

NATIONAL BIODIVERSITY AUTHORITY
MINUTES OF THE TWELFTH MEETING



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07.08.2008
Room No 403, Conference Hall
Ministry of Environment and Forests
New Delhi

MINUTES OF THE TWELFTH MEETING OF NATIONAL BIODIVERSITY AUTHORITY

Date: 7th August, 2008

Venue: 403, Paryavaran Bhavan, CGO Complex Ministry of Environment and Forests,
New Delhi 110 003

Shri. G. K. Prasad, Chairman, NBA welcomed the members of NBA and Dr. R. S. Rana, special invitee for the 12th Authority meeting and presented the major activities of NBA conducted during the period between 11th and 12th Authority meetings. The Chairman, NBA in his welcome remarks also had referred to the almost full house attendance of members of NBA.

2. Following the welcome by the Chairman, the confirmation of minutes of the 11th meeting of National Biodiversity Authority was taken up and the members approved the minutes.

3. Discussion on the action taken on the minutes of the 11th meeting of National Biodiversity Authority

1. Under the Action taken on the minutes of the 10th meeting of National Biodiversity Authority as per Agenda item No 2 on the “Comments on the Guidelines prepared by the Expert Committees for Notification on Access and Benefit Sharing, 2. Enforcement of Biodiversity Act 3. Endemic, Endangered and Threatened species and 4. Designation of National Repository, the following actions were taken:

COMMENTS: The Joint Secretary Shri A. K. Goyal informed that for implementation of Section 61 of the Act, regarding cognizance of offences, the Ministry initiated action in March 2008. A draft notification has been prepared and sent to the Director, Wildlife Crime Control Bureau and Joint Secretary (Customs), Ministry of Finance requesting for their comments/approval.

He further stated that for implementation of Section 38, the Ministry initiated action in March 2008, a meeting with the Directors of BSI, ZSI and IG (WL) was held under the chairmanship of the Additional Secretary on 26.3.2008. Following this meeting, the Directors of BSI and ZSI were requested to prepare a state-wise list of threatened species of plants and animals, which are on the verge of extinction or likely to become extinct in the near future, including their distribution, along with guidelines for regulating collection of these species and measures for rehabilitating and preserving them, as provided for in this Section. Even though NBA's role has been specified in this Section, a Committee was set up by the NBA for developing guidelines for identifying threatened species. A copy of the report of this Committee was handed over to the Directors of BSI and ZSI to make use of the information. Some inputs have been received from BSI and ZSI, but since those were not in line with the requirements of the section, another meeting is being planned with them shortly.

Shri M. B. Lal, Addl. Director General (WL) commented that for Section 38 of the Act, action has to be coordinated amongst all relevant organizations such as Botanical Survey of India, Zoological Survey of India and Wild Life Division.

Shri A. K. Goyal informed that regarding Section 39, an administrative order for “Designation of National Repository” has been prepared by the Ministry, and will be

issued shortly on receiving responses from all the Institutions proposed to be designated as repositories.

4. Agenda 15: Approval of MoU between GBIF and India

COMMENTS: Dr. Naresh Kumar, Head, R&D Planning Division, CSIR informed that the nodal person for GBIF has been changed and it will be communicated to NBA as well as Ministry of Environment and Forests for further necessary action in this regard.

AGENDA FOR THE 12th MEETING

Agenda 1: Approval of Annual Report for the year 2007-2008 (Circulated separately)

The Annual Report for the year 2007-2008 has been prepared as per notification S. O. 1689 (E) by the Ministry of Environment and Forests in accordance with the section 28 and 29 of the Biological Diversity Act 2002.

Annual Report is being circulated to the members separately.

Comments:

Shri A. K. Goyal, Joint Secretary felt that the Annual Report of National Biodiversity Authority should have an Executive Summary with Abbreviations. The Organizational Chart should come in the beginning.

In this connection, the Secretary, NBA informed that the Annual Report of NBA has been prepared in accordance with the Notification No.S.O.1689 (E) dated 5th December, 2005 National Biodiversity Authority (Annual Report and Annual Statement of Accounts) Rules, 2005.

