



Ministry of Environment, Forests and  
Climate Change



National Biodiversity Authority

# Proceedings of the 59<sup>th</sup> Authority Meeting [Virtual]

Held on  
07-08-2020

The 59<sup>th</sup> Authority meeting of the National Biodiversity Authority (NBA) was held on 7<sup>th</sup> August, 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 all the Members of the Authority and the special invites for the meeting. The 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 C.Achalender Reddy, IFS, (Retd.) Principal Chief Conservator of Forests, Arunachal Pradesh and Shri T. Rabikumar, IFS., Former Secretary, NBA attended the meeting as special invitees for briefing the members about the proposed amendments to the Biological Diversity Rules 2004.

3. Chairperson, NBA stated that a meeting was convened by the Cabinet Secretary on 24<sup>th</sup> July, 2020 with the Secretaries of MoEFCC, AYUSH, DBT, DST, MA&FW, MoLJ & DPIIT to discuss revision of the BD Act, 2002 and BD Rules, 2004 and ABS Regulations 2014. During this meeting, it was decided to have a Committee of Secretaries chaired by the Secretary, MoEFCC to address issues pertaining to different Ministries. Accordingly, the Secretary, MoEFCC convened a meeting on 6<sup>th</sup> August, 2020 in which the Secretaries of the DBT, AYUSH, Agriculture and Department of Industrial Policy and Promotion participated and discussed issues pertaining to the ABS Regulations and BD Rules, 2004.

4. Dr. Sujit Kumar Bajpayee, Joint Secretary, MoEFCC informed the members that a Working Group is being constituted by MoEFCC to discuss the amendments proposed to the existing legal instruments pertaining to Biodiversity Conservation. He also informed that this Working Group is being formed so that there is a consensus among the line Ministries on the decisions taken on the proposed amendments.

5. Chairman, NBA suggested that the amendments to the Guidelines and the BD Rules, 2004 may be discussed first as they can be finalised at the level of Ministry and the same was agreed to by the members.

6. Dr. Unnat Pandit stated that there were some anomalies in the proposed amendment to the BD Rules, 2004 and these has to be addressed before referring to the Inter-Ministerial Working Group and he agreed to share the same with the Authority in writing.

7. Thereafter, Shri. J. Justin Mohan, Secretary NBA presented the agenda items,

**59.01: Confirmation of the Proceedings of the 57<sup>th</sup> Authority meeting**

The draft proceedings of the 57<sup>th</sup> Authority meeting of the National Biodiversity Authority held on 07-07-2019 through virtual mode were circulated to the members vide e-mail dated 14<sup>th</sup> July 2020 for seeking their comments. Since no comments were received, proceedings of the 57<sup>th</sup> Authority meeting were confirmed by the members.

**Decision:** The members confirmed the Proceedings of the 57<sup>th</sup> Authority meeting.

**Action: Secretary, NBA**

**59.02: To consider the Draft Amendments Proposed to the Biological Diversity Rules, 2004**

Pursuant to the decision of the Authority, Expert Committee in its 23<sup>rd</sup> meeting held on July 22-23, 2020 through virtual mode examined the comments of the members viz Ministry of Tribal Affairs (MoTA), National Medicinal Plant Board and CSIR-IMTECH on the draft amendments proposed to the BD Rules and the modifications suggested thereof, within the existing provisions of the BD Act, 2002. Shri A.K.Goyal., Chair of the EC made a detailed presentation on the proposed modifications in the light of the comments offered by the esteemed Members.

2. The Authority considered the recommendations made by the Expert Committee and had discussion on the proposed modifications which are summarized below:

- (a) **Rule 12(xiv)** - MoTA suggested that the CRFCs under the FRA Rules, 2007 should be the BMCs for the purposes of BD Act, with suitable incorporation of expert members. However, as this is not possible unless the BD Act is amended, the proposed Rules should provide for free and informed consent of the Gram Sabha, for approval of any research proposal. The EC has recommended that as per section 41(1) of the BD Act, every local body shall constitute a BMC and members of the BMC are to be elected from the Gram Sabha. Since Gram Sabha/local body may not be able to perform day-to-day functions under the BD Act, a separate body called BMC would be constituted under the BD Act to perform the duty, on behalf of the local body.
- (b) Dr. Unnat Pandit wanted the list of communities who have benefit sharing account and who have received the benefit sharing amount in the past 5 years to be shared with members. Secretary, NBA explained that if the Section 3(2) entity provides the exact geographical location or the community from where the bio-resources are to be accessed in the application, the benefit sharing amount would be shared with a particular community. However, if the benefit claimers are not known and only the geographical location is known, the benefit sharing amount will be sent to the BMC situated in the particular location for utilizing the amount towards conservation of the bio resources. Shri T.Rabikumar stated that it is a challenging task for NBA to identify the benefit claimer if the company access as the biological resource from a trader or a Mandi.
- (c) **Rule 14(1)**: The NMPB representative commented that anyone or any entity covered under Section 3(1) of BDA shall be deemed exempted from taking / obtaining any prior permission for research, IPR, bio-survey etc., except for commercialization. The committee recommended that since the proposed amendments to the BD Rules are as per the existing provisions of the BD Act, proposal of the NMPB does not fit within the existing framework of the Act.
- (d) MoTA representative suggested that the free and informed consent of the Gram Sabha should be obtained for areas coming under the FRA, 2006. The committee

recommended that the proposed modification in the composition of the BMC under rule 22(8) would address the concerns of MoTA.

- (e) Dr. Unnat Pandit mentioned that more clarity is required in the procedures that are being followed for granting approval to research and commercialization. Shri Rabikumar stated that Rule has to be read along with the prescribed Guidelines for having better clarity on any issues. Dr. Jaya, Joint Secretary, MoTA suggested to include “*as prescribed in the Regulations*” in order to have better linkage between rules and regulations. Members of the Authority expressed that in general, for interpretation of the provisions of any legal instruments needs to be read with relevant rules and regulations / notification made thereof.
- (f) **Rule 16 (1) (iii):** Dr. Unnat Pandit stated that the usage of the terminology “*socio-cultural aspects*” may not be suitable and more clarity is required. Dr. Jaya mentioned that as socio-cultural aspects have been envisaged in the Forest Rights Act which also needs to be reflected in the BD Rules for securing the rights held by the forest community and hence the terminology socio- cultural aspects needs to be retained. She further informed that there was clarity on the term socio-cultural aspects with MOTA and MOEF&CC and hence no change is required.
- (g) **Rule 19(1)-** With regard to the suggestion of Dr. Alka Rao, EC recommended that the ‘Form-C’ comprises a note which requires the foreign repositories to bring the requirements of the Indian domestic law to the notice of the users and it may not be treated as a condition. The World Federation of Culture Collections issued guidelines in 2013 which require the repositories to transfer/exchange the strains of microorganisms in conformity with the principles of the CBD and Nagoya Protocol on ABS. Besides, the user country measures established under the Nagoya Protocol by the various Parties obligate the repositories to comply with the domestic laws of the Party concerned for access. Thus, denial to pass on obligations of the domestic laws and rejecting strains from the Indian scientists are contrary to the provisions of various international legal instruments. Further, rule 19 pertains to section 3(2) persons who have obtained approval of the NBA and is

not applicable to the Indian scientists. For any transfer to the section 3(2) entity, prior approval of the NBA is necessary. Hence, the rule may not be modified as suggested.

(h) **Rule 22 (6):** - MoTA representative stated that the CFRC constituted under Rule 4(1) (e) under the FRA, 2006 prescribes the composition and function of the CFRC. Considering that similar functions are envisaged for the BMC under these Rules, two committees' need to function in harmony with each other. While MOTA is of the view that the CFRC may itself function as the BMC, there is an absolute necessity to ensure that the two committees communicate well with each other. She also mentioned that the CFRC under Section 5 of the FRA, 2006 prepares a Registry which overlaps with the PBRs developed by the BMCs under the BD Act, 2002 and hence the two registers should contain same records. The EC was of the view that the Peoples' Biodiversity Register is documenting the biological resources and associated knowledge thereto whereas other records held in the local bodies are majorly relating to revenue records.

3. After having in depth discussion on the recommendations along with proposed amendments by the Expert Committee, Authority members, *in principle*, approved the draft amendments proposed to the BD Rules, 2004, which are placed as **Annexure-II**.

4. Chairperson, NBA informed that the draft amendments proposed to the Biological Diversity Rules, 2004 can be communicated to the MoEFCC for referring to the proposed Inter-Ministerial Working Group.

### **Decision:**

1. Members approved the draft amendments to the BD Rules, 2004, *in principle* and the finalized matrix on proposed amendments to the BD Rules is appended as **Annexure-II**.
2. The draft amendments to the BD Rules, 2004 shall be communicated to the MoEFCC for taking further action.

**Action: Secretary, NBA**

**59.03. Approved Budget for the year 2020-21 and Annual Accounts 2019-20**

The Chairperson, NBA briefed the members about the Annual Accounts for the financial year 2019-20 and also budget for the year 2020-21. He mentioned that the Annual Accounts endorsed by Authority will be audited by the CAG. Further, CAG will provide the Audit statement appropriately. Dr. Kutty observed that there was a reduction in the expenses under the 'Establishment expenditure' and the 'Salary component' and an increase under the 'Administrative expenditure'. It was decided that NBA would provide a note on this issue to members.

**Decision:**

1. Authority endorsed the Annual Accounts for the financial year 2019-20 and budget for the year 2020-21
2. It was decided that rationale for reduction in the expenses under the Establishment Component and the Salary component and an increase in the Administrative expenditure would be provided to the members.

