Fund.

42. The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Constitution of Local Biodiversity Fund.

43.(*1*) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto-

(*a*) any grants and loans made under section 42;

(*b*) any grants or loans made by the National Biodiversity Authority;

(*c*) any grants or loans made by the State Biodiversity Boards;

(*d*) fees referred to in sub-section (*3*) of section 41 received by the Biodiversity Management Committees;

(*e*) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.

Application of Local Biodiversity Fund.

44. (*1*) Subject to the provisions of sub-section (*2*), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government.

(*2*) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

Annual Report of Biodiversity Management Committees.

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body.

Audit of accounts of Biodiversity Management Committees.

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Annual report, etc, of the Biodiversity Management Committee to be submitted to District Magistrate.

47. Every local body constituting a Biodiversity Management Committee under sub-section (*1*) of section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in sections 45 and 46, respectively and relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

CHAPTER -XII

MISCELLANEOUS

National Biodiversity Authority to be bound by the directions given by Central Government.

48. (*1*) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority 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:

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of State Government to give directions

49. (*1*) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(**2**) The decision of the State Government whether a question is one of policy or not shall be final.

Settlement of disputes between State Biodiversity Boards.

50. (*1*) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.

(*2*) Every appeal made under sub-section (*1*) shall be in such form as may be prescribed by the Central Government.

(*3*) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government:

Provided that before disposing of an appeal, the parties shall be given a reasonable opportunity of, being heard.

(*4*) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(*5*) While adjudicating any dispute under sub-section (*4*), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(*6*) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:– **5 of 1908**

(*a*) summoning and enforcing the attendance of any person and examining him on oath;
(*b*) requiring the discovery and production of documents;
(*c*) receiving evidence on affidavits;
(*d*) issuing commissions for the examination of witnesses or documents;
(*e*) reviewing its decisions;
(f) dismissing an application for default or deciding it ex *parte;*
(*g*) setting aside any order of dismissal of any application for default or any order passed by it ex*parte;*
(*h*) any other matter which may be prescribed.

(*7*) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXV1 of the Code of Criminal Procedure, 1973.

45 of 1860

2 of 1974

Members, officers, etc., of National Biodiversity Authority and State Biodiversity Board deemed to be public servants.

45 of 1860

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Appeal.

52. Any person, aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, may file an appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal-within the said period, allow it to be filed within a further period not exceeding sixty days.

[1][Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010.

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act,2010.

Appeal to National Green Tribunal

52 A. Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act,

on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act]

Execution of determination or order.

53. Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

Explanation.- For the purposes of this section and section 52, the expression "State Biodiversity Board" includes the person or group of persons to whom the powers or functions under sub-section (*2*) of section 22 have been delegated under the proviso to that sub-section and the certificate relating to such person or group of persons under this section shall be issued by such person or group of persons, as the case may be.

Protection of action taken in good faith.

54. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

[1] **Inserted by the National Green Tribunal Act, 2010 (19of 2010) dt. 2.6.2010**

Penalties.

55. (*1*) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(*2*) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (*2*) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards.

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues.

Offences by Companies

57. (*1*) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Offences to be cognizable and non-bailable.

58. The offences under this Act shall be cognizable and non-bailable.

Act to have effect in addition to other Acts.

59. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.

Power of Central Government to give directions to State Government.

60. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

Cognizance of offences.

61. No Court shall take cognizance of any offence under this Act except on a complaint made by –

(*a*) the Central Government or any authority or officer authorized in this behalf by that Government; or

(*b*) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

Power of Central Government to make rules

62. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(*a*) terms and conditions of service of the Chairperson and members under section 9;

(*b*) powers and duties of the Chairperson under section 10;

(*c*) procedure under sub-section (*1*) of section 12 in regard to transaction of business at meetings;

(*d*) form of application and payment of fees for undertaking certain activities under sub-section (*1*) of section 19;

(*e*) the form and manner of making an application under sub-section (*2*) of section 19;

(*f*) form of application and the manner for transfer of biological resource or knowledge under sub-section (*2*) of section 20;

(*g*) form in which, and the time of each financial year at which, the annual report of the National Biodiversity Authority shall be prepared and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under section 28;

