



सत्यमेव जयते



## **NATIONAL BIODIVERSITY AUTHORITY**

### **PROCEEDINGS OF THE 63<sup>rd</sup> AUTHORITY MEETING**

**29<sup>th</sup> November 2021**

#### **Venue**

**Indus Hall  
Ministry of Environment, Forest and Climate Change,  
Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi-  
110003**

**Proceedings of the 63<sup>rd</sup> Authority Meeting of the National Biodiversity Authority,  
held on 29<sup>th</sup> November, 2021**

The 63<sup>rd</sup> Authority meeting of the National Biodiversity Authority (NBA) was held on 29<sup>th</sup> November, 2021 at the Indus Hall of Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, New Delhi under the Chairmanship of Dr. V.B. Mathur, Chairman, National Biodiversity Authority. The list of participants is placed as **Annexure-I**.

2. Dr.V.B. Mathur, Chairperson, NBA welcomed all the Authority members participating through both offline and online mode in the meeting. He also welcomed Dr. Anil Kumar and Dr. Arpita, NIC for the meeting. He explained to the members that a presentation on Access and Benefit Sharing (ABS) E-filing Portal by the NIC team was organised based on the request of the esteemed members in the 62<sup>nd</sup> Authority meeting held on 21<sup>st</sup> September, 2021. He further mentioned that Dr. Arpita, NIC would present the ABS e-Filing – online application process developed by NIC for NBA to facilitate the ABS mechanism.

3. Dr. Arpita gave a detailed description of the technology used in developing the ABS E-filing software and its workflows in the Phase-I. She further explained the process of the ABS E-filing in detail from both the applicant end and the NBA. The members were also informed that this process will be soon integrated into Parivesh 2.0.

The members appreciated the process and suggested the following:

1. A Management Information System (MIS) should be in place for transparency to review the status of an application by Chairman, NBA. Further, there may be a mechanism developed to identify delays in the application process at both ends and if needed reminders may be sent to the applicant if the delay is at the applicant end.
2. The portal may include statistical analysis for NBA to analyse various trends in the applications.
3. The applications may have more drop down menus for the applicant to select options for the questions asked in the application and to ease the process at the applicant end.
4. A Grievance Module may be developed and placed along with Feedback Module.
5. Applicant may also view the status of the application at the NBA end.



6. Applicant may be given a ID similar to Intelligent number which is unique and also includes details of the entity and the place where the bio-resource is accessed in a code form similar to Dharpan. This number may be given a hyperlink to give bare details to help in monitoring of the bio-resources and will also be useful for Direct Benefit Sharing.

Chairman, NBA proposed that MoEF&CC may consider funding NBA to develop the Phase –II of the ABS E-Filing process through NIC.

4. Thereafter, Shri. J. Justin Mohan, Secretary, NBA presented the agenda items as under:

#### **63.01 Confirmation of the Proceedings of the 62<sup>nd</sup> Authority meeting**

The draft proceedings of the 62<sup>nd</sup> Authority meeting of the National Biodiversity Authority held on 21<sup>st</sup> September, 2021 at MoEF&CC with the comments received from Dr. Alka Rao, and Dr. Unnat Pandit incorporated accordingly were confirmed by the Authority members.

**Decision:** The members confirmed the Proceedings of the 62<sup>nd</sup> Authority meeting.

**Action: NIL**

#### **63.02 Action Taken Report of the 62<sup>nd</sup> Authority Meeting**

The Secretary, NBA apprised the members about the actions taken and actions that are in progress on the decisions taken in the 62<sup>nd</sup> Authority Meeting. The members opined that the action taken mentioned for the Agenda 62.04 may be rephrased to the following with striking off the last segment of the sentence:

*"A Sub-Committee chaired by Shri. K.S. Sugara, IFS and comprising Dr. S. Elumalai, Dr. V.G. Malathi, Dr. M. Sanjappa and Dr. D. Narasimhan, has been formed to reexamine the benefit sharing amount to be paid upfront by entities before accessing biological resources and associated knowledge for research for a commercial activity and also levy of royalty for IPR applications ~~at the time of according approvals by NBA~~".*