**Action: Secretary, NBA.**

**59.04: Any other item (s) with the permission of the Chair**

Chairperson, NBA apprised the members about the status of the Office building space for permanent housing of NBA office in Chennai and the land for developing a Biodiversity Park at Nanmangalam. He stated that the Hon'ble Minister, MoEF&CC had written to the Chief Minister of Tamil Nadu for allocation office building and land for International Biodiversity Park at Chennai. Chairperson, NBA informed that CPWD has submitted an evaluation of cost of building minus land to be Rs.12.60 crores. He said that there was a need to make an allocation of funds by MoEFCC under Capital head for this purpose.

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

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**Annexure -1**

**List of Participants**

<b>S.no</b>	<b>Official Members</b>
1	<b>Dr V.B. Mathur</b> , Chairman, National Biodiversity Authority, Chennai
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>(Representing Dr.Aslam, Advisor, DBT)</i>
6	<b>Dr. T.R. Sharma</b> , Deputy Director General, Division of Crop Science, Krishi Bhavan, New Delhi 110 001
7	<b>Dr. Sanjay Kumar</b> , Director, Institute of Himalayan Bioresource Technology, Post Box No.6, Palampur Himachal Pradesh – 176 061.
8	<b>Dr. Gunasekaran</b> , Assistant Commissioner (Seeds), Ministry of Agriculture & Farmers Welfare, Department of Agriculture, Cooperation & Farmers Welfare Shastri Bhawan, New Delhi-110003 <i>(Representing the Joint Secretary (Seeds), DAC&amp;FW)</i>
	<b>Non-official Members</b>
9	<b>Dr. M.M. Kutty, IAS (Retd.)</b> , 14/6, Officers Flat, Tilak Marg, New Delhi.
10	<b>Dr.Unnat P. Pandit</b> , Professor of IP, Innovation and Entrepreneurship, IPMC, JNU, New Delhi
11	<b>Dr.Joykumar Meitei Laishram</b> , Professor and Dean, College of Agriculture, Central Agriculture University, Imphal, Manipur
12	<b>Dr.Aika Rao</b> , Principal Scientist, CSIR- Institute of Microbial Technology (CSIR-IMTECH), Chandigarh
	<b>Secretary to the Authority</b>
13	<b>Shri. J. Justin Mohan, IFS</b> , Secretary, National Biodiversity Authority, Chennai –600 113
	<b>Special Invitees</b>
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)</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)</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)</i>



**Revised Amendments to the Biological Diversity Rules, 2004 as per the discussions  
held during the 23<sup>rd</sup> Meeting of the EC held on 22-23 July 2020**  
(based on the Existing Provisions of the Biological Diversity Act, 2002)

Text of the Existing BD Rules, 2004 (1)	Final Text of the Rules as Proposed by the Expert Committee (2)	56 <sup>th</sup> Authority's decision / Final Text (3)	Comments of the Authority Members and Justification of the EC (4)	Revisions effected by the EC held and approved by the 59 <sup>th</sup> Authority (5)
12(xiv) give directions to State Bio-diversity Boards and the Bio-diversity Management Committees in writing for effective implementation of the Act;	12(xiv) give directions and technical advice, as required, to State Biodiversity Boards and the Biodiversity Management Committees for effective implementation of the Act;	12(xiv) give directions and technical advice, as required, to State Biodiversity Boards and the Biodiversity Management Committees for effective implementation of the Act;	<p><b>MoTA:</b> This Ministry is of the opinion that the CRFCs under the FRA Rules, 2007 should be the BMCs for the purposes of BD Act, with suitable incorporation of expert members. However, if this would not be possible unless the BD Act is amended, the proposed Rules should provide for free and informed consent of the Gram Sabha, for approval of any research proposal as well as for sharing of the benefits of the said research.</p> <p><b>Justification of the EC</b></p> <p>As per section 41(1) of the BD Act, every local body shall constitute a BMC which functions on behalf of gram sabha/local body and is elected out of the members of the gram sabha. Gram sabha/local body may not be able to perform day to-day functions under the BD Act.</p> <p>The concerns of the MoTA have been addressed in the existing Rules by inserting a provision of involvement of the</p>	

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			representative of the committee implementing section 5 of the FRA, 2006 in the BMC, as member under rule 22(2).	
<p><b>12(xvi)</b> recommend, modify, collection of benefit sharing fee under sub section (1) of Section 6 or Changes of royalties under sub-section (2) of section 19 in respect of biological resources from time to time;</p>	<p><b>12(xvi)</b> determine, modify and collect benefit sharing component (monetary or non-monetary) for accessing and or utilizing the biological resources and or associated knowledge from time to time;</p>	<p><b>12(xvi)</b> determine, modify and collect benefit sharing component (monetary <b>and</b> / or non-monetary) for accessing and or utilizing the biological resources and or associated <b>traditional and contemporary</b> knowledge from time to time;</p>	<p><b>MoTA:</b> There must be compensation for the transfer of traditional knowledge to the researcher as well as for access to resources from CFR; the compensation at this stage should be primarily monetary. Non-monetary compensation should be additional and tangible.</p> <p>The benefit sharing must be determined etc. The stages could be access at time of research, publication, if any, of research findings, utilization of research findings, including patents, commercialization of research findings and transfer of research findings / patent commercial utilization.</p> <p><b>Justification of the EC:</b></p> <p>The benefit sharing component is determined in monetary or non-monetary terms or both, on a case-by-case basis as per ABS Regulations, 2014. Non-monetary benefit cannot be additional.</p> <p>As per the provisions of the Act, approval of NBA needs to be obtained separately for each activity, viz; research, commercial utilization, IPR and transfer of accessed</p>	

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			biological resource by applying in the respective forms. The existing provisions <i>per se</i> are regulating approvals in different stages of access. Thus, the concerns of MoTA are addressed by the existing mechanism.	
<b>14 Procedure for access to biological resources and associated traditional knowledge</b>	<b>14. Procedure for access to biological resources and or associated knowledge</b>	14. Procedure for access to biological resources and or associated <b>traditional and contemporary knowledge</b>		
<b>14(1)</b> Any person seeking approval of the Authority for access to biological resources and associated knowledge for research or for commercial utilization shall make an application in Form I	<b>14(1)</b> Any person, referred to in sub-section(2) of section 3 of the Act, seeking approval of the Authority for access to biological resources and or associated knowledge for research or for bio-survey and bio-utilization or for commercial utilization shall make an application in the format as may be prescribed.	14(1) Any person, referred to in sub-section(2) of section 3 of the Act, seeking approval of the Authority for access to biological resources and or <b>associated traditional and contemporary knowledge thereto</b> for research or for bio-survey and bio-utilization or for commercial utilization shall make an application in the format as may be <b>notified</b> <del>prescribed.</del>	<b>NMPB:</b> anyone or any entity covered under Section 3(1) of BDA shall be deemed exempted from taking / obtaining any prior permissions for research, IPR, bio-survey etc., except for commercialization. Form I submitted for the previous FY shall be considered as the base for the consumption in the subsequent year. However, the actual consumptions may be submitted at the end of each FY to NBA. <i>(Note: 3(1) as defined in the new amendments of Sections of BDA).</i>  <b>Justification of the EC:</b>  Since the proposed amendments to the BD Rules are as per the existing provisions of the BD Act, proposal of the NMPB does not fit within the existing framework of the Act.	

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			<p><i><b>MOTA:</b> The free and informed consent of the Gram Sabha should be obtained for areas coming under the FRA, 2006, keeping in view the comments above with regard to MoTA's views on the BMCs as well as benefit sharing</i></p> <p><b>Justification of the EC:</b> The proposed modified constitution of BMC under rule 22(8) as suggested above would address the concerns of MOTA.</p>	
<p><b>14(2)</b> Every application under sub-rule (1) shall be accompanied by a fee of ten thousand rupees in the form of a cheque or demand draft drawn in favour of the Authority.</p>	<p><b>14(2)</b> Every application under sub-rule (1) shall be accompanied by a prescribed fee in the form of electronic transfer to the National Biodiversity Fund</p>	<p>14(2) Every application under sub-rule (1) shall be accompanied by a fee <b>as notified</b> in the form of electronic transfer to the National Biodiversity Fund</p>	<p><b>MOTA:</b> There must be different forms prescribed for research and for commercial utilization. The stages referred to in comments on Rule 12(xiv) and (xvi) [ stages could be access at time of research, publication, if any, of research findings, utilization of research findings, including patents, commercialization of research findings and transfer of research findings/ patent commercial utilization] may be formalized in the Rules with appropriate prescribed forms of application for the same.</p> <p><b>Justification of the EC:</b></p> <p>The existing BD Rules and ABS Regulations provide for four different types of forms for different types of activities and NBA is granting approvals accordingly. Benefit</p>	

