

Task Force (Expert committee) for preparation of Guidelines on creating structures, running administration and maintaining of accounts and other related matters pertaining to Biodiversity Management Committees

Draft Final Report for circulation

**National Biodiversity Authority (NBA)
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EXECUTIVE SUMMARY

1.1. Integration of BMCs to other village level committees related to natural resource management

1.1.1. The BMC will be constituted by the local body with members of the Participatory forest/natural resources management committees members, including from members of horticulture/vaids/foot botanists/tribal heads., etc., based on the local conditions. The SBB should issue suggestive list of persons to be included in the BMC. The representation may be flexible to meet the local requirements.

1.1.2. The Biodiversity Management Committees (BMCs) shall make all efforts to integrate their work with other recent legislation related to Biodiversity, notably the Protection of Plant Varieties and Farmers' Rights Act with regard to Registration of Farmers' Varieties found in their location; with the Geographical Indications Act, with regard to natural goods and agricultural goods related to biodiversity; with Rights of Forests Dwellers Act with regard to NTFP; with MGNREGA for supporting biodiversity activities at village level and with the Joint Forest Management Committees (JFMCs), Eco-development Committees (EDCs) and other such committees constituted under state orders. The committee considered that since JFMCs are formed under administrative orders of governments, it may be desirable that these are integrated into local bodies as standing committees by making enabling provisions in Panchayat Act. To that extent amendment may also be needed relating to constitution of BMCs in BD Act. However, in the interest of the speedy constitution of BMCs we may allow the state governments to have flexibility in forming rules and regulations keeping in view the local conditions prevailing in their states and in retaining the spirit behind the BD Act. The BMCs may also integrate members from such bodies into BMC Advisory Committees specifically constituted for various operational purposes.

1.1.3. The BMC should reflect the nature of the Biodiversity of the village / region, so that the local knowledge, tradition and heritage are conserved and preserved along with all the expertise of local persons in different walks of life.

1.2 Office of the BMC and members of the permanent establishment

1.2.1. Biodiversity Management Committee will function from the office premises to be provided by the Local Body.

1.2.2 From amongst the staff of the line departments of the Government having greater representation in biological resources of the BMC, like a Forest Guard/ Gram

Sewak/Village Agricultural officer etc., based on the local conditions, a person shall be nominated to function as Secretary to the BMC.

1.3 Technical Co-ordinator (TC) for BMCs

1.3.1. Each BMC shall have a Technical Co-ordinator (TC) to assist the BMC in its functioning. The cost for the TC shall be borne by SBB / BMC.

1.4. Tenure of the BMC

1.4.1 The Chairperson and the non-official members of the Biodiversity Management Committee shall have a tenure of five years or coterminous with the tenure of the local elected body whichever is lesser

1.5. Roles and Functions of the BMCs

1.5.1 The BMCs would, in addition to the preparation of the People's Biodiversity Register (PBR), participate in ensuring:

- ✚ Conservation and sustainable utilization of biological resources
- ✚ Eco-restoration of the local biodiversity
- ✚ Proper feedback to the Authority and the SBB in the matter of IPR, Traditional Knowledge and local Biodiversity issues.
- ✚ Management of Heritage Sites including Heritage Trees, Animals/ Micro organisms etc., and Sacred Groves and Sacred Water bodies.
- ✚ Regulation of access to the biological resources and/ or associated Traditional Knowledge, for commercial and research purposes.
- ✚ Sharing of usufructs arising out of commercial use of bio-resources
- ✚ Conservation of traditional varieties/breeds of economically important plants/animals.
- ✚ Biodiversity Education and Awareness building.
- ✚ Commission Research and Documentation.
- ✚ Sustainable Use and Benefit Sharing.

1.6. Technical Support Groups for strengthening BMCs and preparation of PBRs

1.6.1 The SBB shall formulate District level technical support groups comprising of officials/ institutions /people of excellence and expertise in the biodiversity issues at local level, which should guide the BMC in its operation.

1.6.2 The People's Biodiversity Registers shall be maintained, **authenticated** and validated by the Biodiversity Management Committees with the assistance/guidance of the Local Technical Support Committee, a copy of which would be made available to the SBB.

1.7. BMC Action Plan

1.7.1. Each BMC shall prepare an Action Plan, drawing information validated in the People's Biodiversity Register. The Technical Support Group (TSG) shall guide in the preparation of the action plan. The Action Plan may include in addition to the steps outlined for conservation of the bio-resources, the training needs identified for the personnel of the BMC and the list of potential items for consideration for registration as Geographical Indicators (G.I).

1.8. BMCs and Access to Biological Resources, Levy and Benefit Sharing

1.8.1 The Committee (BMC) 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; which shall be intermittently examined by the local body.

1.8.2 The procedures for granting access to the information in the PBRs and levy of a fee will be clearly defined. The SBB shall provide technical support and advice to the BMC in this regard. In the interest of transparency, the fee chargeable to different kinds of published information in the PBR may be decided at the BMC meeting, so that the villagers are aware and fully endorse the decisions of the BMC.

1.8.3 The issues related to collection fee, benefit sharing and management of heritage sites, sacred groves, water bodies etc., will be done in consultation with the technical support of the SBB, and the SBB shall in this regard set up technical support groups comprising of local experts to provide necessary assistance to the BMC at State/Regional/District level.

1.9. Custody of People's Biodiversity Registers (PBRs) and information therein

1.9.1 The BMC shall ensure the protection of the knowledge recorded in the People's Biodiversity Register principally in the matters of regulation of access to agencies and individuals outside the village limits. Access to registers need to be recorded in writing and maintained in consultation with SBB/ Technical Support group.

1.10 Operational Guidelines for BMCs

1.10.1 BMC shall hold a minimum of 4 meetings in a year, and meet once at least in every 3 months.

1.10.2 The meetings shall be chaired by the Chairperson of the BMC, and in his/her absence, by any other member elected by the members present.

1.10.3 The quorum at every meeting shall be three including the chairperson and excluding official members.

1.10.4 The minutes of the meeting so conducted, shall be drawn and a copy sent to the SBB and the local body.

1.10.5 The SBB shall provide a format for drafting of minutes of the meetings, maintenance of meeting registers and alike, lay down the procedures for updating the registers & record of discussions, resolutions made, audit etc., which would facilitate Process Documentation at the BMC level.

