

MINUTES OF THE SECOND MEETING OF THE NATIONAL BIODIVERSITY AUTHORITY

Date : **August 31, 2004**
Time : **10:00 - 17:00**
Venue : **Office of the National Biodiversity Authority**
475-9th South Cross Street
Neelankarai, Chennai- 600 041.

- **Agenda of the Meeting –Appendix 1**
- **Approved Budget of NBA –Appendix 2**
- **Attendance of members present –Appendix 3**

The proceedings of the second meeting of the National Biodiversity Authority commenced at 10.00 A.M on 31.08.04. It was informed by Member Secretary that the tenure of the present Chairman, **Shri. Vishwanath Anand** has come to an end on 14th July, 2004. It was explained on behalf of the Ministry that even though the proposal to extend Shri Anand's tenure has been sent to Department of Personnel and Training (DOP&T) by the Ministry, no approval has been received so far. Sri Anand was not present in the meeting. Accordingly, it was decided to select a Chairperson for the meeting from amongst the members present. **Shri D. D. Verma**, Joint Secretary, Ministry of Environment and Forests, Government of India was unanimously nominated as the Chairperson to preside over the day's proceedings.

Shri D. D. Verma, Chairperson, thanked the members for his selection and extended a warm welcome to the members and briefed them on the status of the selection of the Chairperson to the NBA by the Search-cum-selection committee headed by Prof Madhav Gadgil of the Centre for Ecological Sciences, Indian Institute of Science.

This was followed by the Chairperson requesting the members to introduce themselves. Following the introductions, **Dr. K. Venkataraman**, Member Secretary – NBA initiated the proceedings of the meeting with the permission of the Chair. Record of the discussions agenda wise is as follows: -

1. Brief introduction to the activities of the NBA

Dr. Venkataraman, Member Secretary – NBA in his brief introduction to the activities of the NBA since inception in July 2003 highlighted the following aspects:

- Most of the sections of the Biological Diversity Act, 2002 and Rules 2004 have been notified
- The office of the NBA has been established at the following address: 475, 9th south cross street, Kapaleeswarar Nagar, Neelangarai – Chennai 600 041
- Security for the office has been ensured by engaging a professional security agency
- A budget of Rs. 80,00,000 has been sanctioned for the activities of the NBA for 2003-2004 and a bank account has been opened with a nationalised bank viz. Bank of Maharashtra, Neelangarai for this purpose.
- The NBA was to start its activity with 10 staff members to be loaned from the Ministry. However, only two staff members have joined duty.
- The draft recruitment rules for recruitment of regular staff have been framed and sent to Ministry of Environment and Forests, Government of India, New Delhi for approval.
- One meeting of the NBA has been conducted till date.
- The Annual Report for the year 2003-2004 has been placed for comments and approval.
- Essential office equipment has been purchased. The NBCC has been approached for furnishing and further equipping the office and designs have been placed for approval.
- A prototype of the website for NBA and three draft designs for the logo of the NBA have been developed and placed for comments and approval.
- Eight applications have been received by the NBA till date and these have been tabled for consideration
- Thematic papers and concepts are being prepared for functioning of the NBA.
- The budgetary request for the year 2004-2005 is placed for approval.

Following the Member Secretary's presentation, the Chairperson requested the members to provide their suggestions / advice or seek clarifications on the activities of the NBA.

Dr. A. K. Ghosh sought a clarification on the extent of support to the State Biodiversity Boards.

Dr. Pushpangadan and **Prof. R Gadagkar** informed the members that the states of Kerala, Karnataka and Madhya Pradesh have already formed their SBBs. The Chairperson suggested that based on the experience of these states the process of forming the SBBs in the other states could be initiated.

Action: Member Secretary to write to different states to setup the Board. Those states, which have already formed the Board, may be requested to send a write up on their activities undertaken, and if the Board already formed is not in accordance with the BDA 2002 (Chapter 6, 22 (4)), they may be asked to reconstitute the Board.

On the query on Union Territories from **Dr. L. Kannan**, the Chairperson clarified that in accordance with the Act; the NBA will function as State Board for the Union Territories.

2. Confirmation of Minutes of the first meeting

The following points were made in response to the request to confirm the minutes of the first meeting of the NBA.