Shri A. K. Goyal, Joint Secretary informed that for the year 2007-08, the Annual Report may be prepared in the format notified by Government of India with some editorial corrections. The members also supported the Joint Secretary's suggestion that the presentation of the Annual Report need to be improved, since it is to be laid down in the Parliament.

Action: Secretary

Agenda 2: Minutes of the Meeting of the Expert Committee on Evaluation of applications on Access to bioresources, Transfer of Research Results, IPR and Third party Transfer (**Appendix 2**)

The Secretary NBA presented the summary of the minutes of the Expert Committee on Evaluation of Applications on Access to bioresources, Transfer of Research Results, IPR and Third party transfer of bioresources held on 16-07-2008 at the Conference Hall of National Biodiversity Authority under the Chairmanship of Dr. R.S. Rana, Former Director, NBPGR, ICAR, Pusa Campus, New Delhi and nine other members. Forty five technical applications were placed before the Expert Committee to evaluate Access to bioresources for Research/commercial purposes, Transfer of Research Results, Patent and Third Party Transfer of bioresources viz. Form I- 17, Form II-3, Form III-14, Form IV-5, Collaborative Research – 6.

COMMENTS:

Prof. Raghavendra Gadagkar enquired that whether NBA's approval is necessary for collection of 10 to 15 specimens of ants, honeybee etc from urban or other places by foreign scientists who visit India for Seminar or Conference for conducting taxonomical research and publish the identified species in the world fauna. Secretary NBA replied that as per section 3 of the Biological Diversity Act 2002, foreigners, NRI and MNC need approval for access of biodiversity of India as well as the foreigners are not allowed to collect the specimen for research or for commercial purposes on their own from the Protected Area without the permission of respective Forest Department of the State and without having a formal collaboration with one of the scientific institutions in India. Also the applicant needs to deposit a voucher specimen in the designated repository as well as submit a six monthly report on the research to NBA.

Dr. R. S. Rana, Chairman of the Expert Committee on Evaluation of Applications further explained that, any access by foreign individuals, NRI and multinational companies require NBA's approval by applying in prescribed forms accompanied by prescribed application fee. Also, any transfer of research results related to bioresources and/or traditional knowledge as well as third party transfer needs NBA's approval.

Dr. Renu Swarup proposed that the time frame for seeking approval for IPR application should be shortened. Secretary NBA explained the process of approval of application within the stipulated timeframe provided in the Act.

Dr. Sajwan informed that in one of the Expert Committee meetings of NBA it was discussed and recommended to reduce the time of the approval of applications which was not placed in the Authority meeting.

Dr. R. S. Rana as the Chairman of the Expert committee on Evaluation of Applications replied that within the stipulated timeframe all the applications are approved and cleared by the Expert Committee and there is no application pending for approval as on today.

Chairman NBA informed that the authority meetings are held every three months and the applications received by NBA are approved within the time frame given in the Act.

Dr. Sajwan felt that the timeframe for the approval of application should be shortened and it was noted by the Authority. Dr. Renu Swarup suggested that to reduce the time taken to approve the applications, the recommendations of the EC can be sent to all members by email giving them a few days time to send comments, and thereafter the Chairman, NBA can approve the proposals, and the next meeting of the Authority can be informed of the same.

The Chairman NBA informed that the time frame for approval of application will be examined. The minutes and recommendations of the EC for evaluation of application will be circulated to all members of the Authority by email and whatever comments are received within 15 days, will be taken in to consideration. Then the Chairman NBA will approve the recommendations for the approval of applications received by the NBA and the same will be endorsed in the Authority meeting.

While replying to the question asked by the Secretary NBA that how frequently the EC meeting should be held, the members replied that the EC meeting may be held every month depending on the number of applications received.

Dr. R. S. Rana while appreciating the concern that has been raised by the members of the Authority replied that every member comes from different expertise. Most of the members are deputed for this committee and the members have their primary

duties. These members have to travel to Chennai and as Chairman of the committee the practicality of the proposition needs to be seen.

Dr. Madheswaran felt that, the quantum of the work involved should be viewed and not the frequency of the meeting as criteria for fixing the meeting.