1.11 Suggested Annual Report format for Biodiversity Management Committee (BMC)

- a. The name of the committee
- b. The period to which the report relates
- c. The incumbency of office for the period
- d. Detailed statement of programmes of action for the year
- e. Detailed report on the activities performed during the year
- f. A brief account of financial position of the committee
- g. Map of jurisdiction
- h. Progress of work in People's Biodiversity Register (PBR):
 - Documentation
 - Updation
 - Validation in consultation with the SBB and TSG
- i. Minutes Book recording resolutions and decisions made by BMC
- j. BMC Annual Financial Report with resolutions of the BMC
- k. List of Visitors
- l. List of persons provided access to biological resources and traditional knowledge by BMC
- m. Important communication between BMC-SBB-NBA
- n. Photographs, Newsclippings (if any)

1.12. Capacity Building on BD Act and BMCs

Awareness Building on Biological Diversity Act 2002, its scope and implications with issues specific to operation of Biodiversity Management Committees, which may include:

1.12.1 Awareness building on the Biodiversity Act 2002, the role of Biodiversity Management Committees, the procedures, the role of BMCs with various associated departments of the Government such as Forests, Environment, Tribal Welfare, Rural Development, Agriculture, Horticulture, Animal Husbandry, Fisheries and Aquaculture, Poultry, Health, Local systems of Medicine, Education etc.,

1.12.2 Awareness building on the Acts, Rules and Institutions pertaining to the Conservation of Biodiversity at large.

1.12.3 Capacity Building at various levels of Government and Non-Governmental Agencies including the elected representatives at State, District and Local levels.

1.12.4 Capacity Building and Skill development of BMC members as identified by SBB. The Areas of skill building may include:

- Preparation of PBR
- Administrative procedures of BMC
- Maintenance of accounts/audit.
- Intellectual Property Issues.
- Access and Benefit Sharing issues.
- Levy of fees.
- Preparation of Action Plan, Project Report, Annual Report.
- All Acts and Rules pertaining to Biodiversity
- Management of Biodiversity Heritage Sites

1.13 Funding BMCs and maintenance of their accounts

1.13.1 The State Government on the recommendation of the SBB shall designate Nodal officers for each of the districts to oversee the various matters of the BMC.

1.13.2 BMC should draw a plan of Action for accessing resources from various sources such as – NBA, SBB, Grants, Donations, Various line departments of Government of India and the State Governments, other Central and State Boards, Institutions, Corporate Bodies etc.,

1.13.3 Start up funds may be obtained from the NBA, SBB. The state government may make appropriate provision in the budget for funding SBBs and provide financial support through SBBs to the BMCs.

1.13.4 The SBB shall facilitate the BMC to open a Bank Account with an Enabling Letter that BMC have been formed in accordance with The Biological Diversity Act,2002.

1.13.5 The SBB shall fund the BMC through the District level Nodal Officer/ the DFO / District Administration/Zilla Parishad. Wherever the BMC are funded by the SBB directly, the concerned district level Nodal officer/ the DFO /District Administration/ Zilla parishad shall be duly informed.

1.13.6 All the funds of the BMC will be operated jointly by the Chairperson and the Secretary of the BMC.

1.13.7 The Secretary of the BMC will maintain the accounts of the BMC. The accounting procedures will be drawn up and format for the maintenance of the accounts

will be provided by the SBB. The SBB will also draw a check list to ensure that there is proper maintenance and submission of accounts.

1.13.8 The BMC would give Utilization Certificate (UC) to the appropriate authority from whom they received the Fund and NBA/SBB as required.

1.13.9 The accounts would be audited annually by an Auditor specially appointed for the purpose and after being passed by the BMC will be given to the local body and the SBB.

1.13.10 The members of the BMC and the Secretary of the BMC should be trained and educated on the procedure for giving Utilization certificate (UC) and accounting procedures including preparation of Annual Report and utilization of the resources in accordance with the Action Plan drawn up by the BMC, prioritizing the conservation of the local biodiversity.

1.13.11 The State Governments upon the recommendation of the SBB shall provide adequate fund and support staff at Nodal/district levels, to carry out the implementation of the Act, keeping in view the priorities and importance of the regional issues.

1.14 Disputes with regard to BMCs

1.14.1 In case any dispute arises between a Biodiversity Management committee and another Biodiversity Management committee or BMCs, the aggrieved BMC or BMCs, shall prefer the point or points of dispute to the State/Central Government which shall refer the same to the Authority or the SBB. Aggrieved BMCs may refer disputes to SBBs. Cases that cannot be resolved by SBB shall be referred to the State / Central Government. Disputes at the District level would be attended to by District level Nodal officers viz., Collector/CEO/DCF as per nature of the dispute and the State Government would decide the procedure.

1.15. Special Note on North East India

1.15.1 BMC Model for NE States: There are a large number of major and sub tribes in the NE States. There are **geographical and cultural variations with regard to the structure of communities** in the NE States. In addition, different NE states have different levels of autonomy, which further complicate issues. Some states have both traditional leaders as well as those elected by the law. In other situations, the village council undertakes all activities related to the development in the village. The NE region can not be clubbed as a single entity. Hence **a uniform model for the NE States is not possible**. The NBA and SBB should allow for flexibility, to take into account local conditions, traditions and customary laws and practices. In many instances the local tradition of these states is far advanced than the rest of the country.

1.15.2 Community Conserved Areas (CCA): In many locations there are **Community Conserved Areas (CCA)** that offer protection to biodiversity. This is a unique feature with regard to the NE states and the BMCs of the NE states need to be supported, where they are quite advanced and already operational.

1.15.3 Land Tenure and BMCs and importance of raising awareness about the BD Act: Land tenure with regard to cultivated and non cultivated lands in the NE states is fairly complex. For example land in the Apatani Plateau is classified into: **Community lands** (Common to all groups in the villages), **Clan lands** (Owned by members of a clan only) and **Individual land** (Owned by a family) apart from the **Reserved Forests** which is in the custody of the State. In most NE states, the area under the control of the forest department is limited. Hence the role of BMCs in Biodiversity Management in such regions will be critical. Hence, raising awareness about the Act amongst various stakeholders - officials and representatives of communities is essential.

1.15.4 BMCs and Shifting Cultivation (Jhum) the BMCs may be involved in raising awareness about the loss of Biodiversity arising out of shifting cultivation.