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			sharing is from commercialisation. This addresses the concerns of MoTA.	
<b>14(3)</b> The Authority shall after consultation with the concerned local bodies and collecting such additional information from the applicant and other sources, as it may deem necessary, dispose of the application, as far as possible, within a period of six months from the date of its receipts.	<b>14(3)</b> The Authority shall after consultation with the Biodiversity Management Committee(s) concerned and collecting such additional information from the applicant and other sources, as it may deem necessary, and on being satisfied with the merit of the application under sub-rule (1), take a decision on granting approval or otherwise.	<b>14(3)</b> The Authority shall after consultation with the Biodiversity Management Committee(s) concerned and collecting such additional information from the applicant and other sources, as it may deem necessary, and on being satisfied with the merit of the application under sub-rule (1), take a decision on granting approval or otherwise.	<b>MoTA:</b> Consultation with local bodies, especially Gram Sabhas as defined in both the FRA 2006 and PESA, 1996 should be continued. This is especially needed keeping in comments of the MoTA regarding the BMCs appropriate, the Ministry /Panchayati Raj may be consulted.  <b>Justification of the EC:</b>  This concern has already been discussed and addressed above.	.
<b>14(5)</b> The approval to access shall be in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant.	<b>14(5)</b> The approval to access shall be in the form of a written agreement between the applicant and the Authority, to be executed within a further period of 90 days.	<b>14(5)</b> The approval to access shall be in the form of a written agreement between the applicant and the Authority, to be executed within a further period of 90 days.	<b>MoTA:</b> The informed consent of the Gram Sabha should be a pre- requisite. Further, the Gram Sabha may be a party to the agreement. Comments on Rule 14(4) on stages of approval/agreement may also be seen.  Penalty / withdrawal of approval should be provided for in case of non-compliance with timelines. Provision for extension of time on specific request made prior to the expiry of the deadline for signing agreement also needs to be provided	<b>14(5)</b> The approval to access shall be in the form of a written agreement between the applicant and the Authority, to be executed within a further period of 90 days.  Provided that on the request of the applicant, the Authority may consider extending the period of signing the agreement up to a further period of 90 days

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			<p>under extraordinary circumstances, with full justification.</p> <p><b>Justification of the EC:</b></p> <p>BMC acts on behalf of of gram sabha/local body.</p> <p>A period of 90 days is adequate for submission of signed agreement back to NBA. However, in certain cases, it may not happen due to various reasons. It was also observed that NBA is permitting extension of time to submit signed copy of the agreement based on applicant's request. In order to provide the same explicitly in the rules, EC decided to incorporate a proviso under rules 14(5), 17(5), 18(5) and 19(5).</p>	<p>on reasonable grounds on case-by-case basis. If the agreement is not been signed within the period mentioned above, the application shall be deemed to have been withdrawn by the applicant.</p>
<p><b>14(6)(iii)</b> intended uses of the biological resources (research, breeding, commercial utilization etc.)</p>	<p><b>14(6)(iii)</b> intended uses of the biological resources</p>	<p><b>14(6)(iii)</b> intended uses of the biological resources</p>	<p><b>MoTA:</b> The Rules, 2004 are vague in defining the intended uses. However, non-definition of the intended uses may lead to unforeseeable consequences. Hence, the Authority may define the specified uses, even if it does so widely.</p> <p>Additionally, it shall clearly mention the geographical extent, limit of quantity to be extracted (both for commercial as well as research purposes), along with specified timelines of</p>	<p>-</p>

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			<p>Extraction, to ensure regeneration and preservation / conservation of resource as well as access to traditional knowledge bearers to that resource without let or hindrance as before.</p> <p><b>Justification of the EC:</b></p> <p>The rule 14(6) provides terms and conditions of the agreement to be executed for granting approval for research, commercial utilisation, IPR, bio-survey and bio-utilization. Rule 14(1) also clearly provides for intended uses of the biological resources. NBA/SBB also mentions the details of the location and quantity of bioresources that are to be collected in the ABS agreement.</p> <p>However, the EC decided to make a mention of 'location' explicitly in rule 14(6) (vii).</p>	
<p><b>14(6)(iv)</b> conditions under which the applicant may seek intellectual property rights;</p>	<p><b>14(6)(iv)</b> conditions under which the applicant may apply for intellectual property rights;</p>	<p><b>14(6)(iv)</b> conditions under which the applicant may apply for intellectual property rights;</p>	<p><b>MoTA:</b> This section needs to be read along with section 3(1)(k) of FRA and accordingly modified. The traditional knowledge, skill and processes cannot be patented as such since they are already vested in the community which has been traditionally and sustainably employing them to utilize such resource. Hence</p>	

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			<p>distinction needs to be made between traditional knowledge and research which adds value to such knowledge, the latter portion of which alone can be patented, with adequate benefit sharing provisions. This may be suitably added in the conditions.</p> <p><b>Justification of the EC:</b></p> <p>The patenting of invention relating to traditional knowledge is regulated by the Patent Office. The NBA is regulating access to and use of biological resources and traditional knowledge for developing such an invention and ensuring that benefits are shared with the benefit claimers under the BD Act. Thus views of MoTA in respect of ABS have already been imbibed in the Rules.</p>	
<p><b>14(6)(v)</b> quantum of monetary and other incidental benefits. If need be, a commitment to enter into a fresh agreement particularly in case if the biological material is taken for research purposes and later on sought to be used for commercial purposes, and also in</p>	<p><b>14(6)(v)</b> quantum of monetary and non-monetary benefits.</p>	<p><b>14(6)(v)</b> quantum of monetary and/or non-monetary benefits.</p>	<p><b>MoTA:</b> This implies that even while the research is at the commencement stage, its monetization has already been decided and the benefit sharing agreed upon. This may instead provide for the fee for access to the area of research as well as for sharing of traditional knowledge by the local communities and associated knowledge bearing agencies, including the ST and OTFD under FRA, 2006. Comments given on Rule 12(6) may be seen with regard to multi-stage approvals/ agreements.</p>	



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case of any other change in use thereof subsequently.			<p><b>Justification of the EC:</b></p> <p>The local communities including tribal communities are exempted from the ABS obligations under section 7 of the BD Act. Hence, the existing Rules take care of the concerns of MoTA. The issue of multi-stage approvals/agreements has been discussed and addressed above.</p>	
	<p><b>14(6)(va)</b> conditions to enter into a fresh agreement in case the biological resource is taken for research purposes and later on sought to be used for any other purpose.</p>	<p>14(6)(va) conditions to enter into a fresh agreement in case the biological resource is taken for research purposes and later on sought to be used for <b>commercial purpose</b> <del>any other purpose.</del></p>	<p><b>MoTA:</b> The principle of sharing of benefits of research must be well laid down. The informed consent of the Gram Sabha in the FRA 2006 areas should be incorporated in determination of the quantum of benefit sharing.</p> <p><b>Justification of the EC:</b></p> <p>The Access and Benefit Sharing Regulations, 2014 provide procedures for access to biological resources and determination of the benefit sharing component thereof in detail.</p>	
<p><b>14(6)(vi)</b> restriction to transfer the accessed biological resources and the traditional knowledge to any third</p>	<p><b>14(6)(vi)</b> restriction to transfer the accessed biological resources and or associated knowledge to any third party without prior approval of Authority;</p>	<p><b>14(6)(vi)</b> restriction to transfer the accessed biological resources and or associated <b>traditional and contemporary</b> knowledge</p>	<p><b>MoTA:</b> The transfer of the research findings should have the informed consent of the Gram Sabha, along with the limitations on <b>exploitation of the natural resource for research and commercial purposes</b> Such transfer shall not</p>	

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party without prior approval of Authority;		to any third party without prior approval of Authority;	<p><b>interfere with traditional and customary access of the local communities and forest right holders.</b></p> <p>Comments on Rule 14(6)(iii) on limits of access to the biological resource may also be seen in this regard. Further, benefit sharing norms must be clearly laid down. It should preferably be in the form of a perpetual royalty sharing in a monetary form, to ensure certainty of the benefit reaching the deserving as well as being tangible.</p> <p>The question of whether a second transfer is also possible should also be addressed, along with the modalities of benefit sharing.</p> <p><b>Justification of the EC:</b></p> <p>The prior approval of the NBA is required for third party transfer of accessed biological resources. The agreement executed with the applicant has a specific clause in this regard. The modalities of benefit sharing for third party transfer are well explained in the ABS Regulations, 2014.</p>	
<b>14(6)(vii)</b> to adhere to a limit set by the Authority on the quantity and	<b>14(6)(vii)</b> to adhere to a limit set by the Authority on the quantity and specifications of the biological resources for	<b>14(6)(vii)</b> to adhere to a limit set by the Authority on the quantity and specifications of the	<p><b>MoTA:</b> Mention of location of access of biological resource clearly in the rules.</p> <p><b>Justification of the EC:</b></p>	<b>14(6)(vii)</b> to adhere to a limit set by the Authority on the quantity and specifications of the

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specification of the quality of the biological resources for which the applicant is seeking access;	which the applicant is granted approval.	biological resources for which the applicant is granted approval.	It was agreed to add this provision explicitly in rule 14(6)(iii) which is already in practice by the NBA secretariat while executing agreements.	biological resources from the location where the biological resources are to be accessed for which the applicant is granted approval.
<b>14(6)(xi)</b> commitment to facilitate measures for conservation and sustainable use of biological resources accessed;	<b>14(6)(xi)</b> commitment to facilitate measures for conservation and sustainable use of biological resources accessed;	<b>14(6)(xi)</b> commitment to facilitate measures for conservation and sustainable use of biological resources accessed;	<p><b>MoTA:</b> This has to be a part of the agreements entered into with the Applicants. The Gram Sabha in villages wherever there are holders of Forest Rights, has the right as well as duty of protecting and conserving the forest resources. Thus, any conservation, extraction and sustainable use of biological resources shall be monitored by the CFRC established by Gram Sabha under FRA, 2006.</p> <p><b>Justification of the EC:</b></p> <p>This has already been addressed through modification in the constitution of BMC.</p>	-
<b>14(6)(xii)</b> commitment to minimize environmental impacts of collecting activities;	<b>14(6)(xii)</b> commitment to minimize environmental impacts while collecting the biological resources;	<b>14(6)(xii)</b> commitment to minimize environmental impacts while collecting the biological resources;	<p><b>MoTA:</b> This commitment should also include provision for minimizing the adverse social and cultural impact as well in areas with tribal populations.</p> <p><b>Justification of the EC:</b></p> <p>The term “environmental impacts” is broader terminology and covers social and cultural impacts. Impact on socio-cultural aspects has been added under rule 16(iii).</p>	-

