



सत्यमेव जयते



## National Biodiversity Authority

### Proceedings of the 57<sup>th</sup> Authority Meeting [Virtual Mode]

held on 07<sup>th</sup> July 2020

2. Anshu R. Ray

The 57<sup>th</sup> Authority meeting of the National Biodiversity Authority (NBA) was held on 7<sup>th</sup> July, 2020 in 'virtual mode' under the Chairmanship of Dr.V.B. Mathur, Chairman, National Biodiversity Authority. The list of participants is placed as **Annexure-I**.

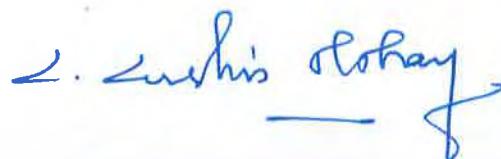
2. At the outset, Dr.V.B. Mathur, Chairperson, NBA welcomed the Members and informed that NBA with the help of an Expert Committee has developed draft amendments proposed in the BD Act, 2002 and BD Rules, 2004. For apprising the members of the Authority about the rationale and need for making amendments in each section, Chairman of the Expert Committee Shri A.K.Goyal, IFS ( Retd.,) former Special Secretary, Ministry of Panchayati Raj; Co-chairman of the Expert Committee, Shri Achalender Reddy, IFS , PCCF, Arunachal Pradesh and member of the EC former Secretary, NBA, Shri T. Rabikumar, IFS were invited for the meeting as special invitees.

3. He also added that amendments proposed in the BD Rules, 2004 is as per the existing provisions of the BD Act, 2002 and any modifications made thereof should be in line with the provisions of the Act. Shri. J. Justin Mohan, Secretary NBA presented the agenda items for the meeting.

#### **57.01: Confirmation of the Proceedings of the 56<sup>th</sup> Authority meeting**

The draft Proceedings of the 56<sup>th</sup> Authority meeting of the National Biodiversity Authority [virtual mode] held on 23<sup>rd</sup> and 30<sup>th</sup> June 2020 was circulated to the members for seeking their comments vide email dated 3<sup>rd</sup> July, 2020. In response, Dr.J.L.N. Sastry, Chief Executive officer, NMPB, Dr. Alka Rao, Principal Scientist, IMTech, and Shri. Chaitra, Director, Aarohi offered their comments on the draft proceedings of the Authority. Members wanted more time to finalize the BD Rules and for discussing the comments received from members. Members also requested to capture their dissent note on the minutes on decisions taken during the meeting.

2. The Joint Secretary, Ministry of Tribal Affairs informed that The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 reserves the rights of tribal/ rights of forest-dwelling communities over their resources including traditional knowledge and such rights need to be safeguarded in the amendments proposed to the BD Rules/BD Act before finalizing the amendments.



3. The Secretary, NBA apprised the Members that NBA Secretariat circulated the Draft proceedings of the 56<sup>th</sup> meeting of the Authority to the members to obtain the views of the members to make any changes and for ensuring that views of the members have been summed up in the proceedings. Representative of ICAR suggested that exchange of biological resources with different countries may be facilitated in the proposed amendments.

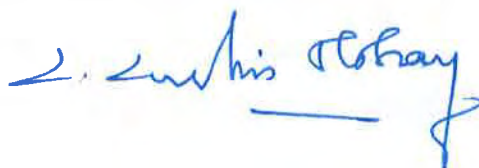
4. Members therefore decided to have further discussions on the proposed amendments to the BD Rules, 2004. Members also requested NBA Secretariat to circulate the comments received from members on the BD Rules and also a note on the steps taken for ease of doing business and the timelines for according approvals for applications.

5. The members confirmed the Proceedings of the 56<sup>th</sup> Authority meeting of NBA on the decision made against other agenda items except agenda item no. 56.03 *i.e. amendments proposed in the BD Rules, 2004.*

**Decision:**

- a) The Authority confirmed the proceedings of the 56<sup>th</sup> Authority Meeting of NBA except agenda item no. 56.03 *i.e. amendments proposed in the BD Rules, 2004.*
- b) Authority directed NBA to revise the draft proceedings of the 56<sup>th</sup> Authority Meeting based on the comments offered by the members and the same to be circulated to members.
- c) Authority directed NBA to circulate the comments offered by members and information on steps taken for ease of doing business and the procedures followed for processing of ABS applications.
- d) Members decided that the next meeting of the Authority would be convened on 17<sup>th</sup> July, 2020 for discussing the comments offered by the members and finalizing the amendments proposed in the BD Rules, 2004.

**Action: Secretary, NBA**

A handwritten signature in blue ink, appearing to read 'Sushil K. Chakravarty', with a horizontal line underneath.