(*h*) form in which the annual statement of account shall be prepared under subsection (*1*) of section 29;

(*i*) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under section 50;

(*j*) the additional matter in which the National Biodiversity Authority may exercise powers of the civil court under clause (*h*) of sub-section (*6*) of section 50;

(k) the manner of giving notice under clause (*b*) of section 61;

(*l*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(*3*) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power of State Government to make rules

63. (*1*) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the other functions to be performed by the State Biodiversity Board under clause (*c*) of section 23;

(*b*) the form in which the prior intimation shall be given under sub-section (*1*) of section 24;

(*c*) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;

(*d*) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 34;

(*e*) management and conservation of national heritage sites under section 37;

(*f*) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied under sub-section (*1*) of section 44;

(*g*) the form of annual report and the time at which such report shall be prepared during each financial year under section 45;

(*h*) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 46;

(*i*) any other matter which is to be, or may be, specified.

(*3*) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to make regulations.

64. The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Power to remove difficulties.

65. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

SUBHASH C. JAIN
Secretary to the Government of India

BIOLOGICAL DIVERSITY RULES - 2004

MINISTRY OF ENVIRONMENT AND FORESTS
NOTIFICATION

New Delhi, the 15th April, 2004

G.S.R. 261 (E). – In exercise of the powers conferred by Section 62 of the Biological Diversity Act, 2002, and in supersession of the National Biodiversity Authority (salary, Allowances and conditions of service of Chairperson and other Members) Rules, 2003 except as respect to things done or omitted to be done before such supersession, the Central Government hereby makes the following rules namely: -

1. Short title and commencement

(1) These rules may be called the Biological Diversity Rules, 2004.
(2) Thus shall come into force on 15th April, 2004.

2. Definitions

In these rules, unless the context otherwise requires, -

(a) "Act" means the Biological Diversity Act 2002 (18 of 2003);

(b) "Authority" means the National Biodiversity Authority established under sub- section (1) of Section 8,

(c) "Biodiversity Management Committee" means a Biodiversity Management Committee established by a local body under sub-section (1) of Section 41;

(d) "Chairperson" means the chairperson of the National Biodiversity Authority or as the case may be, of the State Biodiversity Board.

(e) "fee" means any fee stipulated in the Schedule;

(f) "Form" means form annexed to these rules;

(g) " Member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the chairperson as the case may be;

(h) "section " means a section of the Act;

(i) "Secretary" means the full time Secretary of the Authority.

(j) words and expressions used but not defined in these rules and defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Manner of selection and appointment of the Chairperson

(1) The Chairperson of the Authority shall be appointed by the Central Government.

(2) Every appointment of Chairperson under sub-section (1) shall be made either on deputation basis or by selection from outside the Central Government. In case the appointment is through deputation, the applicant should not be below the rank of Additional Secretary to the Government of India.

4. Term of Office of the Chairperson

(1) The Chairperson of the Authority shall hold the office for a term of three years' and shall be eligible for re-appointment,

(2) Provided that no Chairperson shall hold office as such after he attains the age of sixty five years or his term of office expires which is earlier.

(3) The Chairperson may resign from his office by giving at least one month notice in writing to the Central Government.

5. Pay and Allowances of Chairperson :—

(1) A Chairperson shall be entitled to a fixed pay of Rs. 26,000/- per month. In case of retired person is appointed as Chairperson, his pay shall be fixed in accordance with the orders of the Central Government as applicable to such persons.

(2) A Chairperson shall be entitled to such allowances, leave, pension, provident fund, house and other perquisites etc. to be decided by the Central Government from time to time.

6. Term of Office and Allowances of non- official Members:

(1) Every non-official member of the Authority shall hold his office for a term not exceeding three years at a time from the date of publication of his appointment in the official Gazette.

(2) Every non- official member attending the meeting of the Authority shall be entitled to sitting allowance, travelling expenses, daily allowance and such other allowances as are applicable to non official member of commissions and committees of the Central Government attending the meeting (s) of such Commissions or Committees.

7. Filling up of vacancies of non- official members

(1) A non –official member of the Authority may resign his office at any time by giving in writing under his hand addressed to the Central Government and the seat of that member in the Authority shall become vacant.

(2) A casual vacancy of a non – official member in the Authority shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member in whose place he was nominated.