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	<b>14(6)((xiv)</b> The conditions for access may specifically provide measures for conservation and sustainable use of biological resources to which the access is being granted.	<b>Deleted</b>	As this has been already covered holistically under rule 14(6)(xiii), it was decided to delete this rule.	
<b>14(10)</b> The Authority shall take steps to widely publicize the approvals granted, through print or electronic media and shall periodically monitor compliance of conditions on which the approval was accorded.	<b>14(10)</b> The Authority shall publish the approvals granted on its website.	<b>14(10)</b> The Authority shall publish the approvals granted and <b>rejected</b> on its website.	<p><b>MoTA:</b> All the decisions of the Authority both approvals and rejections may be published. Hence, the word "approval" may be replaced by the word "decision". This rule may further be expanded to include the following:</p> <p><i>The publication of the decisions should also be within the territorial limits of the local body and Gram Sabha defined under the FRA, 2006 through a public notice to be prominently displayed, and routed through the District Forest Office.</i></p> <p><b>Justification of the EC:</b></p> <p>The MoTA suggested to publicize the approval at local body level also. Since bioresources are available within the jurisdiction of the BMC, there is a need to sensitize the local people of the area about the approvals granted by the NBA/ SBB to ensure sustainable use of bioresources and monitoring the access of bioresources. The EC observed that copies of the approvals are already being communicated to the</p>	<p><b>14(10)</b> The Authority shall publish the approvals granted and <b>rejected</b> on its website.</p> <p>The State Biodiversity Boards shall ensure all approvals granted under this Act are given wide publicity at the local levels.</p>

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			SBBs, however, decided to effect modifications in the rule.	
	<b>14(11)</b> The applicant shall report annually the compliance of the terms and conditions under which the approval is granted. The compliance report shall be monitored by the Authority and the State Biodiversity Boards and Biodiversity Management Committees also may be involved for this purpose.	<b>14(11)</b> The applicant shall report annually the compliance of the terms and conditions under which the approval is granted. <del>The compliance report shall be monitored by the Authority and the State Biodiversity Boards and Biodiversity Management Committees also may be involved for this purpose.</del>	<b>MoTA:</b> There must be timelines for reporting on compliance with specific timelines prescribed in each agreement at appropriate stages of the process. An Annual report, for projects whose shelf life is shorter or only a little longer, would render the exercise meaningless. Further, periodic reports should provide for any grievances of the Gram Sabha with regard to the use/exploitation of the natural resource concerned, as well as of the traditional knowledge and approval for research / commercial exploitation and consequent benefit sharing.  <b>Justification of the EC:</b>  NBA is executing agreement with the applicant for granting approvals in which the applicant is obligated to submit periodic reports depending on the validity period of the agreement and may not be required to bring it into the Rules as it is an administrative process.	

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15 Revocation of access or approval:-	15 Revocation of access or approval: -	15 Revocation of access or approval: -		
<p><b>15(1)</b> The authority may either on the basis of any complaint or <i>suo moto</i> with draw the approval granted or access under rule 15 and revoke the written agreement under the following conditions namely;</p>	<p><b>15(1)</b> The Authority may either on the basis of any complaint or <i>suo moto</i> withdraw the approvals granted and revoke the written agreement, in full or in part, under the following conditions namely;</p>	<p>15(1) The Authority may either on the basis of any complaint or <i>suo moto</i>, withdraw the approvals granted and revoke the written agreement, in full or in part, <b>after providing reasonable opportunity of being heard</b>, under the following conditions namely;</p>	<p><b>MoTA:</b> The interests of the benefit claimers as well as of the Gram Sabha needs to be kept in view while revoking the approvals granted. Further, provision for an appeal may perhaps be provided.</p> <p><b>Justification of the EC:</b></p> <p>The concerns of MoTA have merit and observed that based on the complaint of the claimer or <i>suo-moto</i>, NBA can revoke approvals. EC also felt that NBA may be enabled to suspend the activity based on the complaints or <i>suo-moto</i>. This would pave a way to make stop-gap arrangements during the process of revoking approvals granted. Accordingly, the phrase “<b>or suspend</b>” has been included. There is already a provision for appeal to the NGT.</p> <p><b>NMPB:</b> The withdrawal or revocation of the granted approval is made very vague with subjective parameters which result in red-tapism. Logically, when the approval requires 90 days the withdrawal should also provide 90 days' time.</p>	<p>15(1) The Authority may either on the basis of any complaint or <i>suo moto</i>, suspend or withdraw the approvals granted and revoke the written agreement, in full or in part, after providing reasonable opportunity of being heard, under the following conditions namely;</p>

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			<p><b>Justification of the EC:</b></p> <p>The suggestion of NMPB may not have any logic and also pave the way for illegal access of bioresources. Members felt that due to various reasons including adverse effects on the objectives of the Act and on being heard from the applicant, NBA is revoking the approvals granted and thereby providing further period of 90 days may not be essential. The existing Act does not provide any scope to sanction a period for revocation.</p>	
			<p><b>Justification of the EC:</b></p> <p>MoTA observed that provisions of the Act/ Rules do not provide taking any action/ corrective measures during the interregnum period of revocation/ rejection/suspension of approvals. EC decided to incorporate a new clause under the sub-rule stating that access to biological resources should not be performed by the applicant during the period of suspension.</p>	<p>15(1)(iv) during the period of suspension of approval, no biological resources will be accessed.</p>
<p><b>15 (2)</b> The Authority shall send a copy of every order of revocation issued by it to the concerned State Biodiversity Board and</p>	<p><b>15(2)</b> The Authority shall forward a copy of every order of revocation issued by it to the State Biodiversity Board and the Biodiversity Management Committee(s)</p>	<p>15(2) The Authority shall forward a copy of every order of revocation issued by it to the State Biodiversity Board and the Biodiversity Management</p>	<p><b>MoTA:</b> The damage assessment to be done by BMC shall also calculate the social /cultural and economic impact on the Individuals / communities that are dependent on such bioresource and traditional knowledge. Adequate compensation for any</p>	

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<p>the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.</p>	<p>concerned for prohibiting the access and also to assess the damage caused, if any, and take steps to recover the damages.</p>	<p>Committee(s) concerned for prohibiting the access and also to assess the damage caused, if any, and take steps to recover the damages. <b>Such revocations may be published on NBA website.</b></p>	<p>loss sustained must also be borne by the applicant/ NBA through a provision for an Earnest Money Deposit or an advance on the benefit sharing being deposited.</p> <p>Further, each revocation may be published, as is done in the case of approvals / rejections /decisions of the Authority, along with reasons for doing so. Additionally, assessment of damages and recovery thereof, as well as the compensation to be made to benefit claimers, may be as prescribed.</p> <p><b>Justification of the EC:</b> The EC supported this proposal, however, left it to the Authority to take a view on this.</p>	
<p><b>16(1)(i)</b> the request for access is for any endangered taxa;</p>	<p><b>16(i)</b> the request for access is for any threatened and endemic species also including those notified under section 38 of the Act</p>	<p><b>16(i)</b> the request for access is for any endangered, threatened and endemic species also including those notified under section 38 of the Act</p>	<p>NMPB: Our proposal on the threatened, endangered, endemic, rare species is completely ignored. It is to state that for medicinal plants the NMPB issued list of RET should be considered as the list since the crop subsidy and other intensive systems are provided by following the list of NMPB only. The Botanical Survey of India (BSI), provides huge number of RET plants on their website but the comprehensive list of medicinal plants and their endangered status is not indicated there. It is ideal to follow the IUCN classification of seven categories for the status definition and the</p>	



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			<p>RET list prepared from time to time by NMPB should be considered as the final list for AYUSH industry. <i>[NOTE: Mainly the cultivated bio-resources / medicinal plant raw materials are to be excluded from the purview of RET to provide ease of business. The certification powers are to be entrusted to NMPB as the custodian of AYUSH industry.]</i></p> <p><b>Justification of the EC:</b></p> <p>The IUCN provides for eight categories of threatened species and all those categories fall under one head "threatened".</p> <p>There is no need to get into lengthy process to provide for IUCN list. Further, Rare, Endangered and Threatened species is not in line with the IUCN standards.</p> <p>Thus, the suggestion of the NMPB has not been incorporated.</p> <p>With regard to exemption of cultivated bio-resources/medicinal plant raw material, the existing provisions of the Act do not make any distinction about the sources either cultivated, wild or purchased from the market. Further, CBD and Nagoya Protocol also do not make any such distinction.</p>	

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			Hence, suggestion of NMPB does not find any merit to incorporate in the rules as per existing framework of the Act.	
<b>16(1)(iii)</b> the request for access may likely to result in adverse effect on the livelihoods of the local people	<b>16(iii)</b> the request for access may likely to result in adverse effects on the livelihood of the local people	<b>16(iii)</b> the request for access may likely to result in adverse effects on the livelihood of the local people	<p><b>MoTA:</b> The provision may suitably be modified to reject requests for access to bio resources that may have adverse social and cultural effects on local tribal populations and not merely on livelihood of the local people</p> <p><b>Justification of the EC:</b> In order to safeguard the socio-cultural aspects recognized under the FR Act, 2006; the EC decided to incorporate the phrase “<b>and socio-cultural aspects</b>” in the rules.</p>	<b>16(iii)</b> the request for access may likely to result in adverse effects on the livelihood and socio-cultural aspects of the local people.
<b>16(1)(iv)</b> the request to access may result in adverse environmental impact which may be difficult to control and mitigate.	<b>16(iv)</b> the request to access may result in adverse environmental impact which may be difficult to control and mitigate.	<b>16(iv)</b> the request to access may result in adverse environmental impact which may be difficult to control and mitigate.	<p><b>MoTA:</b> The depletion of the bio-resource to the point where it cannot be naturally regenerated in its original habitat should also be a ground for revocation of the approval/ agreement, though it may not lead to adverse environmental impact.</p> <p><b>Justification of the EC:</b></p> <p>The issue has been considered and addressed in the rule 15(1).</p>	
<b>17 Procedure for seeking approval for transferring results of research</b>	<b>17 Procedure for seeking approval for transferring results of research</b>	<b>17 Procedure for seeking approval for transferring results of research</b>	—	