1. **Dr. S. Natesh** requested that the decision taken in the first meeting to send the letter of invitation / information to the person nominated in each ministry / departments has to be adhered to. Appropriate revision in the list of members has to be made immediately. The Chairperson endorsed this point by highlighting the importance of continuity of nominees.
2. On the action point on obtaining information from Dr. Pushpangadan, the Member Secretary informed the members that the published works of the member has already been sourced by him and he would shortly write to Dr. Pushpangadan to ask for more recent publications.
3. The members expressed their concern on the non-formation of the Expert Committees. It was clarified that this was being included as an agenda item for the current meeting. The list of experts is under preparation.
4. The members also expressed concern on the delay in preparing the procedure for material transfer for research purposes. The Chairperson stated that this was especially critical since people at large were not clear on how the NBA would function. He therefore stressed upon the importance of expediting the preparation of guidelines and procedures. The Member Secretary assured that this would be in place shortly.

Following the discussion, the minutes of the first meeting were confirmed.

3. Brainstorming Session

In view of the number of points that the members sought to make, the Chairperson suggested that a short brainstorming session be added to the agenda. The members were requested to make short statements / points on the mandate, scope and functioning of the NBA, the Biological Diversity Act and Rules, 2004.

In response, **Dr S K Sharma** of AYUSH expressed concern regarding the possible delay that may be caused in granting permissions by NBA. He specifically highlighted the provision that stated that permissions would be granted within 60 days. Dr Sharma suggested that permissions need to be granted within 2 weeks.

In response, Chairperson and the members stated that since the primary objective of the NBA was to protect and conserve the biological resources of the country, it is imperative that access to biological resources was granted only after due examination. They also clarified that in case of Indian companies, the Act seeks only 'intimation' and not 'approval', if transfer of biological resources outside the country is not involved. To address the issue of inordinate delays, it was suggested that the Expert Committee that is constituted for the purpose of collaborative research or Material Transfer Agreement be asked to set a time frame that was feasible. The Chairperson underscored the point that the NBA was not meant to be an institution to promote trade but has been constituted to protect the biodiversity of the country.

In his statement, **Dr Kurian** of the DST highlighted the importance of harmonising the Wildlife (Protection) Act, 1972 and the Biological Diversity Act, 2003. He stated that the issues of contradiction in the grant or decline of permissions by authorities need to be considered for effective operationalising of the Biological Diversity Act. He suggested that Expert Committees constituted could address the issue as well.

It was also clarified that no law of the state is to the exclusion of the others unless specifically provided so. Further, the Biological Diversity Act concerns three critical issues that the Wildlife (Protection) Act does not take into its purview, namely Patents and Intellectual Property Rights, Benefit Sharing and Biodiversity outside the Protected Area system. The members placed on the record the need to find means to iron out discrepancies between the two acts, if any.

Dr. Pushpangadan in his statement underscored the importance of endemic biodiversity, in addition to the Rare, Endangered and Threatened species. He cited the example of Arogyapaccha, which is derived from *Trichopus zeylonicus*, a plant species that is found in southern Western Ghats, Sri Lanka and the Phillipines. Dr. Pushpangadan stated that the active ingredient used in the formulation of the stimulant could be derived only from the plants found in the Western Ghats, and not from other regions. This highlights the importance of also taking into account genetic diversity within the same species. It is therefore important that such data along with the distribution of biodiversity be mapped and operationalised.

Dr. Pushpangadan also stressed upon the need to decide on the format and application procedures of Material Transfer Agreement and access to biological resources.

Prof. R Gadagkar stressed upon the lack of information on the Biological Diversity Act. He suggested that procedures and guidelines for application be hosted on the NBA website. Prof. Gadagkar also emphasised the importance of ensuring fair and objective grant of permissions.

Dr.B.R. Subramaniam highlighted the need to popularise the Biological Diversity Act and Rules amongst all agencies, departments and research institutions.

Prof L Kannan emphasised that a comprehensive database on all elements of biodiversity needs to be established as part of the NBA.

Dr Natesh stressed upon the need to ensure transparency in the proceedings of the NBA. He also emphasised the need to bring in the user-perspective while operationalising the Biological Diversity Act.