1.15.5 Peoples' Biodiversity Registers: Preparation of PBRs is critical given the fact that NE states are both Global Biodiversity Hotspot and very rich in traditional knowledge of communities. The **PBR exercise** being carried out in **Nagaland** is systematic, logical and realistic. Data is collected over a period of time, cross-checked and validated before finalization. This is a workable model that can be adopted by others states involved in the exercise.

1.15.6 Involvement of Research and Educational Institutions in PBR preparation and maintenance: Strengthening village communities with regard to preparation of PBRs with the help of **research and educational institutes** is important. A symbiotic relationship with such institutions, the State Biodiversity Boards and the BMCs is required. In a meeting in Arunachal Pradesh, members of the Apatani communities expressed the need for a Technical Support Group (TSG) for assisting in the preparation of PBRs, and require guidelines for sustainable harvest of resources and conservation.

1.15.7 Integration of Gender in BMC and its activities: Attempts must be made for **integration of gender** to all possible extent to bring them into BMC activities and preparation of PBRs.

1.15.8 Some unique features of NE states and expectations: BMC members undertake **patrolling** and want to **regulate hunting, poaching of animals** and require **photo IDs** from the Forest Department. In some areas they have put up signboards in forest areas rich in NTFP to exclude outsiders; established nurseries and distributed saplings and fingerlings of important species; declared some areas as protected areas and undertake forest patrolling in collaboration with forest department.

1.15.9 Lessons from Dzuleke BMC in Nagaland: Dzuleke village near Kohima operates a BMC. Members to the committee are selected by consensus in the General Body Meeting at the village level. The norms for selection include: standing and respect of the person in the community and capacity to visit the forest. Hence only interested and committed people become members. The BMC has taken elaborate efforts in preparing a PBR. A list of plants and animals found in the location and used was prepared and placed before village elders. After crosschecking and correction, the list was finalized. Using a digital camera, plants and other animals have been photographed for purpose of records and follow up. The BMC prepares an Annual BMC Plan which is placed before the Village Council for approval. The Village Council passes a resolution on the decision and fixes the responsibility on individuals for carrying out the activity. The expenses of the activity are handled by the Treasurer. The BMCs meet two or three times in a year and the responsibility lies with Chairperson.

1.15.10 Lessons from Hoho Biodiversity Management Committees in Nagaland: The Hoho Committees in Nagaland that take care of the interests of members of a community (or tribe) spread across districts and states offers unique possibilities for dealing with **inter border issues** and clarifies on the nature of **communities**.

Chapter I

INTRODUCTION

1.A Background, Context of the Expert Committee

The Biological Diversity Act 2002 and Biological Diversity Rules 2004 mandates formation of Biodiversity Management Committees (BMCs) by local elected bodies notably panchayats, municipalities, corporations and institutions of local self governance for promoting conservation, sustainable use and documentation of biological diversity, including preservation of habitats, conservation of landraces, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge related to biodiversity. The act also envisages possibilities for levy of fees on persons accessing or collecting biological resources for commercial purposes (Section 41 of the Act and Rule 22 of the Rules). The BMCs are therefore an important hub in the operationalisation of the Act across the country. The State Biodiversity Boards (SBBs) have a critical role to play in enabling the BMCs. The progress with regard to the formation and operationalisation of BMCs eight years after the passing of the act has been slow.

Till date, a total of 31,707 BMCs (out of which formation of BMCs in 3969 Gram Sabhas in Madhya Pradesh are under progress) have been constituted by local bodies across 14 states in India – Andhra Pradesh, Himachal Pradesh, Karnataka, Madhya Pradesh, West Bengal, Kerala, Goa, Nagaland, Manipur, Uttar Pradesh, Gujarat, Punjab, Mizoram and Tripura.

A total of 494 People's Biodiversity Registers have been prepared by six states.

Table 1. Details of BMCs and PBRs in India

S.No	States	BMCS Formed	Preparation of PBRs
1	Andhra Pradesh	18	5
2	Karnataka	3452	213
3	Kerala	200	74
4	Tripura	04	-
5	West Bengal	21	13
6	Madhya Pradesh	27,712	50
7	Goa	5	-
8	Himachal Pradesh	2	-
9	Punjab	31	-
10	Mizoram	234	-
11	Gujarat	11	-
12	Uttar Pradesh	01	-
13	Manipur	06	-
14	Nagaland	10	-
15	Uttarkhand	-	139
	Total	31707	494

Source: The National Biodiversity Authority (NBA)

To facilitate the SBBs and to speed up the process of establishing the BMCs which are the wheels of the Biological Diversity Act, the National Biodiversity Authority (NBA) constituted an Expert Committee on BMCs on 10 October 2009 (No.F./NBA/Tech FC/EC/14-2/09/09-102570) consisting of ten members. The terms of reference of the committee were:

- To study the Act and Rules and existing models of BMCs in various States.
- To suggest appropriate models for specific social, political, cultural areas like north eastern states.
- To explore whether existing committees like joint forest management committees, eco-development committee, wildlife protection committee, forest protection committee and other standing committees under local bodies can take over the role of BMCs
- To suggest amendments to Act and Rules those are in force.
- To suggest means, modes and measures for effective implementation of Biological Diversity Act, 2002.

The tenure of the Expert Committee was extended on 13 January 2011 (NBA/2/84/09/Admin/10-11/51) until 31 March 2011 and subsequently till 30th June 2011.

1.B Meetings of the Expert Committee

The First Meeting of the Expert Committee was held at the National Biodiversity Authority (NBA) in June 2010. The Second Meeting was held in Bengaluru, after the field visit to Nallur Heritage Site on 19 July 2010. A Third Meeting of the Expert Committee was held at the National Biodiversity Authority (NBA) during 8-9 March 2011. Members of the committee had a detailed discussion on state rules concerning BMCs and various models in India and the key points summarized. A copy of the minutes is enclosed along with this report. The fourth meeting was held in Chennai on 23 March 2011. The final meeting for finalizing the draft report was held at NBA on 28-29 June 2011.

1.C Field Visits by the Expert Committee

The Expert Committee made a field visit to Nallur near Bengaluru, India's first Biodiversity Heritage Site to gain an understanding of the ground realities.

The members and the chairperson of the committee were of the unanimous view that the report would not be complete without a field visit to the north eastern states to enable to fulfill one of the terms of reference (TOR) set for the committee: "To suggest

appropriate models for specific social, political, cultural areas like north eastern states". The Members and Chairperson visited the Northeastern States of Assam, Arunachal Pradesh and Nagaland. The committee met with Chief Secretary of Assam, Member-Secretaries of State Biodiversity Boards, District Authorities in Arunachal and Nagaland, Political Persons, Local and Village Representatives.