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<b>17 (1)</b> Any person desirous of transferring results of research relating to biological resources obtained from India for monetary consideration to foreign nationals, companies and Non Resident Indians (NRIs), shall make an application to the Authority in the Form II	<b>17(1)</b> Any person desirous of transferring results of research relating to biological resources obtained from India for monetary consideration or otherwise to the persons referred to under sub-section (2) of section 3, shall make an application in the format as may be prescribed.	<b>17(1)</b> Any person desirous of transferring results of research relating to biological resources obtained from India for monetary consideration or otherwise to the persons referred to under sub-section (2) of section 3, shall make an application in the format as may be <b>notified prescribed</b> .	<b>MoTA:</b> The informed consent of the Gram Sabha shall be a part of the prescribed/notified format. Are repeated transfers admissible? If so, Rules must provide for the same the rough a similar process.  <b>Justification of the EC:</b>  The issue has been discussed and addressed above in the rule 14.	
<b>17(2)</b> Every application under sub-rule (1) shall be accompanied by a fee of five thousand rupees in the form of a Bank draft or Cheque drawn in favour of the Authority.	<b>17(2)</b> Every application under sub-rule (1) shall be accompanied by a prescribed fee in electronic form to the National Biodiversity Fund.	<b>17(2)</b> Every application under sub-rule (1) shall be accompanied by a prescribed fee, <b>as notified</b> , in electronically to the National Biodiversity Fund.	<b>MoTA:</b> In addition to the fee payable, the applicant may also pay an EMD (refundable/adjustable) or an advance on the benefit sharing to enable compensation in case of revocation to be payable to the benefit claimers. The EMD/Advance may be based on principles to be either prescribed or notified.  <b>Justification of the EC:</b>  The EC supported this proposal, however, left it to the Authority to take a view on this.	
<b>17(3)</b> Every application under sub-rule (1) shall be decided upon by the Authority, as far as possible	<b>17(3)</b> The Authority shall after collecting such additional information from the applicant and other sources, and on being satisfied with the merit	<b>17(3)</b> The Authority shall after collecting such additional information from the applicant and other sources, and on being	<b>MoTA:</b> The information to be referred while granting approval must take into account the concerns of the Forest Right holders and their Gram Sabha; protection of their intellectual property right over traditional	

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<p>within a period of three months from the receipt of the same.</p>	<p>of the application under sub-rule (1), take a decision on granting approval or otherwise within a period of 75 days subject to such terms and conditions as it may deem fit.</p>	<p>satisfied with the merit of the application under sub-rule (1), take a decision on granting approval or otherwise within a period of 75 days subject to such terms and conditions as it may deem fit.</p>	<p>knowledge, process and skills as well as no interference with the exercise of their rights. Further, the word "approval" may be replaced by the word "Decision".</p> <p><b>Justification of the EC:</b></p> <p>While collecting additional information from the applicant, he may be requested to furnish information on the right holders, if required, on case-by-case basis. It will be administrative in nature which may be put place as part of application processing procedures in the NBA/SBB.</p>	
<p><b>17(4)</b> On being satisfied that the applicant has fulfilled all the requirements, the Authority may grant the approval for transferring the results of research subject to such terms and conditions as it may deem fit to impose in each case.</p>	<p><b>17(4) deleted</b></p>	<p><b>17(4) deleted</b></p>	<p>_____</p>	
<p><b>17(5)</b> The approval for transfer shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority</p>	<p><b>17(5)</b> The approval for transfer shall be in the form of a written agreement between the applicant and the Authority, to be executed</p>	<p><b>17(5)</b> The approval for transfer of results of research shall be in the form of a written agreement between the applicant and the</p>	<p><b>MoTA:</b> The Gram Sabha / benefit claimers may be part of the agreement.</p> <p>It was also suggested to provide extension of time for submitting agreements on certain cases.</p>	<p><b>17(5)</b> The approval for transfer of results of research shall be in the form of a written agreement between the applicant and the Authority, to be</p>

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<p>and the applicant. The form of the agreement shall be such as may be decided by the Authority.</p>	<p>within a further period of 90 days.</p>	<p>Authority, to be executed within a further period of 90 days.</p>	<p><b>Justification of the EC:</b></p> <p>On behalf of local bodies/benefit claimers, NBA enters into an agreement with the applicant as per the provisions of the Act for safeguarding the interests of the local bodies/benefit claimers.</p> <p>A period of 90 days is adequate for submission of signed agreement back to NBA. However, in certain cases, it may not happen due to various reasons. It was also observed that NBA is permitting extension of time to submit signed copy of the agreement based on applicant's request. In order to provide the same explicitly in the rules, EC decided to incorporate a proviso under this rule.</p>	<p>executed within a further period of 90 days.</p> <p>Provided that on the request of the applicant, the Authority may consider extending the period of signing the agreement up to a further period of 90 days on reasonable grounds on case-by-case basis. If the agreement is not been signed within the period mentioned above, the application shall be deemed to have been withdrawn by the applicant.</p>
<p><b>18(1)</b> Any person desirous of applying for a patent or any other intellectual property based on research on biological material and knowledge obtained from India shall make an application in Form III.</p>	<p><b>18(1)</b> Any person desirous of applying for a patent or any other intellectual property right based on research on biological resource and or associated knowledge obtained from India shall make an application to the Authority in the format as may be prescribed.</p>	<p>18(1) Any person desirous of applying for a patent or any other intellectual property right based on research on biological resource and or <b>associated traditional and contemporary knowledge thereto</b> obtained from India shall make an application to the Authority in the format as may be <b>notified</b> <b>prescribed</b>.</p>	<p><b>MoTA:</b> This provision may clearly state/ explain that no patent or IPR may be obtained for traditional knowledge, skills and practices since such rights are already vested in the community under Section 3 (1 )(k) of FRA.</p> <p><b>Justification of the EC:</b></p> <p>The Patenting of invention relating to traditional knowledge is governed by the Patent Office. The NBA is regulating access to and use of biological resources and traditional knowledge for developing inventions and ensuring that benefits are</p>	

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			shared with the benefit claimers under the BD Act. Thus concerns of MOT A are taken care by both the Patent Act and the BD Act.	
<p><b>18(5)</b> The approval shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement may be decided by the Authority.</p>	<p><b>18(5)</b> The approval shall be in the form of a written tri-partite agreement between the applicant, the transferee and the Authority, to be executed within a further period of <b>90 (30) days</b>.</p>	<p>18(5) The approval shall be in the form of a written <del>tri</del> <b>tri-partite</b> agreement between the applicant, the transferee and the Authority, to be executed within a further period of <b>90 (30) days</b>.</p>	<p><b>MoTA:</b> The Gram Sabha / benefit claimers may be part of the agreement. Further, clarity is required as to what would be the action if agreement is not executed within 90 days? There must be clause for extension of time in extraordinary circumstance, with proper justification.</p> <p><b>Justification of the EC:</b></p> <p>The suggestion of the MoTA to provide for time extension for submitting agreement by applicant has been considered and incorporated as proviso clause under rules 14(5), 17(5), 18(5) and 19(5).</p> <p><b>NBMPB:</b> Indian person(s) or entity [Section 3(1) entities of new definition] should be exempted from filing prior permission to obtain an IPR as long as it is not including any folklore claim or ethno-medicinal aspect. TKDL database can help in helping NBA in this area. Only an intimation should be sought for the IPR applications. When the transfer of research outcomes is needed for foreign</p>	<p>18(5) The approval shall be in the form of a written agreement between the applicant, the transferee and the Authority, to be executed within a further period of <b>(30) days</b>.</p> <p>Provided that on the request of the applicant, the Authority may consider extending the period of signing the agreement up to a further period of 30 days on reasonable grounds on case-by-case basis. If the agreement is not been signed within the period mentioned above, the application shall be deemed to have been withdrawn by the applicant.</p>

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			<p>national or entity, then all the conditions applicable for Section 3(2) entities shall be applicable to them. As mentioned earlier, 90 days' time is not required for this approval. These timelines need revision.</p> <p><b>Justification of the EC:</b></p> <p>The suggestion of NMPB is not within the ambit of the existing provisions of the Act. Hence, it may not be possible to incorporate the same in the BD Rules.</p>	
<b>19 Procedure for third party transfer under sub- section (2) of Section 20.</b>	<b>19 Procedure for third party transfer under sub- section (2) of Section 20.</b>	<b>19 Procedure for third party transfer under sub- section (2) of Section 20.</b>		
<b>19(1)</b> The persons who have been granted approval for access to biological resources and associated knowledge, intend to transfer the accessed biological resource or knowledge to any other person or organization shall make an application to the Authority in Form IV	<b>19(1)</b> Any person who has been granted approval for access to biological resources and or associated knowledge, intends to transfer the accessed biological resource or associated knowledge to any other person or organization shall make an application to the Authority in the format as may be prescribed.	<b>19(1)</b> Any person who has been granted approval for access to biological resources and or associated <b>traditional and contemporary</b> knowledge, intends to transfer the accessed biological resource or <b>associated traditional and contemporary knowledge thereto</b> to any other person or organization shall make an application to the Authority	<p><b>Dr Alka Rao : 19 (1)</b> The person or organization or repositories who have been granted approval for access to biological resources and associated knowledge, intend to transfer the accessed biological resource or knowledge to any other person or organization shall make an application to the Authority in Form IV</p> <p><b>19(1A)</b> The person or organization or repositories who have been granted approval for or have access to biological resources and associated traditional knowledge for research purpose, intends</p>	



