

Implementation of ABS Mechanism in India

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The **Convention on Biological Diversity (CBD)**, is an international legally binding treaty that was adopted in Rio de Janeiro in June 1992. *The Convention has three main goals:*

- ❑ conservation of biological diversity;
- ❑ sustainable use of its components; and
- ❑ fair and equitable sharing of benefits arising from genetic resources.

India became Party to Convention of Biological Diversity since 18th February 1994.



Biological Diversity Act

Enacted by India in 2002

Why this Act

- To protect **Sovereign rights** of India over its biological resources.
- To stop **Biopiracy**
- To **protect** biodiversity in general in an holistic manner.
- To **regulate** use of Biodiversity .
- To ensure sustainable utilisation and **equitable benefit sharing**.
- To Provide legal recognition & support to the **Biodiversity and associated traditional knowledge**.

National Biodiversity Authority (NBA)

To implement provisions of the BD Act- National Biodiversity Authority established in October 2003 under Biological Diversity Act.

Functions

- **Advise** the Government of India on - conservation, sustainable use, ABS
- **Regulate activities** and issue guidelines on - Access to bioresource and TK
- **Oppose the illegal grant of intellectual property rights** in any country outside India.
- **Advise the State (Provincial) Governments on -** implementation of Act

Implementation of BD Act

through three tiered institutional structure

**National
Level**

National Biodiversity Authority

**State
Level**

State Biodiversity Board

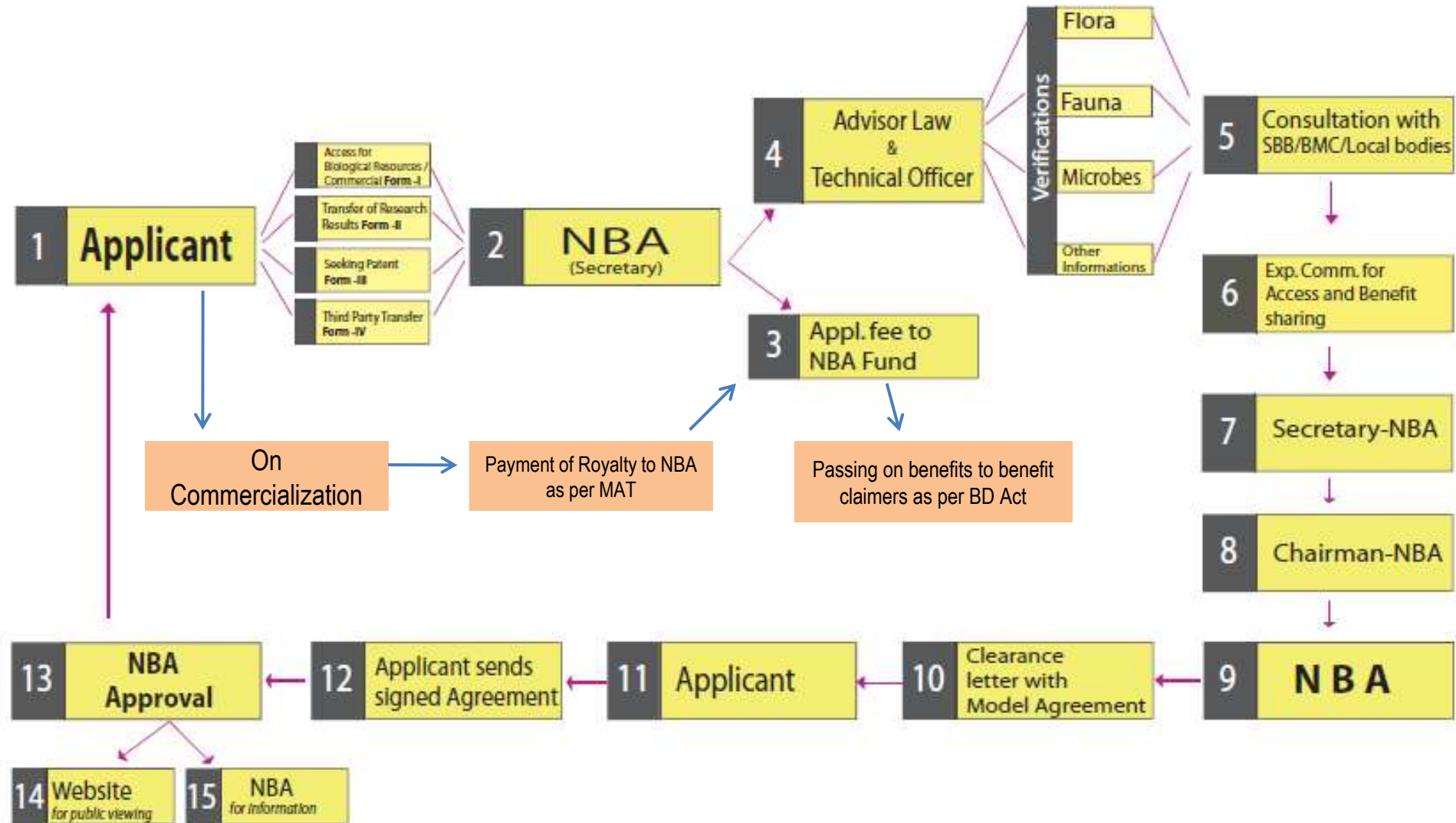
**Local
Level**

**Biodiversity Management
Committee**

Important activities under taken by NBA

State (Provincial) Biodiversity Boards - formed	25 /28
Biodiversity Heritage Sites - notified	3
Designated repositories – voucher specimens	13
State specific rules - notified	11
Species - on verge of extinction – notified in States	14
Biodiversity Management Committees – formed	31,542
People’s Biodiversity Registers - Documented	419

Access and Benefit Sharing (ABS) mechanism



Status of Applications - Access and Benefit Sharing

Form	Category	Applications received	Agreements signed
Form I	Access to Biological resources and associated traditional Knowledge	94	16
Form II	Transferring the results of research to foreign nationals, companies, NRI's for commercial purposes.	37	10
Form III	Seeking prior approval for applying to Intellectual Property Right	437	45
Form IV	Third Party transfer of the accessed biological resources and associated traditional knowledge.	39	16
	Total	607	87

*** 520 applications are at various stages of processing**

Royalty received towards benefit sharing

Sl. No.	Name of the Applicant	Application Form	Total Amount received (INR – Million)
1	Pepsico India Holdings Pvt. Ltd. (MNC)	I	0.779
		IV	2.956
2	Bio India Biologicals (BIB) corporation, Hyderabad. (Indian firm)	I	0.053
3	P.S.S Ganesan & sons, Tuticorin (Indian firm)	I	0.050
4	P.S.S Ganesan & sons, Tuticorin (Indian firm)	I	0.125
5	PepsiCo India Holding Pvt. Ltd. (MNC)	I&IV	0.173
		Total	4.136