Chapter II

The Expert Committee made recommendations for the changes to be made in the Biological Diversity Rules 2004

During the first meeting of the Expert Committee a suggestion was made by the Chairperson and unanimously agreed upon by all members that the key amendments to the Biological Diversity Rules 2004 pertaining to Biodiversity Management Committees should be listed. The members deliberated on various sections of the rules and made appropriate suggestions, which have been summarized in the Table 2.

Table 2. Changes to the Biological Diversity Rules 2004 proposed by the committee

SI No	Existing Rules	Changes Proposed by the Committee
1	22 (1) Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.	(1). In every local body there shall be a Biodiversity Management Committee. The State Biodiversity Board (SBB) would take the initiative for the formation of the Biodiversity Management Committee (BMC).
2	(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.	The BMC will be constituted by the local body with members of the Participatory forest/natural resources management committee members, including from members of horticulture/vaids/foot botanists/tribal heads., etc., based on the local conditions. The SBB should issue suggestive list of persons to be included in the BMC. (2)(a) From amongst the staff of the line departments of the Government having greater representation in Biological resources of the BMC, like a Forest Guard/ Gram Sewak/Village Agricultural officer etc., based on the local conditions, a person shall be nominated to function as Secretary to the BMC Each BMC shall have a Technical Co-ordinator (TC) to assist the BMC in its functioning. The cost for the TC shall be borne by SBB / BMC.
3	(4) The Chairperson of the Biodiversity Management	(4) The Chairperson and the non-official members of the Biodiversity Management Committee shall have tenure of five years or coterminous with the tenure of the local

	Committee shall have tenure of three years	elected body whichever is lesser.
4	(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.	(6)(a) The BMC would in addition to the preparation of the People's Biodiversity Register (PBR), participate in ensuring- <ul style="list-style-type: none"> Conservation and sustainable utilization of biological resources Eco-restoration of the local biodiversity ✚ Proper feedback to the Authority and the SBB in the matter of IPR, Traditional Knowledge and local Biodiversity issues. ✚ Management of Heritage Sites including Heritage Trees, Animals/ Micro organisms etc., and Sacred Groves and Sacred Water bodies. ✚ Regulation of access to the biological resources and/ or associated Traditional Knowledge, for commercial and research purposes. ✚ Sharing of usufructs arising out of commercial use of bio-resources ✚ Conservation of traditional varieties/breeds of economically important plants/animals. ✚ Biodiversity Education and Awareness building. ✚ Commission Research and Documentation. ✚ Sustainable Use and Benefit Sharing.
5	(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.	(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. The SBB shall formulate District level technical support groups comprising of officials/people of excellence and expertise in the biodiversity issues at local level, which should guide the BMC in its operation.
	(10) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity	(10) The People's Biodiversity Registers shall be maintained, authenticated and validated by the Biodiversity Management Committees with the assistance/guidance of the Local Technical Support Committee, a copy of which would be made available to the SBB.

	Management Committees.	
6	(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	<p>(11) (a) 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; which shall be intermittently examined by the local body.</p> <p>(b) The procedures for granting access to the information in the PBRs and levy of a fee will be clearly defined. The SBB shall provide technical support and advice to the BMC in this regard.</p> <p>(c) The issues related to collection fee, benefit sharing and management of heritage sites, sacred groves, water bodies etc., will be done in consultation with the technical support of the SBB, and the SBB shall in this regard set up technical support groups comprising of local experts to provide necessary assistance to the BMC at State/Regional/District level.</p> <p>(d) The BMC and local bodies shall ensure the protection of the knowledge recorded in the People's Biodiversity Register principally in the matters of regulation of access to agencies and individuals outside the village limits.</p>
7		<p>12. Operational Guidelines to be issued by the State Biodiversity Boards on-</p> <p>a) BMC shall hold a minimum of 4 meetings in a year, and meet once at least in every 3 months.</p> <p>b) The meetings shall be chaired by the Chairperson of the BMC, and in his/her absence by any other member elected by the members present.</p> <p>c) The quorum at every meeting shall be three including the chairperson and excluding official members.</p> <p>d) The minutes of the meeting so conducted, shall be drawn and a copy sent to the SBB and the local body.</p> <p>e) The SBB shall provide a format for draft of minutes of the meeting, maintenance of meeting registers and alike, lay down the procedures for updating the registers & record of discussions, resolutions made, audit etc., which would facilitate Process Documentation at the BMC level.</p> <p>f) Each BMC shall prepare an Action Plan, drawing information validated in the People's Biodiversity Register and the Technical Support Group shall guide in the preparation of the action plan. The Action Plan may include in addition to the steps outlined for conservation</p>

		of the bio-resources, the Training Needs identified for the personnel of the BMC and the list of potential items for consideration for registration as Geographical Indicators (G.I).
8		13. Biodiversity Management Committee will function from the office premises to be provided by the Local Body
9		<p>14. Awareness Building on Biological Diversity Act 2002, its scope and implications with issues specific to operation of Biodiversity Management Committees should include:</p> <p>i) Awareness building on the BD Act 2002, the role of Biodiversity Management Committees, the procedures, the role of BMCs with various associated departments of the Government such as Forests, Environment, Tribal Welfare, Rural Development, Agriculture, Horticulture, Animal Husbandry, Fisheries and Aquaculture, Poultry, Health, Local systems of Medicine, Education etc.,</p> <p>ii) Awareness building on the Acts, Rules and Institutions pertaining to the Conservation of Biodiversity at large.</p> <p>iii) Capacity Building at various levels of Government and Non-Governmental Agencies including the elected representatives at State, District and Local levels.</p> <p>iv) Capacity Building and Skill development of BMC members as identified by SBB. The Areas of skill building may include:</p> <ol style="list-style-type: none"> a) Preparation of PBR b) Administrative procedures of BMC c) Maintenance of accounts/audit. d) Intellectual Property Issues. e) Access and Benefit Sharing issues. f) Levy of fees. g) Preparation of Action Plan, Project Report, Annual Report. h) All Acts and Rules pertaining to Biodiversity Management of Biodiversity Heritage Sites etc.,
10		<p>15. Funding:</p> <p>i) The State Government on the recommendation of the SBB shall designate Nodal officers for each of the districts to oversee the various matters of the BMC.</p> <p>ii) BMC should draw a plan of Action for accessing resources from various sources such as – NBA, SBB, Grants, Donations, Various line departments of Government of India and the State Governments, other Central and State Boards, Institutions, Corporate Bodies etc.,</p> <p>iii) Start up funds may be obtained from the NBA, SBB.</p>