8. Removal of the members of the Authority.

No member of the Authority shall be removed from his office on any ground specified in section 11, without a due and proper enquiry by an officer not below the rank of a Secretary to the Government of India appointed by the Central Government and without giving such member a reasonable opportunity of being heard.

9. Secretary of the Authority

(1) The Authority shall appoint a Secretary to it.

(2) The terms and conditions of the appointment of the Secretary shall be determined by the Authority by regulation.

(3) The Secretary shall be responsible for co-ordinating and convening the meetings of the Authority, maintenance of the records of the proceedings of the Authority and such other matters as may be assigned to him by the Authority.

10. Meetings of the Authority

(1) The Authority shall meet at least four times in a year normally after a period of three months at the Head quarters of the Authority or at such place as may be decided by the Chairperson.

(2) The Chairperson shall, upon a written request from not less than five Members of the Authority or upon a direction of the Central Government, call a special meeting of the Authority.

(3) The members shall be given at least fifteen days' notice for holding an ordinary meeting and at least three days' notice for holding a special meeting specifying the purpose, the time and the place at which such meeting is to be held.

(4) Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves.

(5) The decision of the Authority at a meeting shall, if necessary, be taken by a simple majority of the Members present and voting and the Chairperson or in his absence, the Member presiding shall have a second or casting vote.

(6) Each member shall have one vote.

(7) The quorum at every meeting of the Authority shall be five.

(8) No Member shall be entitled to bring forward for the consideration of a meeting any matter of which he has not given ten days' notice unless the Chairperson in his discretion permits him to do so.

(9) Notice of the meeting may be given to the Members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the Secretary of the Authority may, in the circumstances of the case, think fit.

11. Appointment of Expert Committee by the Authority and their entitlements

(1) The Authority may constitute any number of Committees for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.

(2) The members of the Committee other than the members of the Authority shall be paid such fees and allowances for attending the meetings as the Authority may deem fit.

12. General functions of the Authority

The Authority may perform the following functions; namely:-

(i) lay down the procedure and guidelines to govern the activities provided under sections 3, 4 and 6;

(ii) advise the Central Government on any matter concerning conservation of bio diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;

(iii) coordinate the activities of the State Bio-diversity Boards;

(iv) provide technical assistance and guidance to the State Bio-diversity Boards;

(v) commission studies and sponsor investigations and research;

(vi) engage consultants, for a specific period, not exceeding three years, for providing technical assistance to the Authority in the effective discharge of its functions :

Provided that if it is necessary and expedient to engage any consultant beyond the period of three years, the Authority shall seek prior approval of the Central Government for such an engagement.

(vii) collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of bio diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;

(viii) organise through mass media a comprehensive programme regarding conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.

(ix) plan and organise training of personnel engaged or likely to be engaged in programmes for the conservation of bio-diversity and sustainable use of its components;

(x) prepare the annual Budget of the Authority incorporating its own receipts as also the devaluation from the Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government ;

(xi) recommend creation of posts to the Central Government, for effective discharge of the functions by the Authority and to create such posts, provided that no such post whether permanent / temporary or of any nature, would be created without prior approval of the Central Government;

(xii) approve the method of recruitment to the officers and servants of the Authority;

(xiii) take steps to build up data base and to create information and documentation system for biological resources and associated traditional knowledge through bio-diversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses ;

(xiv) give directions to State Bio-diversity Boards and the Bio-diversity Management Committees in writing for effective implementation of the Act;

(xv) report to the Central Government about the functioning of the Authority and implementation of the Act;

(xvi) recommend, modify, collection of benefit sharing fee under sub section (1) of Section 6 or Changes of royalties under sub-section (2) of section 19 in respect of biological resources from time to time;

(xvii) sanction grants – in – aid and grants to the State Bio-diversity Board and Bio-diversity Management Committees for specific purposes;

(xviii) undertake physical inspection of any area in connection with the implementation of the Act;

(xix) take necessary measures including appointment of legal experts to oppose grant of intellectual property right in any country outside India on any biological resource and associated knowledge obtained from India in an illegal manner;

(xx) do such other functions as may be assigned or directed by the Central Government from time to time.