Shri M. B. Lal, Addl. DG (WL) informed the members that we need to observe the present level of disposal of application by NBA and if there are any complaints from the applicants then we need to change the time frame prescribed in the Biological Diversity Act 2002.

The Chairman NBA informed that as reported by the Expert Committee Chairman, all the applications received between April 2008 and 16th July 2008 has been cleared by the NBA.

Shri A.K.Goyal, Joint. Secretary stated that these are very good suggestions for examination.

Dr. Rana once again reiterated that all the applications have been cleared by NBA except a few to which the applicant did not reply when the EC asked for some explanations.

The Chairman informed that the point is well taken and depending on the number of applications and depending on the delay the applications will be cleared within one month of the receipt or within the stipulated time frame given in the Act. As of now there is no delay in disposing of the applications by NBA.

Agenda 3: Minutes of the Meeting of the Expert Committee on Determination of Benefit Sharing on Access for commercial use, Transfer of Research Results, IPR and Third party Transfer applications (Appendix- 3)

The Secretary, NBA informed that the Expert committee's recommendations on the amount of benefit sharing proposed on the applications received are put up for Authority's approval.

COMMENTS:

Dr. Naresh Kumar questioned whether the term of the tenure of the EC on Determination of Benefit Sharing has been fixed.

The Secretary, NBA informed that the EC is headed by Dr J.P. Mishra and so far three meetings have been conducted. As long as the Chairman of the EC is willing to continue or Chairman of the Committee relinquishes, the tenure of the committee continues and more members are added as and when needed.

The Chairman, NBA informed the members that the guidelines for the benefit sharing process are going to be finalized in a meeting at the end of the month. A few members of the Authority, Member Secretaries of the State Biodiversity Boards and others stake holders will be attending the meeting to finalise the guidelines prepared by United Nations University, Japan on 27th and 28th August 2008 at the premises of Ministry of Environment and Forests, New Delhi.

Dr. Naresh Kumar asked for the basis of fixing 5% or 2% of benefit sharing.

The Secretary, NBA informed that the EC fixed three criteria *viz.* Indian companies, foreign MNCs and grass root innovators. For Indian companies the Benefit sharing is 5% of the Net revenue or 2% of the Gross sales, for MNCs the benefit sharing is 5% of the Gross sales and for the grass root innovators, it is based on the personal hearing. At present, NBA has a few applications pending for personal hearing and once the amount of benefit sharing is decided it will be informed to the Authority. Secretary,

NBA informed that 215 applications for seeking IPR made by C.S.I.R IP Division approved by the Authority are pending with C.S.I.R on the 5% of royalty issue. Shri S. K. Gupta, I.P. Division of C.S.I.R informed that the case will be taken up for discussion at the Secretary level to sort out the problem.

Dr. Naresh Kumar enquired whether the approval given by the Authority is of Statutory nature or not. He also mentioned that while the global average for commercialization of IPRs is 3.3%, it is 6.7% for C.S.I.R. He further informed that C.S.I.R has developed a policy framework on benefit sharing. He felt that there should be a clear cut policy framework on benefit sharing by NBA also and it should be approved.

Dr. Renu Swarup supported his view and emphasized the importance of having some criteria for benefit sharing which should be set based on the innovation and market value, based on the resource availability.

The Authority approved the recommendation of the EC with the above comments.

Action: Secretary

Agenda 4: Review of NBA (Recruitment and Conditions of Service of Officer and other employees) Regulations 2006, especially in the context of column 13 with respect to the post of Secretary, NBA in the Schedule.

COMMENTS: The Chairman requested Shri A.K.Goyal, Joint Secretary to give the details. The Joint Secretary informed that as per the Recruitment Rules 2006, notified by the Ministry, the column 13 explains that the name of the committee is Departmental Promotion Committee. The committee should have been Departmental Selection Committee and not the Promotion Committee. The appointment of Secretary is to be made by NBA and now the MOEF has taken the responsibility of appointing the Secretary. The appointment will be made by search cum selection committee.

The Chairman informed that if recruitment is to be made only on “promotion or by deputation/ absorption” then changing the Departmental Promotion Committee as in the notification to Departmental Selection Committee will be sufficient. However, if the recruitment is to be made on direct recruitment then there is a need for external experts for the assessment of the capabilities of the candidate.