The Chairperson and members in conclusion while underscoring the importance of protecting biodiversity, ensuring sustainable use, facilitating pioneering research and validating traditional knowledge to ensure benefit sharing, recommended expeditious formulation of policy guidelines and constitution of Expert Committees.

4. Appointment of Expert Committees

The agenda item on appointment of Expert Committees (EC) was dealt with extensively and the members considered the following points in this regard.

1. Identification of various subjects, themes and gap areas for appointing ECs
2. Identification of the number of ECs that are to be formed on a priority basis
3. Defining the nature and scope of the EC including the possibility of involving members/experts from the industry
4. Developing guidelines for effective functioning of the EC
5. Identification of members for the EC

After deliberations, the members agreed on the constitution of following Expert Committees and also finalised the responsibilities and broad terms of response for these Committees.

I EC on Collaborative Research: This Committee would be asked to address collaborative research distinguishing between bilateral or multilateral research approved by the Government of India and collaborative research amongst organisations, universities, departments etc involving foreign institutions.

It was agreed that the terms of reference developed for this EC would need to incorporate in their ambit the scope of various forms such as bi or multi lateral collaborations, research between government, accredited or approved bodies and industry, between industries, research supported by the Government, projects between academic institutions within India and abroad etc. In this regard, Prof Gadagkar highlighted the need to also take into consideration non-collaborative research under the following three categories viz. flora, fauna and micro-organisms (including soils, sediments and dead biological material).

To address the concern on sharing of data and ongoing research, the members suggested that in accordance to the Act, ongoing research also needs to conform to the provisions of the Act. *Once the guidelines are finalized, the Member Secretary should write to all the institutions and organisations asking for their confirmation to this effect.* In view of increased focus by outside agencies on certain groups of organisms such as salt tolerant varieties and insects, the members suggested tightening of norms for collaborative research.

The members were of the view that the declaration of bio-resources should be made mandatory in all international airports (as in Australia) to curtail illegal transportation of material. The Chairperson informed the members that the MoEF is shortly planning to conduct a training programme on the Biological Diversity Act and Biosafety measures for the customs officers. In this regard, the members opined that it would be useful to:

- a) write to the Government of India to mainstream the Biological Diversity Act and Biosafety measures into the syllabus of the training programme of the Customs Department.
- b) organise regional level awareness and education programmes and
- c) organise regional level refresher courses for a range of personnel.

Member Secretary to organize Regional Workshop for Customs officers on BD 2002 to create awareness.

II Expert Committee on Material Transfer Agreement, Patents and Benefit Sharing:

This Committee would deal with the issues of Access to parts /whole of Flora, Fauna and Microorganisms and will accord special attention to new collections.

III Expert Committee on Normally Traded Commodities (refer sub-para 2 Section 13 of the Act):

Under Sections 13 (2) of the Biodiversity Act, the Authority is required to prepare a list of genetic material which is used for production of normally traded commodities and then notify the same. In order to achieve this, this Committee is being constituted to examine and address the issues and also consider preparing a list of derivatives, extracts etc. This committee will also take into account those normally traded commodities that constitute part of foods and those that are used for the purpose of regeneration of genetic material. The members suggested that while formulating guidelines, this EC should consider incorporating measures to promote conservation measures for those species which are under heavy pressure and while doing so the Committee should look into the interest of our country.

IV. Expert Committee on Rare, Threatened, Endangered and Endemic species:

It was decided that the Committee will examine the lists from the Botanical Survey of India, Zoological Survey of India, Wildlife Institute of India, IUCN, CITES, FRLHT, and other agencies and identify the gap areas and consolidate and recommend the list to the Government of India for necessary action.