Further, members requested information on the action taken regarding the financial assistance of Rs. 1,00,000 to the concerned BMC to establish Biodiversity Heritage Sites and develop its Management Plan(s) as approved in the 62<sup>nd</sup> Authority meeting (Agenda No. 62.06). To this Chairman, NBA responded that the token financial assistance has been given to 11 BMCs till date to develop its Management Plan(s). Further, members deliberated that clear guidelines may be developed for identifying, managing and monitoring the Biodiversity Heritage Sites. To this Chairman, NBA mentioned that a Working Group under the chairmanship of Shri.



A.K. Gupta is in the process of revising the guidelines which would be placed in the next Authority meeting. He also mentioned that the report on the activities carried out in Biodiversity Heritage Sites would be shared with the members.

The members when deliberating on the Agenda No. 62.16 opined that eminent persons having expertise on database viz. EMBL, bioinformatics and Intellectual Patent Rights may also be considered for the Expert Committee on DSI. Dr. Alka Rao, Dr. Chaitra and Dr. Unnat Pandit mentioned that they would suggest some eminent professionals from premier Institutions such as DBT, Indian Institute of Science (IISc), Centre for Cellular & Molecular Biology (CCMB) and the Patent office who may be considered to be added in the Expert Committee on DSI.

Further, the members requested an update on the proposed Amendments to the Biological Diversity Act, 2002 and Biological Diversity Rules, 2004. To this, Dr. Kerketta, Advisor, MoEF&CC updated the members that the amendment proposed would be shared with the Authority members soon.

**Decision:** a. Members noted the action taken on the decisions taken during the 62<sup>nd</sup> Authority meeting.

b. The members may suggest few eminent persons to be considered as members of Expert Committee on DSI.

**Action: Secretary**

#### **63.03: ABS applications dealt by the Secretariat**

Based on the EC report, Authority in its 54<sup>th</sup> and 55<sup>th</sup> meeting vide agenda no. 54.20.03, endorsed the recommendation that NBA Secretariat may continue to deal the applications based on the set precedence. Accordingly, NBA vide O/o dated 19th March 2020 issued an order for processing ABS application in NBA without referring to Expert Committee on ABS. However, in case of any contravention/ difficulty such cases alone are to be placed in the EC on ABS for examination.

Accordingly, so far the NBA Secretariat has cleared 152 (Form I-27, Form II-1, Form III-125) applications (Annexure III) and 183 (Form I- 30, Form III- 153) agreements signed (Annexure IV) and closed 16 (Form I-3, Form-II-2, Form III- 11) applications (Annexure V) between September and November 2021.

**Decision:** The applications cleared and executed by NBA were noted by the Authority.

**Action: NBA Secretariat**



**63.04: Proceedings of the 64<sup>th</sup> meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) held on 26th October 2021**

The 64<sup>th</sup> meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 26th October 2021 at the National Biodiversity Authority, Chennai. A total of 24 applications were placed before the EC for examination, wherein 23 applications were recommended for approval before the Authority and 1 application was deferred for conducting a virtual hearing with the applicant.

Secretary, NBA informed the members that the clarifications sought by them were placed in this EC on ABS as a separate agenda and was deliberated. In this regard, Secretary, NBA explained that the members of the EC observed that a Sub-Committee chaired by Shri. K.S. Sugara, IFS and comprising Dr. S. Elumalai, Dr. V.G. Malathi, Dr. M. Sanjappa and Dr. D. Narasimhan, can be formed to re-examine the benefit sharing amount to be paid upfront by entities before accessing biological resources and associated knowledge for research for a commercial activity and also levy of royalty for IPR applications.