In conclusion, it was decided to amend the Recruitment Rules and “the amendment proposed in para 13 of the Recruitment Rules is to change the Departmental Promotion Committee to “Search-cum-Selection Committee”, and to include an expert to be nominated by the Ministry of Environment and Forests, as a member of this Committee”.

Action: Secretary

Agenda 5: Eligibility criteria for the post of Chairman NBA

COMMENTS: Shri. A. K. Goyal, Joint Secretary, explained the provisions of the Act and Rules in connection with the recruitment of post of the Chairman, NBA. He also mentioned that previously in 2004, when MoEF advertised the post of Chairman, the first Chairman was recruited in 2005. Further, Shri. A. K. Goyal read out the eligibility criteria mentioned in the advertisement made during 2008.

He commented that since neither the Act nor the Rules specifically provide for eligibility criteria for the post of Chairman NBA, there was a need to identify these eligibility criteria.

Shri M. B. Lal, ADG (WL) informed that the problem of fixing the eligibility criteria should be made by setting up of a committee to recommend and we should not hurry up now.

The Members felt that the eligibility criteria for the post of Chairman should be made by **constituting a committee** consists of three to four members. It was agreed that, considering the stature of the post, the experience required should be 30 years and not 20 years. After some discussions regarding the background, it was decided to constitute a committee under the chairmanship of Shri B. S. Parshera, Additional Secretary, MoEF with Shri M.B. Lal, ADG(WL), Shri A. K. Goyal, Dr R. S. Rana (Chairman EC) and Dr A. K. Ghosh to draft the essential and desirable requirements for the post of Chairman, NBA. It was agreed that the committee may attempt to complete its work within 45 days, and certainly before the next meeting of the NBA.

Action: Secretary

Agenda 6: Decisions Taken on the State Biodiversity Board Interactive and Review Meeting Held on 28th & 29th April, 2008 at Ooty, Tamil Nadu

COMMENTS: The Chairman explained the members on the NBA's efforts in the preparation of People's Biodiversity Register in connection with the Review meeting held at Ooty.

Dr. A. K. Ghosh said that there is confusion in the West Bengal State Biodiversity Board over the setting up of BMC and PBR at the District level. The Board misunderstood that BMC/PBRs have to be established only at the District level.

Chairman, NBA explained that initially in each District in a State, at least three to five BMC/PBR are to be identified and set up by the State Governments.

Dr. A. K. Ghosh said that NBA should send a clarification letter to all SBB in this connection.

Action: Secretary

Agenda 8: Regulation on Biodiversity Heritage Sites

COMMENTS: Shri. A. K. Goyal Joint Secretary, MoEF explained that, India has a variety of protected areas including Sanctuaries, National parks, Biosphere Reserves and asked whether we need another category of Protected Area in the name of Biological Heritage Site under Biological Diversity Act 2002. He informed that a meeting was organized in this connection and letters were written to State Governments to know their reaction whether they need another category of protected area in the form of Heritage Site under Biological Diversity Act 2002. Their reply is awaited. The Secretary NBA was also addressed to pursue the matter and get some response.

Dr. A. K. Ghosh opined that, the system of Biological Diversity Heritage Site concept is entirely different from the Protected Area Concept because outside the protected area there are a number of roosting sites of birds, very old trees in some villages, and many sacred ponds in temples in Kerala. The State Governments may give a separate connotation to the concept of Heritage Site and the Authority needs to separate

this concept from the Protected Area System. Dr. Ghosh explained that the state governments have to notify this and the State Governments need not be asked whether they need to have another protected area such as Biodiversity Heritage Site and the State Government may try to avoid.

Shri. A. K. Goyal Joint Secretary, MoEF explained that the letter from the Ministry was sent to all State Governments to know the ways in which the sites can be notified, names of sites to be notified, suggestions for notification and other management. Shri A. K. Goyal further explained that the BHS should be other than those already covered under the Protected Area system.

Secretary NBA informed that the guidelines were prepared only to bring the uniformity in the site selection by the State Governments.