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		in the format as may be notified <del>proscribed</del>	<p>to transfer the accessed biological resource or knowledge to any other person or organization for research purpose shall be governed by the terms and conditions of Prior Informed Consent and/or Mutually Agreed Terms (MAT) and or Memorandum of Understanding (MOU) and associated Material Transfer Agreement issued by the Authority at the time of first intimation and transfer of the biological resource. Wherein MTA shall incorporate scope of use of the shared resource and all such restrictions as necessary to prevent bio-piracy, unethical practices and internationally unacceptable methods for all such transfer and third party sharing.</p> <p><b>Justification of the EC:</b></p> <p>The EC observed that 'Form-C' comprises a note which requires the foreign repositories to bring the requirements of the Indian domestic law to the notice of the users and it may not be treated as a condition.</p> <p>The World Federation of Culture Collections issued guidelines in 2013 which require the repositories to</p>	



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			<p>transfer/exchange the strains of microorganisms in conformity with the principles of the CBD and Nagoya Protocol on ABS. Besides, the user country measures established under the Nagoya Protocol by the various Parties obligate the repositories to comply with the domestic laws of the Party concerned for access. Thus, denial to pass on obligations of the domestic laws and rejecting strains from the Indian scientists are contrary to the provisions of various international legal instruments.</p> <p>Further, the rule 19 pertains to section 3(2) persons who have obtained approval of the NBA and is not applicable to the Indian scientists. Besides, as per the provisions of the section 39 of the BD Act, the repositories are meant only for keeping in safe custody biological material including voucher specimens deposited with them. For any transfer to the section 3(2) entity, prior approval of the NBA is necessary. Hence, the rule cannot be modified as suggested.</p>	

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			<p><b>NMPB:</b> Procedures for the third party approval on transfer of technology etc., need to have simpler timelines. If a particular product is purely related to a process or method that shall be exempted. Exemption is also applicable if research is not directly related to folk knowledge of a bio-resource. Six months' period for approval system is a long period.</p> <p><b>Justification of the EC</b></p> <p>The suggestion of NMPB to simplify the procedures may be considered and the EC has already made recommendations on this subject.</p> <p>The remaining suggestion may not fit within the existing provisions of the Act.</p>	
<p><b>19(2)</b> Every application under sub- rule (1) shall be accompanied by a fee of ten thousand rupees in the form of Bank draft or cheque drawn in favour of the Authority.</p>	<p><b>19(2)</b> Every application under sub-rule (1) shall be accompanied by a prescribed fee to be paid in electronic form to the National Biodiversity Fund.</p>	<p><b>19(2)</b> Every application under sub-rule (1) shall be accompanied by a <del>prescribed</del> fee, <b>as notified</b>, to be paid in electronic form to the National Biodiversity Fund.</p>	<p><b>MoTA:</b> There must be provision for EMD (refundable / adjustable)/ advance for settlement of claims of benefit claimers, in case of future revocation. Is revocation of transfer possible, in case of misuse? Further, are repeated transfers possible and do they need NBA's approval? How are interests of benefit claimers protected in case of repeated transfers?</p> <p><b>Justification of the EC:</b></p>	

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			EC welcomes the suggestion, however, left to the discretion of the Authority to take a view on this.	
<b>19(3)</b> The Authority shall after collecting any additional information, decide upon the application as far as possible within a period of six months of receipt of the same.	<b>19(3)</b> The Authority shall after collecting such additional information from the applicant and other sources, and on being satisfied with the merit of the application under sub-rule (1), take a decision on granting approval or otherwise within a period of 90 days subject to such terms and conditions as it may deem fit.	<b>19(3)</b> The Authority shall after collecting such additional information from the applicant and other sources, and on being satisfied with the merit of the application under sub-rule (1), take a decision on granting approval or otherwise within a period of 90 days subject to such terms and conditions as it may deem fit.	<b>MoTA:</b> The free and informed consent of the Gram Sabha under the FRA, 2006 shall be also taken.  <b>Justification of the EC:</b>  The issue has been discussed and addressed above.	
<b>19(5)</b> The approval as may be granted under sub-rule (4) in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement shall be such as may be decided by the Authority.	<b>19(5)</b> The approval to access shall be in the form of a written agreement between the applicant and the Authority within a further period of 90 days.	<b>19(5)</b> The approval to access shall be in the form of a written <b>tripartite</b> agreement between the applicant and the Authority within a further period of 90 days.	<b>MoTA:</b> The Gram Sabha, in FRA, 2006 areas should also be a signatory to the agreement.  <b>Justification of the EC:</b>  The suggestion of the MoTA to provide for time extension for submitting agreement by applicant has been considered and incorporated as proviso clause under rules 14(5), 17(5), 18(5) and 19(5).	<b>19(5)</b> The approval to access shall be in the form of a written <b>tripartite</b> agreement between the applicant and the Authority within a further period of 90 days.  Provided that on the request of the applicant, the Authority may consider extending the period of signing the agreement up to a further period of 90 days

<b>Text of the Existing BD Rules, 2004</b>  (1)	<b>Final Text of the Rules as Proposed by the Expert Committee</b>  (2)	<b>56<sup>th</sup> Authority's decision / Final Text</b>  (3)	<b>Comments of the Authority Members and Justification of the EC</b>  (4)	<b>Revisions effected by the EC held and approved by the 59<sup>th</sup> Authority</b>  (5)
				on reasonable grounds on case-by-case basis. If the agreement is not been signed within the period mentioned above, the application shall be deemed to have been withdrawn by the applicant.
<b>20 Criteria for equitable benefit sharing (Section 21)</b>	<b>20 Criteria for determining fair and equitable benefit sharing</b>	<b>20 Criteria for determining fair and equitable benefit sharing</b>		
<b>20(2)</b> The guidelines shall provide for monetary and other benefits such as royalty; joint ventures; technology transfer; product development; education and awareness raising activities; institutional capacity building and venture capital fund.	<b>20(2)</b> The regulations notified by the Authority shall provide for monetary and non-monetary benefits such as royalty, upfront payments, joint ventures; technology transfer, product development, education and awareness raising activities, institutional capacity building and venture capital fund.	<b>20(2)</b> The regulations notified by the Authority shall provide for monetary and <del>and</del> <b>/or</b> non-monetary benefits such as royalty, upfront payments, joint ventures; technology transfer, product development, education and awareness raising activities, institutional capacity building and venture capital fund.	<p><b>MoTA:</b> The inclusion of non-monetary benefits is welcome. However, this should not replace monetary benefits, but must be supplemental. Since tribal communities are likely to be economically weaker, monetary benefits would be more appreciable. Further, instead of a one-time settlement, the focus should be on continual benefit sharing, as and when the commercial utilization takes place. Further, the benefits must be tangible and capable of being utilized by the community/individuals. Endowment funds for the welfare of the local communities may be a part of the non-monetary/quasi monetary benefits.</p> <p><b>Justification of the EC:</b></p>	

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			<p>The benefit sharing component is determined in monetary or non-monetary terms or both, on case-by-case basis as per the ABS Regulations, 2014. The users are obligated to pay the benefit sharing component annually to NBA during the tenure of the agreement.</p> <p>Hence, the concerns of the MoTA are adequately addressed.</p>	
<p><b>20(3)</b> The formula for benefit sharing shall be determined on a case-by case basis</p>	<p><b>20(3)</b> The benefit sharing shall be determined on a case-by-case basis.</p>	<p><b>20(3)</b> The benefit sharing shall be determined on a case-by-case basis.</p>	<p><b>MoTA:</b> There shall be a standardized protocol developed in consultation with the local communities /Gram Sabha / forest right holders to determine the amount and nature of monetary as well as nonmonetary benefits to be accrued, since the community may or may not have adequate negotiation power. And aspect of benefit sharing, shall not be determined on ad-hoc (case to case) basis. The principles and procedure of benefit sharing should be transparent and as prescribed / notified.</p> <p><b>Justification of the EC:</b></p> <p>On behalf of the communities, the Act empowers NBA to negotiate the benefit sharing component with the user and share such benefits with the concerned benefit claimers.</p>	

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			For having transparency in the principles and procedures for determining benefit sharing component, the NBA issued ABS Regulations, 2014.	
<b>20(4)</b> The Authority while granting approval to any person for access or for transfer of results of research or applying for patent and IPR or for third party transfer of the accessed biological resource and associated knowledge may impose terms and conditions for ensuring equitable sharing of the benefits arising out of the use of accessed biological material and associated knowledge.	<b>20(4)</b> While granting approval to any person for access for research or for bio-survey and bio-utilization or for commercial utilization or for transfer of results of research or for intellectual property rights or for third party transfer of the accessed biological resource and or associated knowledge, terms and conditions may be imposed for ensuring equitable sharing of the benefits arising out of the use of accessed biological resources and or associated knowledge.	<b>20(4)</b> While granting approval to any person for access for research or for bio-survey and bio-utilization or for commercial utilization or for transfer of results of research or for intellectual property rights or for third party transfer of the accessed biological resource and or <b>associated traditional and contemporary knowledge</b> , terms and conditions may be imposed for ensuring equitable sharing of the benefits arising out of the use of accessed biological resources and or associated knowledge.	<b>MOTA:</b> This Section needs to be read along with Section 3(1)(k) of FRA and accordingly modified. Traditional knowledge cannot be transferred by applicants/ researchers/ commercial entities / patent seekers/patent holders. This knowledge is the property imbued with the community and only the utilization of this knowledge can be transferred. Only the community / individual who is the traditional knowledge bearer has the rights to transfer such knowledge. Such persons should be exempted from seeking approval of the NBA. However, the transferee should apply for such transfer, and the sharing of benefits should be fair and equitable, as prescribed especially for such cases.  <b>Justification of the EC:</b>  The Act provides for regulating the access to traditional knowledge by any person for research/commercial utilization but it is subject to the consent of the holders of the such knowledge and also users' needs to share the benefits with such rights holders.	