To this, the members opined that the NBA cannot levy royalty for IPR applications at the time of according approvals and the sentence may be rephrased to the following:

*"A Sub-Committee chaired by Shri. K.S. Sugara, IFS and comprising Dr. S. Elumalai, Dr. V.G. Malathi, Dr. M. Sanjappa and Dr. D. Narasimhan, has been formed to re-examine the benefit sharing amount to be paid upfront by entities before accessing biological resources and associated knowledge for research for a commercial activity and also levy of royalty for IPR applications ~~at the time of according approvals by NBA~~".*

Secretary, NBA further explained that the Expert Committee on ABS observed that NBA was well within its rights to impose benefit sharing covering the gains made by the patent holder holding a monopoly right while commercially exploiting the patent product or process and also has to share a portion of the monetary consideration received by him/her at the time of assigning the patent to a third party and while receiving an annual royalty for the same.

**Decision: a.** The Authority approved the recommendations of the 64<sup>th</sup> EC on ABS.

**b.** The Authority approved the formation of the sub-committee to re-examine the the benefit sharing amount to be paid upfront by entities before accessing biological resources and associated knowledge for research for a commercial activity

**Action: NBA Secretariat**



**63.05: To consider draft Annual report of NBA for the year 2020-21**

The draft annual report on the activities of NBA for the year 2020-21 was placed for consideration before the Authority as Annexure VIII. Secretary, NBA informed that on approval of the draft Annual Report by the Authority, it will be forwarded to the MoEF&CC for placing on the table of the Parliament.

**Decision:** The Authority approved draft Annual report of NBA for the year 2020-21 along with the accounts.

**Action: NBA Secretariat**

**63.06 Ratification of decisions on Form-B applications**

Under agenda item 32.06 of 32<sup>nd</sup> Authority meeting, it was decided as follows:

- a) *The Chairman, NBA is authorized to accord approval or otherwise for Form- B applications, without referring to the SBB and the EC on ABS.*
- b) *The approval or otherwise on the applications accorded shall be placed in the subsequent authority meetings for ratification.*

Secretary, NBA informed that Chairperson, NBA has granted approval for 06 applications and withdrawn approval of 01 **Form-B** applications and was ratified by the members.

**Decision:** The Authority members considered and ratified the decisions taken on the 07 Form B applications

**Action: Nil**

**63.07: Details of Form-C applications received by the NBA**

The Authority in its 37th meeting held in March 2016 under agenda item 37.14.02, decided that the Indian researchers / scientists should provide prior intimation to the NBA in the prescribed format viz., Form-C for deposition of microorganisms in other country's repository for claim of novel species for publication in journals. However, if any non-Indian person/entity intends to access the deposited Indian biological resource from the foreign



repository, he/she should obtain the prior approval of NBA as per Section 3 of the BD Act, 2002. NBA has received 231 such intimations since March 2016 – November 2021 and the same have been reported to the Authority from time to time.

Secretary, NBA informed that since September 2021, the Secretariat has received sixteen Form-C applications and the members noted it.

**Decision:** The information submitted in this regard was noted.

**Action:** NIL

**63.08: Non-Disclosure Agreement between Council of Scientific and Industrial Research – Traditional Knowledge Digital Library (CSIR-TKDL), New Delhi and National Biodiversity Authority (NBA), Chennai.**

Chairman, NBA apprised the members that CSIR-TKDL and NBA had signed a Non-Disclosure Agreement (NDA) on 16th September, 2019 for evaluating and identifying modalities for possible inclusion of information from People's Biodiversity Register (PBR) into Traditional Knowledge Digital Library Database (TKDL). The NDA has helped both NBA and CSIR-TKDL to deliberate and understand the nature and content of information existing in PBR and TKDL with a view to decide the future course of action.

He further deliberated that CSIR-TKDL has an excellent and in-depth experience in setting up International specifications and standards for about 34 million pages of text related to Indian Systems of Medicine (ISM), covering about 2.45 lakh medicinal formulations existing in languages such as Sanskrit, Urdu, Arabic, Persian and Tamil through the devising of Traditional Knowledge Resource Classification (TKRC) as per the International Patent Classification (IPC).

Chairman, NBA added that it would be useful for both NBA and CSIR-TKDL to develop a common platform integrating the information in TKDL and PBR that would be mutually beneficial to the implementation of the objectives of the Biological Diversity Act, 2002, particularly the Access and Benefit Sharing provisions. He further mentioned that a draft non-disclosure agreement developed will be legally vetted by both the parties before executing the agreement.