Dr. R. S. Rana questioned that whether there are similar efforts taken by the Plant Variety Protection and Farmers Rights Authority on Agrobiodiversity Heritage Sites.

Shri. A. K. Goyal informed that NBA should send follow up the letter to all State Governments with a time frame and Madhya Pradesh has already responded to the letter sent by the Ministry.

The Chairman NBA asked whether any comments on the Draft Guidelines circulated to all have been received or not.

The Secretary informed that many comments have been received from various persons to whom the draft was circulated and the comments were prepared in tabular form. The comments are ready to be incorporated by conducting a meeting of the Expert Committee and it was agreed by the Chairman, NBA and other members to go ahead with the incorporation of the comments.

Action: Secretary

Agenda 9: Draft Local Audit Report on the Accounts of National Biodiversity Authority, Chennai for the Period 2007-2008

COMMENTS: The Chairman, NBA explained that there is no serious objection. The reply for the audit query has been sent already and the queries mentioned in the Audit Report are only routine objections.

Shri A.K. Goyal informed that there is a delay in submitting the Accounts by the NBA and that the reply from the NBA was awaited. Secretary, NBA informed that the reply for the Audit Report had been already sent to the Administrative Ministry with a copy to the Audit Department.

The Secretary NBA informed that the delay in submission of the Audit Report for the year 2006—2007 is mainly due to the delay in conducting the Audit by the Audit Department and during this year 2007-2008 the Audit Party has conducted the audit in time and report submission will be done in time with out any delay.

Shri M.B. Lal ADG (WL) informed that there are only routine objections in the report.

Shri B.S. Sajwan questioned whether NBA is an Autonomous body and whether NBA is to be audited by a Chartered Accountant.

Secretary, NBA replied that as per Sub section 2 of Section 29 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. He further stated that the Audit party has

queried in their Audit Report for the year 2007-2008, as to whether any internal Audit by the Ministry has been conducted or not.

Shri M. B. Lal opined that if there is any objection raised by the CAG of India then it is serious and as no objection has been raised so far it is alright.

Action: Secretary

Agenda 10: Legal consultant for the National Biodiversity Authority on Retainer Arrangement

COMMENTS: The Chairman, NBA informed the members about the employment of previous Legal Consultant on retainer basis and this time NBA wants to select the Legal Consultant through advertisement. It was agreed that NBA may invite bids from law firms with payments to be made on the basis of the number of cases. Alternatively, NBA can have a panel of consultants with no retainer ship.

Action: Secretary

Agenda 11: Date for the 13th Authority Meeting

Comments: The next Authority meeting is proposed to be held between 7th to 12th of November 2008.

Action: Secretary

Agenda 12. Additional Agenda with the Permission of the Chair

1. Approval for Extension of appointment of Expert Consultant for the Expert Committee on Soil, Sediment and Microbial Diversity

COMMENTS: The Authority approved the extension of Ms Tijitha Anand, Expert Consultant on the EC on Soil sediments and Microbial Diversity till 31st August 2008.

Action: Secretary

2. Minutes of the Second Expert Committee meeting on Soil, Sediment and Microbial Diversity

The Secretary, NBA informed the out come of the second meeting of the Expert Committee held on 21.07.2008. Dr. Naresh Kumar stated that, the research on microbial diversity and publication of new species is a very important issue and he wrote to Chairman NBA and received a reply from the Chairman, that a Committee has been constituted to look in to the matter.

The Chairman NBA invited Dr. Naresh Kumar to attend the meeting and give his inputs in the EC meeting. Also any other member who is interested may also give their input to the committee while attending the meeting.

3. Dr. A. K. Ghosh: In order to implement Section 3 and Section 55 of the Biological Diversity Act an Authority may be designated for implementation of the provisions of law.

Dr. Ghosh informed that for the implementation of Section 3 and Section 55 of the Biological Diversity Act an Authority may be designated for implementation of the provisions of law which has become vital in view of the current arrest case of two foreign scientists when the officials of the Forest Department were looking for the Right Authority who can book the offenders for violation of the Act.