**57.02: To consider the Proposed Draft Amendments to the Biological Diversity Act, 2002**

The Secretary, NBA presented the matrix showing the existing provisions of the BD Act and the amendments proposed by the Expert Committee to elicit the views of the members on the proposed amendments.

2. While discussing amendments to the BD Act, the members made following observations:

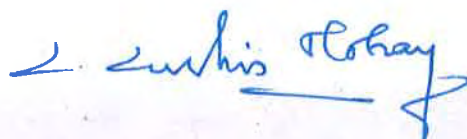
- a) **Preamble – Inclusion of Nagoya Protocol on ABS:** The members deliberated on the inclusion of Nagoya protocol in the preamble of the proposed amendment to the BD Act. Members discussed on the rationale to include a particular protocol. Some members felt that there was no need to include a particular protocol in the preamble, some felt that more protocols can be included but others felt that the Nagoya protocol was an important development in the CBD and hence its inclusion in the preamble would be required in the amended Act.
- b) The Secretary, NBA informed that the Expert Committee felt the need to include the Nagoya Protocol in the preamble of the Act as it provides for access and benefit sharing and emphasized the sovereignty of the countries over their biological resources. Therefore, inclusion of the Nagoya Protocol would help in the effective implementation of the Act.
- c) The Chairman, NBA apprised the members that India had played a major role in the negotiation of the Nagoya Protocol. He informed that there were litigations in the past on account of the absence of Nagoya Protocol in the Act and such issues can be resolved by including this Protocol in the preamble of the Act. As there was no consensus on the issue, Chairman, NBA proposed to take a decision on this issue at the end of the discussion on the amendments proposed to the BD Act.
- d) **Section (1) Short title, extent and commencement:** Members agreed to the modifications proposed.
- e) **Section 2(aa) – inclusion of new definition of “Access”:** Members expressed that proposed definition of access provides wider scope of coverage of all categories of biological resources. It was also stated that the phrase “possessing

2. *Surish Rokay* <sup>4</sup>



*any biological resource occurring in or obtained from India*" is covering the biological resources obtained from other country and also biological resources which are accessed from India. Members also expressed that the definition of biological resources includes *"information in any form on genetic material or their bio-chemical compounds, derivatives, extracts or portions thereof"* and this has been proposed which needs detailed discussion as it will have major impact on researchers. The Joint Secretary, Ministry of Tribal Affairs informed that the discussion on definitions may be taken up later after completing the discussion on other sections. Accordingly, the members decided to discuss on other sections of the proposed Amendments to the BD Act.

- f) **Section 3(1) & (2):** The Secretary, NBA requested the Chair of the Expert Committee to brief on the rationale for the proposed modification in the Section. Shri A.K.Goyal explained that large number of stakeholders raised concerns on differential treatment to the persons/entities falling under section 3(2) and Section 7, as far as the research is concerned. Thus, EC decided to facilitate the research undertaken by such persons/entities. Accordingly, amendments proposed in section 3(1) provides that Section 3(2) person can access the biological resources and/or associated knowledge for research or bio-survey by registering with NBA instead of obtaining prior approval as is presently the case in the existing provisions of the Act. He also explained the definitions of Bio-survey and Bio-utilization and why it was delinked from the bio-utilization as this would provide more relief to the entities. However, Section 3(2) persons would have to seek prior approval of NBA, at the time of commercial utilization of biological resources.
- g) Some members proposed that a company with more than 51% foreign investment only should be considered as a Section 3(2) company and entities having less than 51% foreign investment may be exempted from the provisions of the BD Act. Members informed that the existing provisions under section 3(2) would be affecting the Government's policy for ease of doing business. This was discussed in detail by the Members and Chairman of Expert Committee, informed that the purpose for which the BD Act is enacted is different from the other Act such as Companies Act.
- h) The Secretary, NBA explained that conservation of India's biological resources is also a policy imperative of the Government and therefore its access has to be

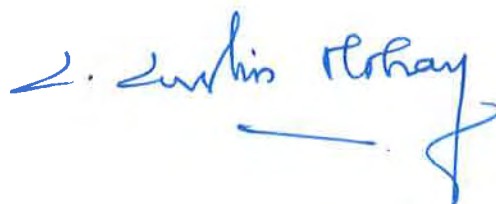


regulated in the larger interest of the country. The Secretary informed that the ABS obligations and the procedures for approval for all companies using biological resources remain the same. Section 3(2) is only an enabling provision for those companies having a non-Indian partnership in its share capital or management to get an advantage for a single window clearance from NBA, which helps in the ease of doing business. Such companies would get an ABS tag by getting an Internationally Recognized Certificate of Compliance, which would benefit these companies to promote their business abroad. In the case of research by section 3(2) entities, the Expert Committee has suggested to replace the existing provisions of obtaining approvals from NBA by registration, which will greatly benefit the research undertaken by such entities. Members welcomed the new suggestions to simplify the procedures for undertaking research by section 3(2) entities.