13. Powers and duties of Chairperson

(1) The Chairperson shall have the overall control of the day - to - day activities of the Authority.

(2) Subject to the provisions of Section 10, the Chairperson shall have the powers of general superintendence over the officers and staff of the Authority and he may issue necessary directions for the conduct and management of the affairs of the Authority.

(3) The Chairperson shall be in charge of all the confidential papers and records of the Authority and shall be responsible for their safe custody.

(4) All orders and instructions to be issued by the Authority shall be under the signature of the Chairperson or of any other officer authorised by the Chairperson in this behalf.

(5) The Chairperson, either himself or through an officer of the authority authorised for the purpose, may sanction and disburse all payments against the approved budget.

(6) The Chairperson shall have full powers for granting administrative and technical sanction to all estimates.

(7) The Chairperson shall convene and preside over all the meetings of the Authority and shall ensure that all decisions taken by the Authority are implemented in proper manner.

(8) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Authority or the Central Government.

14. Procedure for access to biological resources and associated traditional knowledge

(1) Any person seeking approval of the Authority for access to biological resources and associated knowledge for research or for commercial utilization shall make an application in Form I

(2) Every application under sub- rule (1) shall be accompanied by a fee of ten thousand rupees in the form of a cheque or demand draft drawn in favour of the Authority.

(3) The Authority shall after consultation with the concerned local bodies and collecting such additional information from the applicant and other sources, as it may deem necessary, dispose of the application, as far as possible, within a period of six months from the date of its receipts .

(4) On being satisfied with the merit of the application, the Authority may grant the approval for access to biological resources and associated knowledge subject to such term and conditions as it may deem fit to impose.

(5) The approval to access shall be in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant.

(6) The form of the agreement referred to in sub-rule (5) shall be laid down by the Authority and shall include the following; namely:-

(i) general objectives and purpose of the application for seeking approval ;

(ii) description of the biological resources and traditional knowledge including accompanying information;

(iii) intended uses of the biological resources (research, breeding, commercial utilization etc.)

(iv) conditions under which the applicant may seek intellectual property rights;

(v) quantum of monetary and other incidental benefits. If need be, a commitment to enter into a fresh agreement particularly in case if the biological material is taken for research purposes and later on sought to be used for commercial purposes, and also in case of any other change in use thereof subsequently.

(vi) restriction to transfer the accessed biological resources and the traditional knowledge to any third party without prior approval of Authority ;

(vii) to adhere to a limit set by the Authority on the quantity and specification of the quality of the biological resources for which the applicant is seeking access;

(viii) guarantee to deposit a reference sample of the biological material sought to be accessed with the repositories identified in Section 39;

(ix) submitting to the Authority a regular status report of research and other developments;

(x) commitment to abide with the provisions of Act and rules and other related legislations in force in the country;

(xi) commitment to facilitate measures for conservation and sustainable use of biological resources accessed;

(xii) commitment to minimize environmental impacts of collecting activities;

(xiii) legal provisions such as duration of the agreement, notice to terminate the agreement, independent enforceability of individual clauses, provision to the extent that obligations in benefit sharing clauses survive the termination of the agreement, events limiting liability (natural calamities), arbitration, any confidentiality clause.

(7) The conditions for access may specifically provide measures for conservation and protection of biological resources to which the access is being granted.

(8) The Authority may for reasons to be recorded in writing reject an application if it considers that the request cannot be acceded to.

(9) No application shall be rejected unless the applicant is given a reasonable opportunity of being heard.

(10) The Authority shall take steps to widely publicize the approvals granted, through print or electronic media and shall periodically monitor compliance of conditions on which the approval was accorded.

15. Revocation of access or approval:-

(1) The Authority may either on the basis of any complaint or *suo moto* withdraw the approval granted for access under rule 15 and revoke the written agreement under the following conditions ; namely:-

(i) on the basis of reasonable belief that the person to whom the approval was granted has violated any of the provisions of the Act or the condition on which the approval was granted ;

(ii) when the person who has been granted approval has failed to comply with the terms of the agreement ;

(iii) on failure to comply with any of the conditions of access granted;

(iv) on account of overriding public interest or for protection of environment and conservation of biological diversity;

(2) The Authority shall send a copy of every order of revocation issued by it to the concerned State Biodiversity Board and the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

16. Restriction on activities related to access to biological resources

(1) The Authority if it deems necessary and appropriate shall take the steps to restrict or prohibit the request for access to biological resources for the following reasons; namely:-

(i) the request for access is for any endangered taxa;

(ii) the request for access is for any endemic and rare species ;

(iii) the request for access may likely to result in adverse effect on the livelihoods of the local people;

(iv) the request to access may result in adverse environmental impact which may be difficult to control and mitigate.