		<p>iv) The SBB shall facilitate the BMC to open a Bank Account with an Enabling Letter that BMC have been formed in accordance with the Biological Diversity Act, 2002.</p> <p>v) The SBB shall fund the BMC through the District level Nodal Officer/ the DFO / District Administration/Zilla Parishad. Wherever the BMC are funded by the SBB directly, the concerned district level nodal officer/ the DFO /District Administration/ Zilla parishad shall be duly informed.</p> <p>vi) All the funds of the BMC will be operated jointly by the Chairperson and the Secretary of the BMC.</p> <p>vii) The Secretary of the BMC will maintain the accounts of the BMC. The accounting procedures will be drawn up and format for the maintenance of the accounts will be provided by the SBB. The SBB will also draw a check list to ensure that there is proper maintenance and submission of accounts.</p> <p>viii) The BMC would give Utilization Certificate to the appropriate authority from whom they received the Fund and NBA/SBB as required.</p> <p>ix) The accounts would be audited annually by an Auditor specially appointed for the purpose and after being passed by the BMC will be given to the local body and the SBB.</p> <p>x) The members of the BMC and the Secretary of the BMC should be trained and educated on the procedure for giving Utilization certificate and accounting procedures including preparation of Annual Report and utilization of the resources in accordance with the Action Plan drawn up by the BMC prioritizing the conservation of the local biodiversity.</p> <p>xi) The State Governments upon the recommendation of the SBB shall provide adequate support staff at Nodal/district levels, to carry out the implementation of the Act.</p>
11	23(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	(2)(a) In case the dispute arises between a Biodiversity Management committee and another Biodiversity Management committee or BMCs, the aggrieved BMC or BMCs, shall prefer the point or points of dispute to the State/Central Government which shall refer the same to the Authority or the SBB. Disputes at the District level would be attended to by District level Nodal officers viz., Collector/CEO/DCF as per nature of the dispute and the State Government would decide the procedure.

	of dispute to the Central Government which shall refer the same to the Authority.	
12	23 (7) The Central Government shall, after hearing the appellant and the other parties, dispose of the appeal.	(7) The Central Government/State Government shall, after hearing the appellant and the other parties, dispose of the appeal.

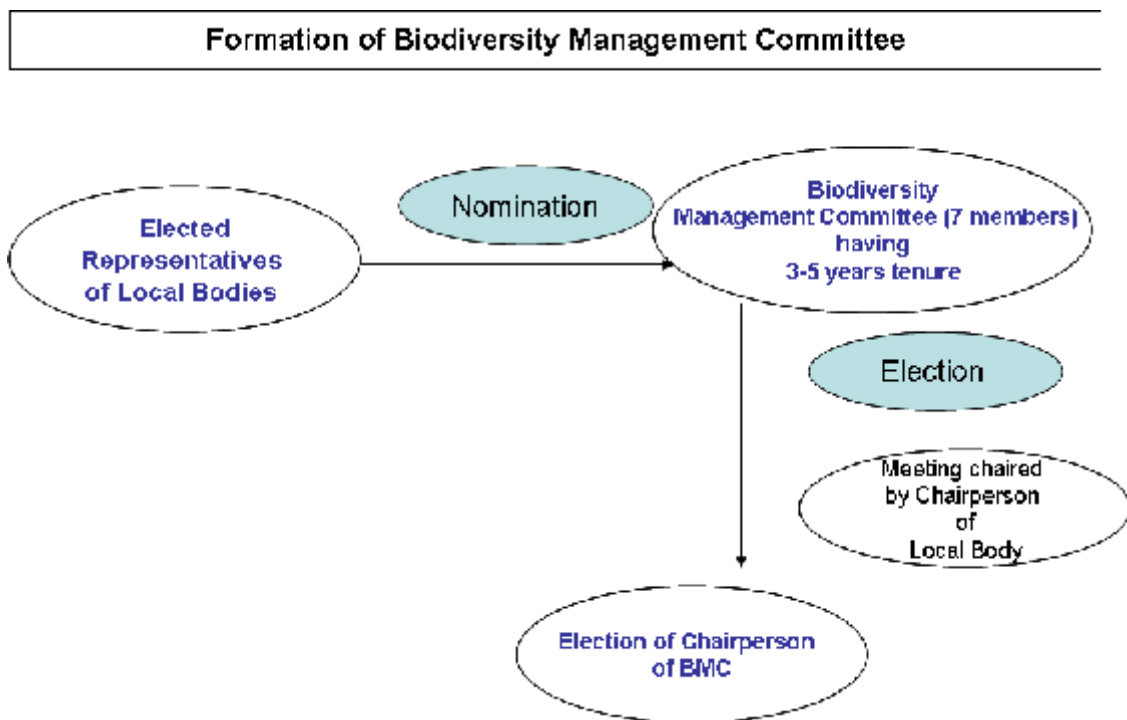
Chapter III

Other Outputs and suggestions

3.1 BMC Formation and operationalization at different levels. Rural - Village, Block, District and Urban – Towns and Cities, Municipalities

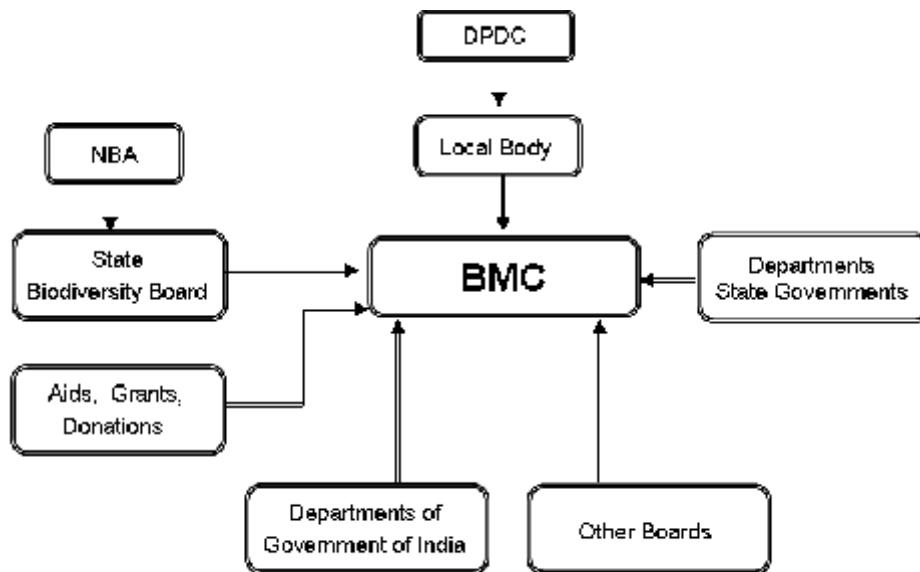
BMCs are to be formed at different levels: Village, Block, District, Towns, Municipalities and Corporations. For the purpose of quick reference, the process is depicted in Fig.1.