- i) Members also suggested the idea of making it optional for any company to either obtain approval from NBA or State Biodiversity Board. Secretary, NBA informed that such an option, if given to companies or individuals would lead to confusion and will put constraints in implementation, that would adversely affect the conservation in the country.
- j) The Joint Secretary, Ministry of Tribal Affairs informed that the Indian traditional knowledge available with tribal communities has to be safeguarded when amendments are proposed to the BD Act.
- k) The Secretary, NBA requested the members to send their comments on the amendments proposed in the BD Act particularly on sections 2, 3, 4, 6, 5, 7, 19, 20, 21, 40, 56A & 61 of the Act, as written submission by 15<sup>th</sup> July 2020, which can be consolidated by NBA Secretariat and discussed in the next meeting proposed on 17<sup>th</sup> July 2020.

**Decision:**

- a) After examining the amendments proposed by the Expert Committee, Authority decided to have further discussion on draft amendments proposed to the BD Act, 2002 in the subsequent meeting.



- b) It was decided that members may offer their comments on the amendments proposed to the BD Act particularly on section 2, 3, 4, 6, 5, 7, 20, 21, 40 & 65 of the Act, as written submission, before 15<sup>th</sup> July, 2020. NBA will prepare consolidated comments and the same will be circulated to the members for discussion in the subsequent meetings of the Authority.

**Action: Secretary, NBA**

The meeting ended with vote of thanks from and to the Chair.

✓ *Surhis Stohay*

## Annexure -1

### List of Participants

S.no	Official Members
1	<b>Dr V.B. Mathur</b> , Chairman, NBA
2	<b>Dr. Sujit Kumar Bajpayee</b> , Joint Secretary, Ministry of Environment, Forest and Climate Change, New Delhi
3	<b>Dr.J.L.N. Shastry</b> Chief Executive Officer, National Medicinal Plant Board, New Delhi
4	<b>Mrs R. Jaya, IAS</b> , Joint Secretary, Ministry of tribal Affairs, New Delhi
5	<b>Dr. Manoj Kumar Modi</b> , Scientist 'E', Department of Biotechnology, New Delhi ( <i>Represented Dr.Aslam, Advisor, DBT</i> )
6	<b>Dr. M. Gunasekaran</b> , Assistant Commissioner (Seeds), Department of Agricultural Cooperation & Farmers Welfare, Ministry of Agriculture, ( <i>Represented Dr.Ashwini Kumar, Jt. Secretary, DARE</i> )
7	<b>Dr. R.K. Singh, Additional Director General</b> (Commercial crops), Division of Crop Science, Krishi Bhavan, New Delhi 110 001 ( <i>Represented Dr.Raj Tilak, DDG (Crops), ICAR</i> )
Non-official Members	
8	<b>Dr. M.M. Kutty, IAS (Retd.)</b> , 14/6, Officers Flat, Tilak Marg, New Delhi.
9	<b>Dr. Unnat P. Pandit</b> , Professor of IP, Innovation and Entrepreneurship, IPMC, JNU, New Delhi
10	<b>Dr. Joykumar Meitei Laishram</b> , Professor and Dean, College of Agriculture, Central Agriculture University, Imphal, Manipur
11	<b>Dr. Alka Rao</b> , Principal Scientist, CSIR- Institute of Microbial Technology (CSIR-IMTECH), Chandigarh
12	<b>Shri M.S. Chaitra</b> , Director and Fellow, Aarohi Research Foundation, Bangalore- 560076, Karnataka
Secretary to the Authority	
13	<b>Shri. J. Justin Mohan, IFS</b> , Secretary, National Biodiversity Authority, Chennai –600 113
Special Invitees	
14	<b>Shri A.K.Goyal IFS (Retd)</b> , Former Special Secretary, Ministry of Panchayati Raj, New Delhi.9 ( <i>Chair of the Expert committee to examine BD Act, 2002, BD Rules, 2004,etc.</i> )
15	<b>Shri C. Achalender Reddy, IFS</b> , Principal Chief Conservator of Forests, Arunachal Pradesh. ( <i>Co-Chair of the Expert committee to examine BD Act, 2002, BD Rules, 2004,etc.</i> )
16	<b>Shri T. Rabikumar IFS</b> , Additional Principal Chief Conservator of Forests, Office of the Pr. Chief Conservator of Forests, Forest Complex, Sheikh Bagh, Near Lal Chowk, Srinagar, Jammu & Kashmir. ( <i>Member of the Expert committee to examine BD Act, 2002, BD Rules, 2004,etc.</i> )

*Shri. Justin Mohan*