V. Expert Committee on Databases on Bio-resources and Traditional Knowledge:

The members concurred that many database exist presently and lot of work has already been done in this regard in past. Developing an exclusive database for the NBA therefore, may be a repetitive and unnecessary. Instead, the NBA could address only the gap area and could also establish a **Biodiversity Resource Centre (BRC)** that would function as

- a) a documentation centre
- b) a source centre for publications, unpublished reports and other relevant documents
- c) identify all organisations and departments (such as NBRI, Honey Bee, CES-IISc) who have authentic and valid databases, seek access and provide linkages through the web.
- d) document all biodiversity related research projects and PhD thesis so far conducted in India

The members also endorsed that the following action points be taken up immediately:

1. *Publish 5000 copies of a booklet with English and Hindi versions of the Biological Diversity Act, 2002 and Rules, 2004.*
2. *Develop guidelines for enabling the constitution of the ECs. The tenure of ECs could be between 45 to 60 days.*
3. *Develop a roster of experts drawn from various fields to enable the constitution of multi-disciplinary Ecs and then Write to the proposed members to seek consent*
4. *Engage Expert Consultants as the Member Secretary for effective functioning of the ECs.*
5. *The Expert Consultant should be well versed with the current scenario in regard to the subject matter of the ECs, should be able to work with multidisciplinary groups, devote time and complete the work within the specified time.*

6. *Advertise the call for the expert consultants on the website of NBA.*
7. *Expert Consultants could be paid a consultancy fee of Rs. 15,000 –20,000/ per month as per the Government guidelines.*
8. *Member Secretary authorised to take decisions in the selection of Expert Consultants. Approval of Chairman would be taken by him if a Chairman is appointed meanwhile.*
9. *The above decisions could be communicated to the persons who are meanwhile appointed as Chairperson for his or her endorsement.*

5. Website of the National Biodiversity Authority

A presentation on the website for the National Biodiversity Authority was made by the Technical Director of Saturninfolab, a Thiruvananthapuram-based Software Company. The key features of the site, including the structure, operational procedures, security systems, search features and link providers were highlighted in the presentation. The three designs that have been created for the logo of NBA were placed for approval.

The members concurred that the designs were not representative of the mandate and functions of the NBA. The website creation may be entrusted to a company/firm in Chennai through advertisement in the local newspapers.

On agenda item pertaining to developing a comprehensive media sensitization programme, the members agreed that this needs to be taken up immediately and should cover to all three forms of communication viz. print, audio and visual. It was suggested that the expertise of a media consultant be sought for this purpose.

The members suggested that a 6-month media package could be initially developed, and on review and appropriate revisions or extensions could be considered. It was also felt that the opportunities provided by the time star of IGNOU in televisions, and by the FM Radio could be explored. The members also suggested that selective newspapers and magazines be approached to feature articles on the NBA.

6. Administrative Matters

6.1 Budget

The following revisions/modifications have been suggested in the budget proposal tabled in the second meeting (appendix 3).

1. One time grant in aid of Rs. 10,00,000/= (ten lakhs) in two installments to be paid to the State Biodiversity Boards and for the year 2004-2005, a total sum of Rs 25,00,000/= (Rupees twenty five lakhs only) was recommended for distribution to the states which have set up the Biodiversity Board.
2. Under the column 'Office expenses' (non-recurring), cost of office car and jeep (one each) to be removed from the total budget proposal.
3. Under the column 'Other contingencies' instead of Rs. 13,00,000/=(Rupees.thirteen lakhs only), a sum of Rs. 8,00,000/= (Rupees eight lakhs only) is approved.
4. Under the column 'Library' (Books and Periodicals) instead of Rs. 4,00,000/= (Rupees four lakhs only) , a sum of Rs. 1,00,000/= (Rupees one lakh only) is approved.
5. Under the column 'Budget estimates for salaries for the year 2004-2005', a figure of Rs. 15,79,807 (Rupees fifteen lakhs seventy nine thousand and eight hundred seven only) for the balance five months period is approved.

As per the revised and approved budget proposal decided during the second meeting of NBA is Rs. 31,61,000/= (Rupees thirty one lakhs and sixty one thousand only) to be sanctioned for the year 2004-2005 as grant-in-aid by the Ministry of Environment and Forests, Government of India, New Delhi (Statement of Budget requirement is enclosed as Appendix 2.

6.2 Approval of the recruitment Rules and recruitment of staff for the NBA

The following decisions were taken with regard to the approval of recruitment rules and recruitment of staff for the NBA.

1. The option for the appointment of candidates for all the posts could be kept either through direct selection or through deputation as per the model rules of the Government.

2. The age, qualification, experience and provision of relaxation in deserving cases should be kept as per Government of India rules.
3. Method of recruitment through open advertisement.
4. For deputation, circulars could be sent to various departments.
- 5.