Figure 1. Formation of Biodiversity Management Committee



***At least 7 members or as envisaged by the states to meet the local requirements**

3.1.1 Once BMCs are constituted under the BD Act 2002, there may not be any necessity to register under Societies Act etc., because sufficient rules and procedures are provided in the BD Act and Rules there under. However, BMCs may be registered as a body under one of the existing acts like the Societies Act, Cooperative Societies Act of the respective states for purposes of operations and raising resources etc.,



3.1.2 The National Biodiversity Authority needs to provide administrative and financial support for the following activities:

- a) Training of Personnel to read Traditional Manuscripts in local languages for documentation of TK is essential and efforts in the direction are necessary.
- b) To bring as many BMCs as possible under Geographical Indications and to facilitate this with State Biodiversity Boards, National Biodiversity Authority to finance these on actual cost basis to enable States and BMCs to engage technical experts for these operations.
- c) Earmark funds to the BMC and States to train staff and office bearers the Biodiversity Act and Management of BMCs. Draw up a Calendar of training schedule at District and State Levels. Funding to be provided by National Biodiversity Authority.
- d) The National Biodiversity Authority will co-ordinate with other Line Departments of Government of India like Panchayat Raj, Rural Development, Industries, Textiles and related Ministries, Departments of Government of India.

Chapter IV

The preceding chapters bring out the importance of biodiversity, its present status, legal provisions available to conserve the same and sustainably utilize them, present status of the efforts made to implement the provisions of the Act and build awareness on some examples of benefits sharing models. An attempt has being made to analyze the reasons for the present status of conservation and benefit sharing by the local communities.

For achieving the third objective of the Convention of Biological Diversity and also of the Biological Diversity Act, completion of the following activities is necessary:

- I. National Biodiversity Authority and State Biodiversity Boards have to be **adequately equipped with technical and administrative manpower and finances** for organizing and facilitating the constitution of Biodiversity Management Committees and preparation of People's Biodiversity Registers by them, capacity to negotiate benefit sharing arrangements with the users of biological resources and associated knowledge;
- II. **Creation of awareness** among the policy makers in the implementation of the provisions of the Act and Rules in the State, local bodies, local communities and all other stakeholders about the need to conserve biodiversity and the benefits which are being derived/ can be derived from it;
- III. **Document, publish and circulate** the successful functioning BMCs and benefit sharing models in various states;
- IV. **Provide financial and technical support** to BMCs for preparation of PBRs;
- V. **Maintenance of proper records** of biodiversity being obtained from their areas (including maintenance of records of the vairs / hakims);
- VI. Proper **consultations by NBA and SBBs** with the BMCs before biological resources and associated traditional knowledge are accessed for commercial / research purposes; and
- VII. **Involving and facilitating BMCs in finalizing the mutually agreed terms for sharing of benefits** (both monetary and non-monetary) and ensuring delivery of benefits to them.

4.1 CONCLUSIONS

An attempt has been made to understand the response of the State Governments and the Local Bodies in the constitution of the BMCs and effectiveness of their functioning.

Keeping in view the present status of functioning of NBA and the SBBs, and the progress achieved in constitution of the BMCs, the following conclusions are drawn:

- a. It may be justified to say that provisions of the Biological Diversity Act, which envisages creation of institutions at the lowest self-government levels, cannot be implemented in a short span of time in this vast country having different political set-ups in the states and it would take considerable time for the fruits of this legislation to percolate to the grass root levels. However, it is observed that more efforts could have been made to ensure that the institutions necessary for implementing the provisions of the Act, are created and provided adequate support for their smooth functioning. Even after more than nine years of enactment of this legislation on biological diversity, its implementation at the state and the local bodies' levels has not been upto the expectations. The main reason for this could be that the subject of biodiversity conservation is much lower on the agenda of the political elite, state governments and the local bodies.
- b. Good efforts have been made by the SBBs of Kerala, Karnataka, Madhya Pradesh, Andhra Pradesh and West Bengal in creating awareness among the stakeholders concerned about the provisions of Act and Rules. But in general, in most of the states, there seems to be lack of adequate awareness among the policy makers, executives and public at large about the importance of biodiversity conservation and the scenario which could emerge if the biodiversity is lost.
- c. Awareness among the local communities, with a few exceptions, about the objectives of the BDA and benefits which could accrue to them by regulating access to biological resources is quite poor. The local communities even if made aware of the benefits of the implementation of the various provisions of this legislation, may not be easily convinced as the gestation period for reaping the benefits is generally quite long, unless negotiated with the users of biological resources pragmatically.
- d. The State Governments of West Bengal, Karnataka, Madhya Pradesh, Punjab, Kerala and Nagaland have provided enough support to the SBBs in the form of manpower, infrastructure and finances. However, the position in most of other states is not comfortable.
- e. State Biodiversity Funds (*except a few*) have not been created in most of the states for supporting the BMCs and other purposes as mentioned in the Act.
- f. Constitution of BMCs at all the local bodies' levels demands a lot of drive by the local bodies and regular persuasion and coordination with the various government agencies by the departments dealing with the subject, and active cooperation of the people. In most of the states this subject is being looked after

by the Environment and Forest Departments. Because of lack of a well established field set up of this department, it has not been possible to reach all the local bodies levels in the district and garner support of the people in constitution of the BMCs and for their functioning although some good efforts have been made by the states of Kerala, Karnataka, Nagaland and Mizoram in constituting BMCs. In MP, the State Government has declared that all the Joint Forest Management Committees (JFMCs) will also function as BMCs. However, not much progress has been achieved in the field.