Dr. Unnat Pandit mentioned that the agreement should have milestones and targets that have to be achieved and appreciated the effort taken. He further mentioned that this will help in identifying the benefit claimers for sharing the benefits.

The CEO, NMPB, Ministry of AYUSH mentioned that the AYUSH Ministry also has a



codified document of medicinal plants used in Ayurveda, Siddha and Unani. She further mentioned that TKDL data has not been shared with the AYUSH Ministry. To this, Chairman, NBA responded that the CSIR-TKDL is in the process of moving a Cabinet Note on how and what data to share from the TKDL database.

The members further deliberated on the quantum of data that would arise from the CSIR-TKDL and PBR data and its monitoring along with the safeguards to be put in place in the context of traditional knowledge .

Dr. Chaitra opined that the Authority has the power to sign an agreement with any partner or stakeholder after due diligence. Further, Chairman, NBA explained that the proposal of signing a non-disclosure agreement with CSIR-TKDL will be submitted for examination and approval to the MoEF&CC after it has been approved by the Authority.

Dr. Alka Rao opined that preparation of electronic-PBR (e-PBR) may be included in the curriculum of the new National Education Policy to create awareness among school children about the Indian biodiversity and its associated knowledge. Dr. Chaitra suggested that this is the right time for NBA to put in efforts to include preparation of e-PBR in the National Education Policy. He mentioned that the Government is in the process of revising school textbooks under the Chairmanship of Dr. K. Kasturirangan as the head of a 12-member steering committee responsible for developing a new National Curriculum Framework (NCF) and textbooks. Dr. Chaitra suggested that NBA may develop a proposal on adding preparation of e-PBR and its importance in the curriculum of school children at the earliest before the new NCF is finalized.

Dr. Unnat Pandit opined that few chapters may be written on our rich biodiversity and its history in the textbooks of Biology or Environmental science or social studies for classes 9<sup>th</sup> to 12<sup>th</sup> standards.

**Decision:** a. The members decided that the Non-Disclosure Agreement with CSIR-TKDL should include milestones to be achieved and may be executed with caution and after legal vetting of the agreement.

b. The members decided that the preparation of e-PBR and its importance may be included in the curriculum of the new National Education Policy

c. The members decided that few chapters on the Indian rich biodiversity may be prepared for classes 9<sup>th</sup> to 12<sup>th</sup> standards.

**Action: NBA Secretariat**





**63.01A To consider the Sitting fees payable to the Members of the Authority and Expert Committees**

Secretary, NBA explained that the 52<sup>nd</sup> Authority Meeting held on 19<sup>th</sup> March 2019 approved that the non-official expert members of the Authority may get a sitting fees of Rs. 6,000/ meeting and in no case, the ceiling should exceed 10 meetings in a month. He further mentioned that the Rule 6(2) of Biological Diversity Rules, 2004 stipulates that "Every non-official member attending the meeting of the Authority shall be entitled to sitting allowance, travelling expenses, daily allowance and such other allowances as are applicable to non-official member of commissions and committees of the Central Government attending the meeting (s) of such Commissions or Committees". Secretary, NBA also mentioned that the official members may be given an honorarium of Rs. 2,000 for each of the Authority meeting attended including those of NBA Committees/ Working Group/Task Force.

Dr. Kerketta, Advisor, MoEF&CC opined that there is an Office Memorandum from the Department of Expenditure, Ministry of Finance stating that "For the purpose of grant of Sitting Fee only such persons are to be considered as Non-Officials who are not employed in any institution/ organization /body funded by the Central Government". To this, Secretary, NBA opined that the Biological Diversity Act and its Rules super cedes the OM, Secondly, he mentioned that the Rules does not mention it as sitting fees instead is mentioned as sitting allowances which includes honorarium. Further, Shri. Achalender Reddy, added that the Section 9 of the Act states that "The term of office and conditions of service of the Chairperson and the other members other than *ex officio* members of National Biodiversity Authority shall be such as may be prescribed by the Central Government".