With the above points the members approved the recruitment rules.

1.3 Approval of applications (Eight) received by NBA for access to bioresources.

APPLICATION NO: 00001/NBA /2004

Title of the Project: Studies on the Global and Local Diversity of Purple and Green Sulfur Bacteria Genetically and on the basis of Pure Cultures obtained from Marine Habitats.

Name and address of applicant: Dr. Ch. Sasikala, Associate Professor, Centre for Environment, Institute of Science and Technology, J.N.T. University, Kukatpally, Hyderabad-500 072.

Since the applicant has not deposited application fee of Rs. 10,000/- the application was not considered. Further it was decided that the application should be sent to concerned research department for their opinion and placed before the meeting of the Authority in the next meeting.

APPLICATION NO: 00002/NBA /2004

Title of the project: Molecular analysis of plant growth promoting endophytic and rhizospheric bacterial diversity associated with agronomically important grasses of Thar Desert, Rajasthan.

Name and address of applicant: Prof. Anil Tripathi, Deptt. of Biotechnology, Gorakpur University, Gorakpur-270009

Since the applicant had not deposited application fee of Rs. 10,000/- the application was not considered. Further it was decided that the application should be sent to concerned research department for their opinion and placed before the meeting of the Authority in the next meeting

APPLICATION NO: 00003/NBA /2004

Title of the project: Collaborative research project of (NATIONAL INSTITUTE OF PHARMACEUTICAL EDUCATION AND RESEARCH) NIPER AND AVALON USA.

Name and address of applicant: **Shri K.K. Bhutani**, National Institute of Pharmaceutical Education and Research (NIPER), Sector 67, S.A.S. Nagar (Mohali), Punjab-160062.

Since the applicant had not applied in prescribed form and also not deposited application fee of Rs. 10,000/-, the application was not considered.

APPLICATION NO: 00004/NBA /2004

Name of the project : not known (Commercial)

Name and address of applicant **Shri B. Indhra**, Proprietrix, Herbals India, 83/27-A, Gujji Naicken 2nd Street, Anna Nagar East, Chennai-600102

Since the applicant had not applied in prescribed form and also not deposited application fee of Rs. 10,000/-, the application was not considered.

APPLICATION NO: 00005/NBA /2004

Title of the project: “Genetic Diversity of Reptiles from Indian and South American subcontinents”

Name and address of applicant: **Shri V. M. Sathish Kumar**, Post Graduate (Ph.D), School of Biosciences, Edgbaston, Birmingham B15 2TT, United Kingdom.

It was noted that Chief Wild Life Warden of Tamil Nadu has already denied permission in accordance with the Wild Life (Protection) Act, 1972.

APPLICATION NO: 00006/NBA /2004

Name of the project: Nil

Name and address of applicant: **Mr. Rikako Kimura, Ph.D.**, Visiting Researcher, Equine Museum of Japan, 3-21-4, Omachi, Kamakura, Kanagawa, Japan 248-0007.

The application may be considered after obtaining the final opinion of Experts from Wild Life Institute of India, Zoological Survey of India and CCMB.

APPLICATION NO: 00007/NBA /2004

Name of the project: Not known

Name and address of applicant: **Dr. John Heraty**, Associate Professor of Entomology, Deptt. of Entomology, University of California, Riverside, CA USA 92521.

Since the applicant had not applied in prescribed form and also not deposited application fee of Rs. 10,000/-, the application was not considered.

APPLICATION NO: 00008/NBA /2004

Name of the project: **Studies on Viruses (MrNV/XSV/and EWSSV) pathogenic to *Macrobrachium rosenbergii* in India**

Name and address of applicant: **Dr. A. Sait Sahul Hameed**, Reader in Zoology

C. Abdul Hakeem College (Govt. aided Instit), Melvisharam – 632 509, Vellore Dt., Tamil Nadu.

Since the applicant had not deposited application fee of Rs. 10,000/- the application was not considered. Further it was decided that the application should be sent to concerned research department for their opinion and placed before the meeting of the Authority in the next meeting

6.4 Appointment of Legal expert for the NBA

Appointment of a legal expert for the NBA was agreed. A counsel may be engaged from the approved panel of Government of India and paid as per the Law Ministry's prescribed rates as and when engaged.