- g. In the constitution of the BMCs, the definition of local body leaves out Gram Sabha or other village assemblies. Since the local body (commonly understood as only the elected representatives) has to appoint / select the BMC, the political affiliation and relationship between a village and the panchayat body will play an important role in the constitution and functioning of the BMC. The process of local body constituting BMC is by nomination. Then the BMC could become another power centre and might not actually be able to function in an unbiased manner and protect community rights (Planning Commission, 2006).
- h. No initiatives seem to have been taken by the local bodies for constitution of the BMCs. SBB only has taken the initiative for constitution of BMCs in most of the states and the performance of the SBB depends mainly on the financial and manpower support available to it from NBA and state governments.
- i. The BDA clearly spells out (section 41 (1)) a list of functions for the BMCs which include promoting conservation and maintaining a PBR. The Rules dilute this (Rule 22 (6)) and state that its main role is to merely maintain PBR.
- j. Wherever the BMCs have been constituted, they have not been supported adequately, financially as well as technically, for preparation of PBRs and discharge of their other functions. Wherever PBRs have been prepared those are yet to be utilized in regulating the access to biological resources and sharing of benefits with the users of the biological resources and associated knowledge.
- k. The People's Biodiversity Register is a document that records the diversity of species of flora, fauna, crops, livestock etc. As on date, there is no legal protection available for the knowledge recorded in the PBR.
- l. Most of the BMCs which have prepared the PBRs, do not maintain any database of the local vaid and practitioners using the biological resources for pursuing their profession and the companies/ other agencies which obtain biological resources from their areas for commercial exploitation.
- m. Section 24 (2) of the Act requires the SBB to consult the local body concerned before allowing access to any biological resource by an Indian entity whereas section 41 (2) requires the NBA / SBB to consult the BMC before taking any

decision relating to such use. There is lack of consistency between the provisions under the two sections thereby questioning the relevance of the BMCs.

- n. The Act provides for BMCs (section 41 (3)) to levy fees for the use of biological resources obtained from their areas for commercial purpose, which will be credited to the Local Biodiversity Fund.
 - o. As per legal provisions (section 21 (1)), the authority for determining benefit-sharing mechanisms after access is granted rests with the NBA. Although, the sharing of benefits needs to follow mutually-agreed terms and conditions between applicant, the concerned local body and benefit claimer(s), the process of facilitation and determination is controlled by NBA. If benefit sharing involves transfer of money, the NBA can direct the amount to be deposited in the National Biodiversity Fund or paid directly to such individual or a group of individuals / organizations if resource or knowledge is accessed from them. Again, the BMC as a whole does not seem to have an assured or even foreseeable role in these critical decisions.
 - p. The PBR to be prepared by the BMC in consultation with the people shall contain comprehensive information on availability of and knowledge about the local resources. Some of the BMCs/ communities have apprehensions about utilization of their information without sharing any benefits with them.
- q. Except for a few Local Bodies in MP and one in Andhra Pradesh (Amarchinta BMC), Local Biodiversity Fund has not been created in the local bodies wherever BMCs have been constituted for conservation and promotion of biodiversity and for providing benefits to the community consistent with conservation of biodiversity.
- r. As per information available, none of the local bodies have submitted their annual reports to the District Collector.
- s. After the legislation came into force, only- 3-4 cases of sharing of benefits by the local communities for allowing access to biological resources and associated knowledge from the areas of their jurisdiction have materialized.

4.2 RECOMMENDATIONS

The following recommendations are made for consideration at the level of Government of India (Gol), NBA, State Governments, SBBs and the Local Bodies / BMCs.

4.2.1 For Government of India Level

- a.** A number of institutions/ committees/ bodies have been created at the local communities'/ village levels for participation of people in the management and implementation of various schemes of the forestry, wildlife and environment sector. Such local level institutions include joint forest management committees, eco-development committees, wildlife protection committees and fire protection committees. For implementation of schemes of other Departments/ sectors, there exists a number of other similar committees such as water users associations, agriculture committee, etc.) . Setting up of so many committees creates confusion amongst the local people and it impairs their proper functioning. They seem to lack adequate interest in being associated with them unless they are assured of certain benefits, as promised to them while soliciting their cooperation in constitution of the same. Creation of one more committee further aggravates the situation. To achieve the objectives of the legislation and without creating one more institution, the possibility of performing of the functions of the BMCs by the existing local bodies/ their standing committees / JFMCs or eco-development committees may be explored. All such committees/institutions need to be linked to the Panchayats with the sectoral departments working with and through the PRIs. In the interests of better flexibility in operationalising BMCs, some of the committees with overlapping functions could be merged or reconstituted to facilitate more holistic natural resource and biodiversity management. This would necessitate amendments in the Biological Diversity Rules, 2004.
- b.** Exercise for preparation of PBR has to be fine tuned to the local conditions, and must be based on the understanding that the original holders of the knowledge are the local communities and their members. For this reason, the process of compiling each PBR must begin with obtaining Prior Informed Consent (PIC) of the concerned community with active involvement of the diverse women and men knowledge holders with facilitative support of scientists/resource managers, as appropriate. Each community shall control the PBR process and decide on which components of the information recorded are to be shared openly with the public, which to be shared under certain specified conditions and which components should be accessible only to the community members. Since PBRs belong to the communities, the communities

which do not wish to integrate any of the PBR information into the broader Information System would not be considered any less legitimate for purposes of conservation, legal protection, benefit-sharing, or other related purposes, than those that are willing to integrate some or all of the recorded information, either conditionally or unconditionally, into the larger Indian Biodiversity Information System (Recommendations of National Workshop on PBRs, NBA June 22-23, 2006). **The Biological Diversity Rules, 2004 should be amended accordingly.**

- c.** The legislation recognizes the rights of the local communities over the biological resources occurring in their areas and the associated traditional knowledge available with them. To have full participation and involvement of the local communities in the decision making on access to these resources, the NBA should grant final approval for use of any bio-resource or associated traditional knowledge to the applicant only after getting the written consent of the concerned BMC through SBB and not take its decisions based on mere consultations with the BMCs. The NBA may still refuse approval to any international corporate/ university/ institution, because of many other international considerations even after the BMC/SBB had approved such an access. However, the NBA shall have no power to grant permission, if the BMC and/ or SBB are opposed to it. **The provisions in the Act and Rules, wherever mention about prior intimation/consultation with the SBB/BMCs for obtaining biological resources and associated traditional knowledge for commercial utilization, should be amended to incorporate written consent/ approval of the concerned BMC.**
- d.** Section 41(3) of the Act provides that BMCs may levy charges by way of collection fees for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction. The level of the BMC which has to charge fee has not been clarified. Charging of fee by all the three levels of BMCs may turn out to be very high and may prove counterproductive. The BMC which is having immediate control over the area should charge the fee i.e. village BMC or municipal committee/municipal corporation BMC, as the case may be. **The Rules should be amended accordingly.**