**Decision:** The members recommended that payment of Sitting allowances/ honorarium to the Members of the Authority and Expert Committees shall be referred to MoEF&CC for consideration.

**Action:** NBA Secretariat

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

A. Dr. Alka Rao suggested that microbes may also be enlisted in the NTC list under Section 40 of the Biological Diversity Act , 2002 as standard microbes or type strains for research activity. She further suggested that the microbes that are traded as type strains for research only may be



exempted under Section 40. The members deliberated and requested Dr. Alka Rao to submit this suggestion as an Agenda for consideration in the next Authority meeting.

B. Dr. Tanuja Nesari, NMPB, suggested that AYUSH Ministry has a list of coded medicinal plants which are also under the Drugs and Cosmetics Act, 1940 may be exempted under Section 40 of the Biological Diversity Act, 2002. She further added that the cultivated medicinal plants may also be exempted under this Section. The members deliberated and requested Dr. Tanuja Nesari to submit this suggestion as an Agenda for consideration in the next Authority meeting.

C. Dr. Joykumar Laishram suggested that the list of bio-resources such as *Oryza sativa* etc., in the NTC may be elaborated with list of varieties, sub-species that may be exempted list under Section 40 of the Biological Diversity Act, 2002. The members deliberated and requested Dr. Joykumar Laishram to submit this suggestion as an Agenda for consideration in the next Authority meeting.

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

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जे. जस्टिन मोहन, आईएफएस

J. JUSTIN MOHAN, IFS

सचिव / SECRETARY

राष्ट्रीय जैव विविधता प्राधिकरण

**National Biodiversity Authority**

भारत सरकार / Govt. of India

5वां तल, टायसल बायोपार्क / 5th Floor, TICEL Biopark

सीएसआईआर रोड / CSIR Road,

तरमणि, चेन्नई / Taramani, Chennai - 600113.



### List of Participants

Sl No	Name and Designation
<b>Official Members</b>	
1	<b>Dr. V.B. Mathur</b> , Chairman, National Biodiversity Authority, Chennai
2	<b>Dr. S. Kerketta</b> , Advisor & Scientist G, CS-III Division, Ministry of Environment, Forest and Climate Change, New Delhi. <a href="mailto:s.kerketta66@gov.in">s.kerketta66@gov.in</a>
3	<b>Dr. Gunasekaran</b> , Assistant Commissioner (Seeds), Ministry of Agriculture & Farmers Welfare, Department of Agriculture, Cooperation & Farmers Welfare
4	<b>Dr. Sanjay Kumar</b> , Director, IIHBT, Palampur
5	<b>Prof. (Dr) Tanuja Manoj Nesari</b> , CEO, NMPB, Ministry of AYUSH, New Delhi
6	<b>Dr. Manoj Kumar Modi</b> , Department of Biotechnology, New Delhi
<b>Non-official Members</b>	
7	<b>Shri. C. Achalender Reddy</b> , IFS(Retd.), Director, Centre for Innovations in Public Systems, <a href="mailto:achal.reddy@gmail.com">achal.reddy@gmail.com</a>
8	<b>Dr. Joykumar Meitei Laishram</b> , Professor and Dean, College of Agriculture, Central Agriculture University, <a href="mailto:jmlaishram@rediffmail.com">jmlaishram@rediffmail.com</a>
9	<b>Dr. Alka Rao</b> , Principal Scientist, CSIR- Institute of Microbial Technology (CSIR-IMTECH), Chandigarh – 160036, <a href="mailto:raoalka@imtech.res.in">raoalka@imtech.res.in</a>
10	<b>Shri. M.S. Chaitra</b> , Director and Fellow, Aarohi, <a href="mailto:chaitra78@gmail.com">chaitra78@gmail.com</a>
11	<b>Dr. Unnat P. Pandit</b> , Professor of IP, Innovation and Entrepreneurship, IPMC, JNU, New Delhi
<b>Secretary to the Authority</b>	
12	<b>Shri. J. Justin Mohan</b> , IFS, Secretary, National Biodiversity Authority, Chennai