(v) the request for access may cause genetic erosion or affecting the ecosystem function;

(vi) use of resources for purposes contrary to national interest and other related international agreements entered into by India.

17. Procedure for seeking approval for transferring results of research

(1) Any person desirous of transferring results of research relating to biological resources obtained from India for monetary consideration to foreign nationals, companies and Non Resident Indians (NRIs), shall make an application to the Authority in the Form II.

(2) Every application under sub–rule (1) shall be accompanied by a fee of five thousand rupees in the form of a Bank draft or Cheque drawn in favour of the Authority.

(3) Every application under sub-rule (1) shall be decided upon by the Authority, as far as possible within a period of three months from the receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the requirements, the Authority may grant the approval for transferring the results of research subject to such terms and conditions as it may deem fit to impose in each case.

(5) The approval for transfer shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement shall be such as may be decided by the Authority.

(6) The Authority may for reasons to be recorded in writing reject an application if it considers that the application cannot be allowed; Provided that the application shall be rejected unless the applicant has been given a reasonable opportunity of being heard.

18. Procedure for seeking prior approval before applying for intellectual property protection.

(1) Any person desirous of applying for a patent or any other intellectual property based on research on biological material and knowledge obtained from India shall make an application in Form III.

(2) Every application under sub- rule (1) shall be accompanied by paying a fee of five hundred rupees.

(3) The Authority after due appraisal of the application and after collecting any additional information, on the basis of merit shall decide on the application, as far as possible within a period of three months of receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the necessary requirements, the Authority may grant approval for applying for a patent or any other IPR subject to such terms and conditions as it may deem fit to impose in each case.

(5) The approval shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement may be decided by the Authority.

(6) The Authority may reject the application if it considers that the request cannot be acceded to after recording the reasons. Before passing order of rejection, the applicant shall be given an opportunity of hearing.

19. Procedure for third party transfer under sub- section (2) of Section 20.

(1) The persons who have been granted approval for access to biological resources and associated knowledge, intend to transfer the accessed biological resource or knowledge to any other person or organization shall make an application to the Authority in Form IV

(2) Every application under sub- rule (1) shall be accompanied by a fee of ten thousand rupees in the form of Bank draft or cheque drawn in favour of the Authority.

(3) The Authority shall after collecting any additional information, decide upon the application as far as possible within a period of six months of receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the necessary requirements, the Authority may grant approval for third party transfer subject to such terms and conditions it may deem fit to impose in each case.

(5) The approval as may be granted under sub-rule (4) in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement shall be such as may be decided by the Authority.

(6) The Authority may for reasons to be recorded in writing reject the application if it considers that the request cannot be acceded to provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

20. Criteria for equitable benefit sharing (Section 21)

(1) The Authority shall by notification in the Official Gazette formulate the guidelines and describe the benefit sharing formula.

(2) The guidelines shall provide for monetary and other benefits such as royalty; joint ventures; technology transfer; product development; education and awareness raising activities; institutional capacity building and venture capital fund.

(3) The formula for benefit sharing shall be determined on a case-by case basis.

(4) The Authority while granting approval to any person for access or for transfer of results of research or applying for patent and IPR or for third party transfer of the accessed biological resource and associated knowledge may impose terms and conditions for ensuring equitable sharing of the benefits arising out of the use of accessed biological material and associated knowledge.

(5) The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Authority in consultation with the local bodies and benefit claimers and may be decided in due regard to the defined parameters of access, the extent of use, the sustainability aspect, impact and expected outcome levels, including measures ensuring conservation and sustainable use of biological diversity.

(6) Depending upon each case, the Authority shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits.

(7) The Authority shall stipulate that benefits shall ensure conservation and sustainable use of biological diversity.