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			Further, traditional knowledge alone cannot be transferred to any person under the Act except used as part of research. Thus, the concerns of the MoTA are adequately addressed in the existing Rules and Regulations.	
<b>20(5)</b> The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Authority in consultation with the local bodies and benefit claimers and may be decided in due regard to the defined parameters of access, the extent of use, the sustainability aspect, impact and expected outcome levels, including measures ensuring conservation and sustainable use of biological diversity.	<b>20(5)</b> The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Authority in consultation with the Biodiversity Management Committees or local bodies and benefit claimers and may be decided with due regard to the defined parameters of access, the extent of use, impact and expected outcome levels, nature of technology applied, time-lines, milestones fixed from the initiation of research to the development of the product and risks involved in the commercialization of the product including measures ensuring conservation and sustainable use of biological diversity.	<b>20(5)</b> The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Authority in consultation with the Biodiversity Management Committees or local bodies and benefit claimers and may be decided with due regard to the defined parameters of access, the extent of use, impact and expected outcome levels, nature of technology applied, time-lines, milestones fixed from the initiation of research to the development of the product and risks involved in the commercialization of the product including measures ensuring	<b>MoTA:</b> The quantum of benefits should be determined on well-laid down prescribed principles.  For consultation add local communities who have been traditionally and customarily conserving and preserving such bio-resource or holders of forest rights or local bodies. Add in determinant of benefit sharing capacity of natural regeneration of the resource. One of the determinants of quantum of benefit sharing should be the risk to the livelihood of the local community. Where the local community is a tribal community, the risks to the social and cultural life of the community must also be taken into account.  <b>Justification of the EC:</b> The ABS Regulations, 2014, provide for the quantum of benefits which should be determined under different scenarios.	



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		conservation and sustainable use of biological diversity.		
<b>20(6)</b> Depending upon each case, the Authority shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits.	<b>20(6)</b> The Authority shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits, on case-by-case basis.	<b>20(6)</b> The Authority shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits, on case-by-case basis.	<b>MoTA:</b> The time frame for assessing benefit sharing should be on a transparent and well laid down procedure, which should be prescribed. The fair and informed consent of the benefit claimers should be obtained in each case.  <b>Justification of the EC:</b>  NBA is granting approval in the form of agreement. The user is obligated to pay the benefit sharing component annually or as agreed with the NBA as per the agreement conditions.	
	<b>20A(1)</b> The Authority shall stipulate measures for utilization and monitoring of the accrued benefits for conservation and sustainable use of biological diversity including channelling benefits to the benefit claimers, conservation and promotion of biological resources, socio-economic development of areas from where the biological resources and or	<b>20A(1)</b> The Authority shall stipulate measures for utilization and monitoring of the accrued benefits for conservation and sustainable use of biological diversity including channelling benefits to the benefit claimers, conservation and promotion of biological resources, socio-economic development of areas from where the biological	<b>MoTA:</b> There shall be standardized protocol devised in consultation with the local communities and traditional knowledge holders regarding methods of benefit sharing with stipulated timelines for passing on the monetary sharing with the knowledge holders. Other activities in terms of socio-economic development of areas shall be concentrated in the areas from which the benefits accrued in each case.  <b>Justification of the EC:</b>	



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	the associated knowledge have been accessed or occur.	resources and or the associated <b>traditional and contemporary knowledge</b> have been accessed or occur.	Section 27 (2) of Act talks about the modalities on sharing the benefits with benefit claimers / communities. The ABS Regulations, 2014 also provide mechanism for sharing the benefits with benefit claimers. Hence, the concerns of the MoTA have already been adequately addressed.	
	<b>20A(2)</b> All monetary benefits shall be deposited in the National Biodiversity Fund.	<b>20A(2)</b> All monetary benefits shall be deposited in the National Biodiversity Fund.	<b>MoTA:</b> It is preferable that the funds may be deposited in separate accounts for each area. Further, there must be prescribed timelines by which the amount is utilized. DBT to individual/institutional benefit claimers must be stipulated.  Justification of the EC:  As prescribed under the rule 21(2), there are two separate heads of accounts being maintained in the NBA.  With regard to timelines for sharing benefits, as in most of the cases, biological resources are being accessed from the market/ traders and it may not be possible to identify the benefit claimers.  The benefits received from the such users will be utilized for  (i) conservation and promotion of biological resources and development of areas from	

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			where such biological resources or knowledge associated thereto has been accessed; and (ii) socio-economic development of areas in consultation with the local bodies concerned.	
	<b>20A(3)</b> Where biological resource(s) and or associated knowledge are accessed from a specific individual or a group of individuals or organizations, the Authority may take steps to ensure that the agreed amount is paid directly to them as deemed fit or through the State Biodiversity Board concerned.	<b>20A(3)</b> Where biological resource(s) and or associated <b>traditional and contemporary</b> knowledge are accessed from a specific individual or a group of individuals or organizations, the Authority may take steps to ensure that the agreed amount is paid directly to them as deemed fit or through the State Biodiversity Board concerned.	<b>MoTA:</b> To the extent possible, this is desirable for all beneficiaries, especially since there would be considerable time between the research stage and the commercialization stage to enable the NBA to determine the benefit claimers.  <b>Justification of the EC:</b> The issue has been discussed and addressed above.	
<b>22 Constitution of Biodiversity Management Committees</b>	<b>22 Constitution and functions of Biodiversity Management Committees</b>	<b>22 Constitution and functions of Biodiversity Management Committees</b>		
<b>22(1)</b> Every local body shall constitute a Biodiversity Management Committee (BMCs)	<b>22(1)</b> Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.	<b>22(1)</b> Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.	<b>MOTA:</b> BMC to be CFRC as brought out earlier, if permissible under the Act as it stands today. If not, this should be considered under the amended Act. However, it must be ensured that there must be communication, harmony and synchrony	

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<p>within its area of jurisdiction.</p>			<p>between the CRFC and the BMC in whichever formulation is decided upon.</p> <p><b>Justification of the EC:</b></p> <p>This has been discussed and addressed under rule 22(2).</p>	
<p><b>22(2)</b> 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.</p>	<p><b>22(2)</b> The composition of the Biodiversity Management Committee shall be as prescribed by the State Government.</p> <p>Provided that the Biodiversity Management Committee as constituted under sub-rule (1) shall consist of a Chairperson and not less than six and not exceeding ten members nominated by the local body, of whom not less than one third should be women and not less than 18% belonging to the Scheduled Castes and or Scheduled Tribes.</p> <p>Provided further that, in addition to the members mentioned in the above proviso, the Biodiversity Management Committee may</p>	<p><b>22(2)</b> The composition of the Biodiversity Management Committee shall be as prescribed by the State Government.</p> <p>Provided that the Biodiversity Management Committee as constituted under sub-rule (1) shall consist of a Chairperson and not less than six and not exceeding ten members nominated by the local body, of whom not less than one third should be women and not less than 18% belonging to the Scheduled Castes and or Scheduled Tribes.</p> <p>Provided further that, in addition to the members</p>	<p><b>Justification of the EC:</b></p> <p>As per section 41(1) of the BD Act, every local body shall constitute a BMC which functions on behalf of gram sabha/local body and is elected out of the members of the gram sabha. Gram sabha/local body may not be able to perform day to-day functions under the BD Act.</p> <p>In order to ensure that rights of the forest rights holders are protected, the EC decided that chairman or member of the committee constituted to implement section 5 of FRA 2006 will also be included as member of the BMC.</p>	<p><b>22(2)</b> The composition of the Biodiversity Management Committee shall be as prescribed by the State Government.</p> <p>Provided that the Biodiversity Management Committee as constituted under sub-rule (1) shall consist of a Chairperson and not less than six and not exceeding ten members nominated by the local body, of whom not less than one third should be women and not less than 18% belonging to the Scheduled Castes and or Scheduled Tribes.</p> <p>Provided further that, wherever committee has</p>