4.3 For National Biodiversity Authority

- a) The NBA must immediately initiate the process of constituting the Biodiversity Management Council or by whatever name it may be called, in each of the union territories for performing the functions of SBB. Presently, the UTs such as

Andaman and Nicobar, Daman and Diu rich in biodiversity are being deprived of the implementation of the provisions of this Act.

b) The NBA should take immediate action as a first step to document local traditional knowledge, practices etc., under the GI platform and provide suitable technical and financial provision to SBBs and BMCs.

4.4 For State Governments level

- a. The bulk of biodiversity exists in the forests and the people living in and near to the vicinity of forests have first claim over these resources conserved by them. People from among these communities become members of the BMCs constituted/ to be constituted by the village level local bodies. Since the State Forest Department (SFD) has a well established field structure down to the village level, the cooperation of the SFDs in the states may be solicited for constitution of BMCs and preparation of PBRs. In MP, the officials of the SFD are Member-Secretaries of the District and Commissioner Level Groups which have been set up to expedite constitution of BMCs.
- b. The Department dealing with the implementation of the BDA may enter into a memorandum of understanding with the State Forest Department of the state or the state government may issue appropriate orders for association of the SFD for implementing the various provisions of the Act.
- c. A district level coordination committee may be constituted with members from the SFD, local self government, department dealing with biodiversity conservation, NGOs, and educational institutions for vigorously pursuing the constitution of BMCs and preparation of the PBRs.
- d. The state governments should provide budgetary provisions for financial and technical support to SBBs and BMCs.

4.5 For State Biodiversity Boards

- a. Many of the State Biodiversity Boards are yet to launch their websites. The existing websites (Kerala, Madhya Pradesh, Andhra Pradesh, Sikkim, West Bengal, Punjab and Karnataka) of most of the SBBs do not provide upto date information on the activities of the SBB, progress achieved in constitution of BMCs and preparation of PBRs, various formats prepared for guidance, etc. In this era of modern technology, the website is one of the fastest and best modes of communication reaching to every nook and corner of the

country at the lowest possible cost. The SBBs should upload maximum possible information on the websites for the information of all the stakeholders. This will also help in replicating the best practices of one SBB by others.

- b. The SBB should also launch a major campaign throughout the state for building awareness among all the stakeholders in the government as well as the public. The campaign can be through organizing workshops and short term training courses, television and radio, and issue of newspaper advertisements mentioning about the benefits of conserving biodiversity and procedures to be followed for obtaining permission, sharing of benefits under the provisions of the BDA and Rules, etc. Recently the Uttarakhand SBB issued an advertisement for the information of all the stakeholders concerned requesting them to approach NBA/SBB for obtaining approvals for the activities concerning utilization of the biological resources and the associated knowledge as per the provisions of the Act and Rules. Similar campaigns may be made by other SBBs.
- c. Some genuine NGOs should be involved in creating awareness among all the stakeholders and helping in preparation of PBRs.
- d. Lessons learnt from benefit sharing models like the TBGRI-Kani model and others should be kept in mind while negotiating benefit sharing arrangements with the users.
- e. There shall be a full time Member-Secretary posted to the SBBs because in many states, the Officer holding the post is in additional charge as Member Secretary.

4.6 For Biodiversity Management Committees

- a. As per the provisions of the Act, the PBRs are to be prepared at all the three levels of local-self governments which require a lot of efforts in terms of manpower, technical expertise and finances. As there may not be major differences in the existence of biodiversity from one area to another adjoining area, wherever preparation of PBRs is yet to be initiated, the PBRs may be prepared at the district level BMC which will record the biodiversity of the whole district. At the district level, it will be possible to mobilise enough resources for preparation of the PBR including technical support from the NGOs/ colleges and other scientific institutions. At a later stage, the copies of the concerned district PBR may be given to the taluk and village level BMCs for validation of data on biodiversity recorded for their areas of jurisdiction and for incorporating the associated traditional knowledge.

- b. In the coming years, the biodiversity conservation is going to become one of the most important international issues as survival of humankind rests on conservation of biological resources and their sustainable use. Unless the commitments of the local communities which play an important role in conservation are recognized and their involvement in decision making and management are compensated adequately, it may not be possible to conserve these resources for long. The objectives of the CBD and the Biological Diversity Act, 2002, the two most important legal documents, as far as conservation of resources in India is concerned, can be achieved only when **there is strong will** to enforce the provisions at the highest political level. The government agencies responsible for implementation of the provisions of the Act and Rules need to put in major efforts involving all the stakeholders, NGOs, as well as the local communities in decision making, and therefore adequate resources should be made available. There is a need to augment education, raise awareness and build negotiating capabilities of the local communities. There should be proper coordination among the various stakeholders agencies dealing in traditional knowledge, including communities, commercial interests, civil society groups and the policy makers and the people are convinced about achievement of these objectives.

Abbreviations

BDA – Biological Diversity Act
BMCs- Biodiversity Management Committees
CBD – Convention on Biological Diversity
CCA – Community Conserved Area
CEO – Chief Executive Officer
DCF – Deputy Conservator of Forests
DFO – Divisional Forest Officer
EDC – Eco-development Committees
GI – Geographical Indications
Gol – Government of India
ID – Identification
IPR – Intellectual Property Rights
JFMC – Joint Forest Management Committee
MGNREGA – Mahatma Gandhi National Rural Employment Guarantee Act
NBA – National Biodiversity Authority
NE – North Eastern States
NGO – Non-governmental Organisation
NTFP – Non-timber Forest Produce
PBR – Peoples’ Biodiversity Registers
PIC – Prior Informed Consent
SBB – State Biodiversity Boards
SFD – State Forest Department
TBGRI – Tropical Botanical Garden and Research Institute
TC – Technical Coordinator
TK – Traditional Knowledge
TOR – Terms of Reference
TSG – Technical Support Group
UC – Utilization Certificate
UT – Union Territory