(8) Where biological resources or knowledge is accessed from a specific individual or a group of individuals or organizations, the Authority may take steps to ensure that the agreed amount is paid directly to them through the district administration. Where such individuals or group of individuals or organizations cannot be identified, the monetary benefits shall be deposited in the National Biodiversity Fund.

(9) Five percent of the assessed benefits shall be earmarked for the Authority or Board as the case may be, towards administrative and service charges.

(10) The Authority shall monitor the flow of benefits as determined under sub rule (4) in a manner determined by it.

21. Application of National Biodiversity Fund. -

(1) The National Biodiversity Fund shall be operated by the Chairperson or by such other officer of the Authority as may be authorized in this regard

(2) The National Biodiversity Fund shall have two separate heads of accounts, one relating to the receipts from the Central Government and the other concerning the fee, licence fee, royalty and other receipts of the Authority.

22. Constitution of Biodiversity Management Committees

(1) Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.

(2) The Biodiversity Management Committee as constituted under Sub– rule (1) shall consist of a Chairperson and not more than six persons nominated by the local body, of whom not less than one third should be women and not less than 18% should belong to the Scheduled Castes/ Scheduled Tribes.

(3) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be chaired by the Chairperson of the local body. The Chairperson of the local body shall have the casting votes in case of a tie.

(4) The Chairperson of the Biodiversity Management Committee shall have a tenure of three years.

(5) The local Member of Legislative Assembly/Member of Legislative Council and Member of Parliament would be special invitees to the meetings of the Committee.

(6) The main function of the BMC is to prepare People's Biodiversity Register in consultation with local people. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.

(7) The other functions of the BMC are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vaids and practitioners using the biological resources.

(8) The Authority shall take steps to specify the form of the People's Biodiversity Registers, and the particulars it shall contain and the format for electronic database.

(9) The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.

(10) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.

(11) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

23. Appeal for settlement of disputes under Section 50. –

(1) If a dispute arises between the Authority or a State Biodiversity Board or between one Board and other Board(s) on account of implementation of any order or direction or on any issue of policy decision, either of the aggrieved parties i.e., Authority or the Board, as the case may be, prefer an appeal to the Central Government under section 50, in Form V to the Secretary, Ministry of Environment and Forests, Government of India.

(2) In case the dispute arises between a State Biodiversity Board and another state Biodiversity Board or Boards, the aggrieved Board or Boards, shall prefer the point or points of dispute to the Central Government which shall refer the same to the Authority.

(3) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant, for preferring the appeal and the relief sought for.

(4) The memorandum of appeal shall be accompanied by an authenticated copy of the order, direction or policy decision, as the case may be, by which the appellant is aggrieved and shall be duly signed by the authorized representative of the appellant.

(5) The memorandum of appeal shall be submitted in quadruplicate, either in person or through a registered post with Acknowledgement due, within 30 days from the date of the orders, direction or policy decision, impugned provided that if the Central Government is satisfied that there was good and sufficient reason for the delay in preferring the appeal, it may, for reason to be recorded in writing, allow the appeal to be preferred after the expiry of the aforesaid period of 30 days but before the expiry of 45 days from the date of the orders impugned, direction or policy decision, as the case may be.

(6) The notice for hearing of the appeal shall be given in Form VI by a registered post with an acknowledgement due.

(7) The Central Government shall, after hearing the appellant and the other parties, dispose of the appeal.

(8) In disposing of an appeal it may vary or modify or cancel impugned order, direction or policy, as the case may be.

(9) In adjudicating a dispute, the Authority shall be guided by the principles of natural justice and as far as practicable, follow the same procedure which the Central Government is required to follow under this rule.

24. Manner of giving notice under Section 61

(1) The manner of giving notice, under clause (b) of section 61, shall be as follows namely:

(i) The notice shall be in writing in Form VII

(ii) The person giving the notice may send it to,-

(a) If the alleged offence has taken place in a Union territory, to the Chairperson of the National Bio-diversity Authority; and

(b) If the alleged offence has taken place in a State, to the Chairperson of the State Bio-diversity Board

(2) The notice referred to in sub – rule (1) shall be sent by registered post acknowledgement due; and

(3) The period of thirty days mentioned in clause (b) of section 61 shall be reckoned from the date, the notice is received by the Authorities mentioned in sub – rule (1).