Shri A. K. Goyal JS MoEF explained that in accordance with Section 61(a), a draft notification has been prepared by the Ministry of Environment, including the officials from Customs Department, Wildlife Crime Department and Officers of State Biodiversity Boards. The JS further informed that the Ministry is waiting for comments from the Customs Department and once the comments are received from the Customs Department, the draft will be notified.

4. Dr. Kathiresan: Proposal for conducting training on PBR

Dr. Kathiresan informed the members that the Centre for Advanced Studies in Marine Biology, Annamalai University can prepare a proposal for capacity building and training for the People's Biodiversity Register preparation by coastal population.

The Chairman NBA agreed to this and requested the CAS in Marine Biology, Annamalai University to prepare a proposal for examination and further informed that the same will be recommended to the Authority for further action in this regard.

Appendix 1: Attendance of Chairman, Members and Special invitees Present

Shri G. K. Prasad
Chairman, National Biodiversity Authority
&
Additional Director General Forests
Ministry of Environment and Forests
Paryavaran Bhavan, Lodhi Road, New Delhi

OFFICIAL MEMBERS

Shri. M. B. Lal
Addl. Director General of Forests (Wildlife)
Ministry of Environment and Forests
Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110003

Shri A. K. Goyal
Joint Secretary,
Ministry of Environment and Forests
Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110003

Shri B. S Sajwan
Chief Executive Officer,
National Medicinal Plants Board, Dept of AYUSH,
Chandralok Building, 36 Janpath, New Delhi 110 001

Shri P. Madeswaran,
Director, Ministry of Earth Sciences,
Block -12, CGO Complex, Lodhi Road, New Delhi – 110003.

Dr. Renu Swarup,
Advisor, Department of Biotechnology
CGO Complex, Block No. 2, Lodhi Road, New Delhi 110003

Shri A. K. Srivastava,
Director, Ministry of Tribal Affairs,
Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi-110001.

Dr. Naresh Kumar,
Head, Dept. of Scientific and Industrial Research,
R& D Planning Division, CSIR, Rafi Marg, New Delhi – 110001.

NON-OFFICIAL MEMBERS

Dr A. K. Ghosh,
Director, Centre for Environment and Development,
329, Jodhpur Park, Kolkata -700 068.

Prof. Raghavendra Gadagkar,

Centre for Ecological Sciences, Indian Institute of Science, Bangalore 560 012.

Dr. S. Subramaniyan,

54 VGP – Golden Sea View, Part II, 2nd Main Road,
5 Cross Street, Palavakkam, Chennai – 600041.

Prof. K. Kathiresan,

Centre for Advanced Study in Marine Biology,
Annamalai University, Parangipettai – 608502.

LEAVE OF ABSENCE GRANTED TO OFFICIAL MEMBERS

Dr. P. L. Gautam,

Dy. Director General (Crop Science)
Dept. of Agricultural Research & Education,
Ministry of Agriculture, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi – 110001.

Dr. B. Harigopal,

Adviser, Department of Science & Technology,
Technology Bhavan, New Mehrauli Road, New Delhi – 110016.

Shri Pankaj Kumar,

Joint Secretary (Plant Protection),
Dept. of Agriculture and Cooperation, Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi – 110001.

LEAVE OF ABSENCE GRANTED TO NON OFFICIAL MEMBERS

Prof. Anil Gupta,

Indian Institute of Management, Ahmedabad 380 015

SPECIAL INVITEES Attended the Meeting

Dr Sujata Arora

Additional Director
Ministry of Environment and Forests, Paryavaran Bhavan, Lodi Road, New Delhi.

Dr. Chandan Singh

Research Officer
Ministry of Environment and Forests, Paryavaran Bhavan, Lodi Road, New Delhi.

Dr R S Rana

Chairman, EC on Evaluation of application on Access, TPT, IPR and TRR.
Former Director, NBPGR, New Delhi.

The agenda and the minutes of the meeting was prepared by Dr K Venkataraman, Secretary, NBA, perused by Shri A K Goyal, Joint Secretary, and MoEF Dr Sujata Arora, Addl. Director, MoEF and approved by the Chairman of the Authority Mr. Shri G. K. Prasad, Chairman, National Biodiversity Authority.