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	include <i>ex officio</i> members not exceeding four, representing the concerned departments of the State Government. The <i>ex officio</i> members shall not have any voting rights. The Biodiversity Management Committee may co-opt local experts for technical support.	mentioned in the above proviso, the Biodiversity Management Committee may include <i>ex officio</i> members not exceeding four, representing the concerned departments of the State Government. The <i>ex officio</i> members shall not have any voting rights. The Biodiversity Management Committee may co-opt local experts for technical support.		been constituted to implement Section 5 of FRA 2006, the chairperson or one of the members of that committee shall be the member of the BMC, in addition to the members mentioned in the above proviso, the Biodiversity Management Committee may include <i>ex officio</i> members not exceeding four, representing the concerned departments of the State Government. The <i>ex officio</i> members shall not have any voting rights. The Biodiversity Management Committee may co-opt local experts for technical support.
<b>22(6)</b> 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	<b>22(6)</b> The State Government shall prescribe the functions of the Biodiversity Management Committee for promoting conservation, sustainable use and documentation of biological diversity and associated	<b>22(6)</b> The State Government shall prescribe the functions of the Biodiversity Management Committee for promoting conservation, sustainable use and documentation of biological diversity and	<b>MoTA:</b> The CFRC constituted under Rule 4(1 )(e) under the FRA, 2006 prescribes the composition and function of the CFRC. Considering that similar functions are envisaged for the BMC, under these Rules, there is a need to ensure that the two committees' function in harmony and synchronization. While this Ministry is of the view that the CFRC may itself function as the	

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availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.	knowledge as referred to in section 41 of the Act.	associated knowledge as referred to in section 41 of the Act.	BMC, there is an absolute necessity to ensure that the two committees communicate with each other well.  <b>Justification of the EC:</b> It has been discussed and addressed above.	
	<b>22(6A)</b> The documentation of the biological diversity shall be in the form of People's Biodiversity Register as prescribed by the Authority, preferably in electronic form, which shall contain comprehensive information on availability and associated knowledge of local biological resources and their use.	<b>22(6A)</b> The documentation of the biological diversity shall be in the form of People's Biodiversity Register as prescribed by the Authority, preferably in electronic form, which shall contain comprehensive information on availability and <b>associated traditional and contemporary knowledge</b> of local biological resources and their use.	<b>MOTA:</b> The People's Biodiversity Register should be in correspondence with the local records in the matter, if any. Any divergence from the local records must be reconciled so that the local bodies are able to utilize this register to the fullest extent. Further, it must be ensured that the local bodies are equipped with the necessary infrastructure and skills to keep the records electronically. The NBA fund may be used for this purpose wherever such resources are not available.  <b>Justification of the EC:</b>  The Peoples' Biodiversity Register is documenting the biological resources and associated knowledge thereto whereas other records held in the local bodies are majorly relating to revenue records.	
	<b>22(6C)</b> The State Biodiversity Board with the prior approval of the State Government may prescribe guidelines for	<b>22(6C)</b> The State Biodiversity Board with the prior approval of the State Government may	<b>MOTA:</b> Under FRA, 2006, the Gram Sabha is entitled to charge a fee against extraction of Minor Forest Produce and its commercial use. The proposed fee would be an	

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	collection fee to be charged by the Biodiversity Management Committee including registration of persons dealing in collection of biological resources from their jurisdiction.	prescribe guidelines for collection fee to be charged by the Biodiversity Management Committee including registration of persons dealing in collection of biological resources from their jurisdiction.	<p>additional one to this fee. The forest rights holders both individuals and communities have rights over the biological resources within the areas in which they hold rights. A registration of these persons under the BD Rules may not be called for. All Forest right holders may be recognized under this Act also by virtue of their being recognized under the FRA, 2006.</p> <p><b>Justification of the EC:</b></p> <p>The collection fee by the BMC is provided under 41(3) of the BD Act and it cannot be omitted in the rules.</p> <p>Both BD Act and FRA provide for two different committees to collect fee which are meant for different purposes. It may not be in conflict to each other.</p>	
<b>22(7)</b> The other functions of the BMC are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local voids and practitioners using the biological resources.	<b>22(7)</b> The Biodiversity Management Committee shall advise on any matter referred to it by the State Biodiversity Board or Authority for taking any decision relating to the use of biological resources and or associated knowledge. Biodiversity Management Committee shall maintain data about the local <i>voids</i> and	<b>22(7)</b> The Biodiversity Management Committee shall advise on any matter referred to it by the State Biodiversity Board or Authority for taking any decision relating to the use of biological resources and or associated <b>traditional and contemporary</b> knowledge. Biodiversity Management Committee	<b>MOTA:</b> This should include data regarding traditional knowledge and skill holders as well as forest right holders having recognized and claimed rights of FRA regarding inter alia right of ownership, access to collect, use, and dispose of minor forest produce, fisheries and other products of water bodies grazing and access to biodiversity including intellectual property to traditional knowledge which has been accessed practiced and collected traditionally. The traditional use of biological	

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	practitioners using the biological resources.	shall maintain data about the local <i>vaid</i> s and practitioners using the biological resources.	resources by these persons should not be interfered with by the BMC.  <b>Justification of the EC:</b>  The ownership, access to collect, use, and dispose of minor forest produce and related traditional knowledge by communities/ individuals under FRA for their day-to-day needs are exempted from the purview of the BD Act.	
	<b>22(7A)</b> The Biodiversity Management Committee shall advise the State Government on areas of biodiversity importance to be notified as Biodiversity Heritage Sites.	<b>22(7A)</b> The Biodiversity Management Committee shall advise the State Government on areas of biodiversity importance to be notified as Biodiversity Heritage Sites.	<b>MOTA:</b> It should be ensured that no interference in access to the forest rights holders as well as local communities' access to their traditional and customary, cultural practices and livelihood takes place. Further, the declaration of such Heritage sites should not be harmful to the social and cultural practices of local tribes.  <b>Justification of the EC:</b>  As per section 37 of the Act, the declaration of Biodiversity Heritage Sites is intended for conservation of the areas which are rich in biodiversity only. Such sites mostly fall outside the forest areas. Thus, it does not cause any harm to the social and cultural practices of local tribes.	
<b>22(8)</b> The Authority shall take steps to specify the form of the	<b>22(8) deleted</b>		MoTA: In the event of breach of conditions viz accessed more quantity/ loss of bioresources, etc., gram sabha/ CFRC may	22(8) the conditions stipulated under clause (ii), (vii) and (xii) of sub-rule (6)



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<p>People's Biodiversity Registers, and the particulars it shall contain and the format for electronic database.</p>			<p>be allowed to take corrective measures since they are empowered to do so under the FRA, 2006</p> <p><b>Justification of the EC:</b></p> <p>EC observed that BMCs are able to monitor any breach of conditions made by the user's while accessing the biological resources. However, provisions of the Act/Rules do not provide any powers to BMC to act in such situations.</p> <p>Thus, EC decided to incorporate a separate sub-rule on monitoring of certain conditions provided under rule 14 by the BMC and prohibit or restrict access to biological resource, if any contravention of conditions is noticed and report the same to the SBB.</p>	<p>of rule 14, shall be monitored by the Biodiversity Management Committee concerned.</p> <p>The BMC may, in case of contravention of these conditions, shall prohibit or restrict access to biological resources and report to the State Biodiversity Board.</p>
<p><b>22(9)</b> The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.</p>	<p><b>22(9)</b> The Biodiversity Management Committee shall function under the guidance and technical support provided by the State Biodiversity Board.</p>	<p><b>22(9)</b> The Biodiversity Management Committee shall function under the guidance and technical support provided by the State Biodiversity Board.</p>	<p><b>MoTA:</b> The role of the CFRC vis a vis the BMCs should be kept in view by the State Government in this regard.</p> <p><b>Justification of the EC:</b></p> <p>Defining specific role of the BMC falls within the functions of the State Government and the same is dealt under State Specific Biological Diversity Rules.</p>	



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			However, for synchronizing the functioning of both the committees, the EC proposed to have a chairman or member of the committee implementing section 5 of the FRA, as member of the BMC.	
<b>22(11)</b> 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.	<b>22(11)</b> The Biodiversity Management Committee shall also maintain a Register having information about the details of the access granted to biological resources and or associated knowledge, details of the collection fee charged, details of monetary and non-monetary benefits derived and their mode of sharing.	<b>22(11)</b> The Biodiversity Management Committee shall also maintain a Register having information about the details of the access granted to biological resources and or associated <b>traditional and contemporary</b> knowledge, details of the collection fee charged, details of monetary and non-monetary benefits derived and their mode of sharing.	<b>MoTA:</b> This information shall be public information since these details are published in the website of the NBA. Further, these details should be communicated to the local bodies/Gram Sabha which should also keep a list of such details.  <b>Justification of the EC:</b>  EC has proposed modifications in rule 14(10) stating that State Biodiversity Boards shall publish the approvals granted at the local body levels.	

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<p><b>23(2)</b> In case the dispute arises between a State Biodiversity Board and another state Biodiversity Board or Boards, the aggrieved Board or Boards, shall prefer the point or points of dispute to the Central Government which shall refer the same to the Authority.</p>	<p><b>23(2)</b> In case a dispute arises between a State Biodiversity Board and another State Biodiversity Board or Boards, the aggrieved Board or Boards, shall prefer the point or points of dispute to the Central Government in the format as may be prescribed, which shall refer the same to the Authority for comments.</p>	<p><b>23(2)</b> In case a dispute arises between a State Biodiversity Board and another State Biodiversity Board or Boards, the aggrieved Board or Boards, shall prefer the point or points of dispute to the Central Government in the format as may be <b>notified prescribed</b>, which shall refer the same to the Authority for comments.</p>	<p><b>MOTA:</b> The NBA may consider the following new Rule to be inserted:</p> <p>23(2a) Disputes between BMC and CFRC/Gram Sabha/local body may be referred to the DLC under the FRA, 2006 which consists of both the DFO and the District Collector. Alternatively, the SLMC under the FRA, 2006 and State Biodiversity Board collectively may be the dispute resolution forum. They shall be assisted by the DLC in this regard.</p> <p><b>Justification of the EC:</b> The provision of the Act do not provide any scope to include rules to settle disputes between BMC and FRC/gram sabha/local body.</p>	