6. 5. Anomalies and objections raised by different agencies

The anomalies and objections raised by AYUSH, ADMA and Hindustan Lever Limited were examined. The Chairperson stated that most of these apprehensions and points were misplaced since the NBA has been established to protect and conserve India's biodiversity, and also ensuring sustainable use of the resources. He also said that the Act was restrictive only for foreign organizations and Indian companies with foreign participation/linkages. The provisions in the Act need to be seen for this purpose. Concerns were expressed regarding following points by these agencies:

- Issues pertaining to Normally traded Commodities – the criteria for identification, the nature of the list etc.
- Value – added products – the need to recognised pre-processing and also distinguish extracts from derivatives
- The absence of infrastructure at the level of the States largely addressing the issue of non-formation of the State Biodiversity Boards
- The time frame that the Act stipulates for granting permissions – 3 months to 6 months
- Ambiguity regarding Benefit Sharing arrangements
- Possible harassment, lack of transparency, deterrent nature of the Act etc

These points were deliberated and following points emerged from the discussions.

- The issue of Normally Traded Commodities is indeed important and the offer of AYUSH to provide a list is welcome. However it needs to be recognised that the mandate of the NBA does not limit itself to plants and therefore a number of other organisations notably those

dealing with fauna need to be consulted before the final list can be submitted to the MoEF. Further, it is also essential that this list be vetted by the Expert Committee before submission to the MoEF. The concerns raised by some experts that the lists should include the names of the varieties in addition to the name of the species needs to be considered.

- The issue of whether value addition could be categorised into two components viz. pre processing and extracts may lead to undermining the mandate of the Act. Activities such as drying, grinding etc are pertinent to harvest procedures and cannot be treated as value addition.
- Concern on the formation of the SBB is being addressed – by conducting orientation workshops at the level of the state and also by provide seed grants.
- Granting of permission within 7 days as requested is not feasible. However it is appreciated that granting of permissions cannot be stretched to indefinite periods of time. It has to be done as per the provisions of the Act and the Rules.
- The requirement of prior approval of NBA for the Patent application is a provision, which has been made to address ever-increasing cases of biopiracy. We need to recognise that biological resources are the sovereign property of the State and therefore each of us is bound to protect and conserve the same.
- The concern regarding plant species under the RET category, traditional knowledge be seen in the light of scope and mandate of CBD as well the Biological Diversity Act, 2002.

6. 6 Approval of payment of 15% of the total cost as official charges to National Building and Construction Corporation for furnishing, air-conditioning etc for National Biodiversity Authority, Chennai

All the purchases and installation are to be made as per Government of India rules. It was informed by one member that Kendriya Bhandars have been authorized to make these provisions in the Government Offices and their organizations. This may be looked into by the Member Secretary.

6. 7 Sanctioning of grant-in-aid to the State Biodiversity Boards for the formation of State Board

A one-time grant of Rs. 10,00,000/= (Rupees ten lakhs only) was recommended as grant-in-aid for State Biodiversity Boards and the amount to be paid in two installments of Rs. 5,00,000/= (Rupees five lakhs only) each.

6.8 National, Regional and State level Orientation Workshops on implementation of Biological Diversity Act, 2002.

1. *Printing of 5,000 copies of English and Hindi version of the Biological Diversity Act and Rules are approved.*
2. *An exhibition on the **Importance of Biodiversity to India** may be conducted during September/October, 2004 for the public and school children in the NBA office premises.*
3. *One-day Orientation workshop for the states of Tamil Nadu and Pondicherry in the NBA office premises during September 2004 is approved.*

6.9 Purchase of computers, installation of email connectivity, furniture, refrigerator, water cooler

The above purchase and installation is to be made as per Government of India rules.

6.10 Appointment of support staff for effective functioning of NBA on contract basis : Two technical staff and one ministerial staff on contract basis requested for approval.

The appointment of two technical staff and one ministerial staff on contract basis is approved as per the Financial Rules of the Government of India.

6. 11 Approval of Annual Report 2003-2004.

The annual report for the year 2003-2004 is approved with modifications and corrections suggested by the members.

The meeting ended with thanks to the Chair.