FORM I

(see rule 14)

Application form for access to Biological resources and associated traditional knowledge

Part A

(i) Full particulars of the applicant

(ii) Name:

(iii) Permanent address:

(iv) Address of the contact person /agent , if any, in India:

(v) Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication):

(vi) Nature of business:

(vii) Turnover of the organization in US $:

2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed

a) Identification (scientific name) of biological resources and its traditional use:

b) Geographical location of proposed collection:

c) Description /nature of traditional knowledge (oral/documented):

d) Any identified individual /community holding the traditional knowledge:

e) Quantity of biological resources to be collected (give the schedule):

f) Time span in which the biological resources is proposed to be collected:

g) Name and number of person authorized by the company for making the selection:

h) The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it:

i) Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access:

3. Details of any national institution which will participate in the Research and Development activities.

4. Primary destination of accessed resource and identity of the location where the R&D will be carried out.

5. The economic and other benefits including those arriving out of any IPR, patent obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he/she belongs

6. The biotechnological, scientific, social or any other benefits obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he / she belongs

7. Estimation of benefits, that would flow to India / communities arising out of the use of accessed bioresources and traditional knowledge

8. Proposed mechanism and arrangements for benefit sharing.

9. Any other information considered relevant.

Part B

Declaration

I / we declare that:

- Collection of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of proposed biological resources shall not entail any environmental impact;
- Collection of proposed biological resources shall not pose any risk to ecosystems;
- Collection of proposed biological resources shall not adversely affect the local communities;

I/we further declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

FORM II

(see rule 17)

Application for seeking prior approval of National Biodiversity Authority for transferring the results of research to foreign nationals, companies, NRI's, for commercial purposes.

1. Full particulars of the applicant

   i) Name :

   ii) Address :

   iii) Professional profile :

   iv) Organizational affiliation (Please attach relevant documents of authentication):

2. Details of the results of research conducted

3. Details of the Biological resources and / or associated knowledge used in the research.

4. Geo-graphical location from where the biological resources used in the research are collected

5. Details of any traditional knowledge used in the research and any identified individual / community holding the traditional knowledge

6. Details of institution where R & D activities carried out.

7. Details of the individual / organization to whom the research results are intend to transfer.

8. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the individual / organization due to commercialization of transferred research results.

9. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the applicant seeking approval for transfer of results of research.

10. Details of any agreement or MOU between by the proposed recipient and applicant seeking approval for transfer of results of research.

Declaration

I/we declare the information provided in the application form is true and correct and I/We shall be responsible for any incorrect/wrong information.

Signed

Name

Title

Place

Date

FORM III

(See rule 18)

Application for seeking prior approval of National Biodiversity Authority for applying for Intellectual Property Right

1. Full particulars of the applicant

   i) Name :

   ii) Address :

   iii) Professional profile :

   iv) Organizational affiliation (Please attach relevant documents of authentication):

2. Details of the invention on which IPRs sought

3. Details of the Biological resources and / or associated knowledge used in the invention.

4. Geo-graphical location from where the biological resources used in the invention are collected .

5. Details of any traditional knowledge used in the invention and any identified individual/ community holding the traditional knowledge.

6. Details of institution where Research and Development activities carried out.

7. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the applicant due commercialization of the invention.

Declaration

I/we declare the Information provided in the application form is true and correct and I/We shall be responsible for any incorrect/ wrong information.

Signed

Name

Title

Place

Date

FORM IV

(See rule 19)

Application form for seeking approval of National Biodiversity Authority for third party transfer of the accessed Biological resources and associated traditional knowledge.

1. Full particulars of the applicant

   (i) Name :

   (ii) Address :

   (iii) Professional profile :

   (iv) Organizational affiliation (Please attach relevant documents of authentication)

2. Details of the biological material and traditional knowledge accessed

3. Details of the access contract entered (Copy to be enclosed)

4. Details of the benefits and mechanism/arrangements for benefit sharing already implemented.

5. Full particulars of the third part to whom the accessed material knowledge is intended to transfer.

6. The purpose of the intended third party transfer.

7. Details of economic, social, biotechnological, scientific or any other benefits that are intended, or may accrue to the third party due to transfer of accessed biological material and knowledge.