Access and Benefit sharing for export of neem leaf (*Azadirachta indica*)

- **Bio India Biologicals (Indian firm) exported neem leaf accessed from Andhra Pradesh.**
- **Royalty of ` 0.053 Million received by NBA**
- **In 2010, NBA has transferred an amount of **Rs.20,000/-** to Amarchinta BMC in Andhra Pradesh towards benefit sharing. The amount utilized for awareness programme; planting saplings and fencing.**



Access to sea weed (*Kappaphycus alvarezii*) from coastal districts of Tamil Nadu



- Ms. Pepsico India Holdings Pvt. Ltd (MNC) and M/s. Ganesan and Sons (Indian firm) submitted applications for exporting the dry seaweed.
- The seaweed was collected from the Self Help Groups (SHGs) of Coastal Tamil Nadu having the knowledge and skills of seaweed cultivation and exported for commercial purpose.
- The agreements were signed with NBA and the royalty amount was paid.

Major Terms/conditions in the Agreements

- Terms and conditions vary from case to case as recommended by Expert Committee.
- **A few are as follows where payment to be made to NBA which is ploughed back to the benefit claimers/conservers/growers of bioresources:-**

1. Applicant shall pay annually during term of this agreement a **2% of the Gross sales** or Gross revenue of the product derived from the use of the biological resource accessed.

2. Applicant shall pay annually during term of this agreement a royalty of **5% as agreed of the total sales** of the product derived from the use of the biological resource accessed.

3. Researcher shall pay annually during term of this agreement a royalty of **5% if the patent is licensed/transferred** to others or 5% of the net sales of the company in the event of commercial production by the company from the use of biological resource accessed.

4. Exporter shall pay annually during term of this agreement a royalty of **5% as agreed of the total sales** of the product derived from the use of biological resources accessed.

5. Exporter shall pay **5% of Free on Board (FOB) value** of the export consignments as evidenced by a copy of the shipping bill and chartered accountant certificate, subject to licensing by DGFT.

Agreement Formats for various disciplines

1. Agreement on access to biological resources and/or associated knowledge for research/bio-survey and bioutilisation.
2. Agreement on Access to Biological Resources and/or associated knowledge for commercial utilization
3. Agreement for seeking Intellectual Property Rights
4. Agreement on Transfer of Research Results
5. Agreement for Third Party Transfer of Bioresources and/or Associated Knowledge

Application Forms

1. Application form for access to Biological resources and associated traditional knowledge.
2. Application for seeking prior approval of National Biodiversity Authority for transferring the results of research to foreign nationals, companies, NRI`s, for commercial purposes.
3. Application for seeking prior approval of National Biodiversity Authority for applying for Intellectual Property Right
4. Application form for seeking approval of National Biodiversity Authority for third party transfer of the accessed Biological resources and associated traditional knowledge.

<http://www.nbaindia.org>



THANKS...