8. Details of any agreement to be entered between the applicant and the third party.

9. Estimation of benefits that would flow to India/communities arising out of the third party transfer of accessed biological resources and traditional knowledge.

10. Proposed mechanism and arrangements for benefit sharing arising out of the proposed third party transfer.

11. Any other relevant information

Declaration

I/we declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect/ wrong information.

Signed

Name

Title

Place

Date

FORM V

(See rule –23 (1)

Form of Memorandum of Appeal

BEFORE THE_____ MINISTRY OF ENVIRONMENT AND FORESTS, NEW DELHI

OR

NATIONAL BIODIVERSITY AUTHORITY
(as the case may be)

(Memorandum of appeal under Section 50 of the Biological Diversity Act, 2002)

Appeal No._____ of 200

_____

_____ …… Appellant (s)

Vs.

_____

_____ ……..Respondent (s)

(here mention the designation of the Authority/Board, as the case may be)

The appellant begs to prefer this Memorandum of Appeal against the order dated_____ passed by the Respondent on the following facts and grounds.

1. FACTS:

(Here briefly mention the facts of the case):

2. GROUND :

(Here mention the grounds on which the appeal is made):

i.)

ii.)

iii.)

3. RELIEF SOUGHT

i.)

ii.)

iii.)

4. PRAYER:

a) In the light of what is stated above, the appellant respectfully prays that the order /decision of the respondent be quashed / set-aside.

b) The policy / guidelines / regulation framed by the Respondent be quashed / modified / annulled to the extent_____

_____

c) _____

Place:_____ Signature of the appellant

Dated:_____ with seal

Address:

VERIFICATION

I, the appellant do hereby declare that what is stated above is true to the best of my information and belief.

Verified on _____day of_____

Signature of the appellant
with seal
Address

Signature of the Authorised representative of the appellant

Enclosures: 1. Authenticated copy of the order / direction/ policy decision, against which the appeal has been preferred.

FORM VI

(See rule 23 (6))

BEFORE THE _____ MINISTRY OF ENVIRONMENT AND FORESTS, NEW DELHI

OR

NATIONAL BIODIVERSITY AUTHORITY
(as the case may be)

Appeal No._____ of 200

Between:

_____

_____ ….. Appellant (s)

Vs.

_____

_____ … Respondents (s)

NOTICE

Please take notice that the above appeal filed by the appellant, against the order / direction / policy decision (give details) is fixed for hearing on_____ at_____ .

The copies of the appeal memorandum and other annexure filed along with the appeal are sent herewith for your reference.

Please note that if you fails to appear on the said date or other subsequent date of hearing of the appeal, the appeal would be disposed of finally by placing you ex-parte.

Authorised signatory on behalf of the
Appellate Authority (Seal)

Date: _____

Place: _____

FORM VII

FORM OF NOTICE

(See rule 24(1))

By Registered Post / Acknowledgement due

From,

Shri_____

_____

_____

To,

_____

_____

_____

Sub: NOTICE UNDER SECTION 61(b) OF THE BIOLOGICAL DIVERSITY ACT, 2002

Whereas an offence under the Biological Diversity Act, 2002 has been committed/is being committed by _____

2. I/ we hereby give notice of 30 days under Section 61(b) of the Biological Diversity Act, 2002 of my / our intention to file a complaint in the Court against _____ for violation of the provisions of the Biological Diversity Act, 2002.

3. In support of my /our notice, I am / we are enclosing herewith the following documents as evidence of proof.

Place: _____

Date: _____

Signature

EXPLANATION:

(1) In case the notice to be given in the name of a company, documentary evidence authorizing the person to sign the notice on behalf of the company shall be enclosed to the notice.

(2) Give the name and address of the alleged offender. In case of using biological resource/knowledge/research/bio- survey and bio utilization / the intellectual property right/patent, without the approval of the Authority, the details thereof and the commercial utilisation if any, may be furnished.

(3) Documentary evidence shall include photograph, technical report etc., for enabling enquiry into the alleged violation / offence.

[No. J-22018/57/2002-CSC(BC)]

DESH DEEPAK VERMA, Jt. Secy.