

Implementation of ABS Mechanism in India

Hem Pande

India

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(Indian Administrative Service)

Addl. Secretary & CBD Focal Point
Ministry of Environment & Forests
Govt. Of India.

India – A Mega Bio- Culturally Diverse Country

One of the Oldest & Biggest Repositories of -

- Diverse Biological resources (BRs)/Genetic Resources(GRs)
- Diverse & Huge Associated Traditional Knowledge (ATK)

&

- Has Immense potential for production of Medicines and Food
- Has Immense potential for IPRs, Benefit Sharing (BS) and Improvement in Livelihoods

India's Commitments to Protect Biodiversity

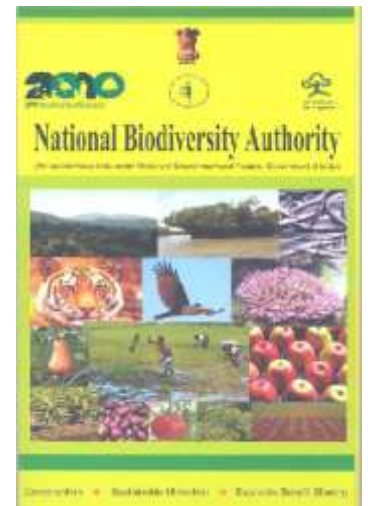
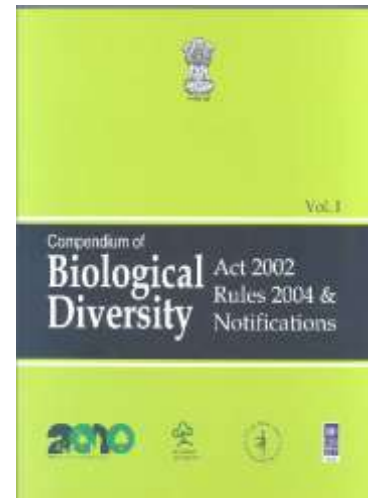
- Signed the Convention on Biological Diversity on 5 June 1992 and ratified it on 18 February 1994
- Signed Cartagena Protocol on 23 Jan 2001 and ratified the same on 11 September 2003
- Signed Nagoya Protocol on 11 May 2011 and ratified the same on 9 October 2012
- Enacted the Biological Diversity Act (BDA) in 2003 and the enforced the law from 2004

Biological Diversity Act (BDA)

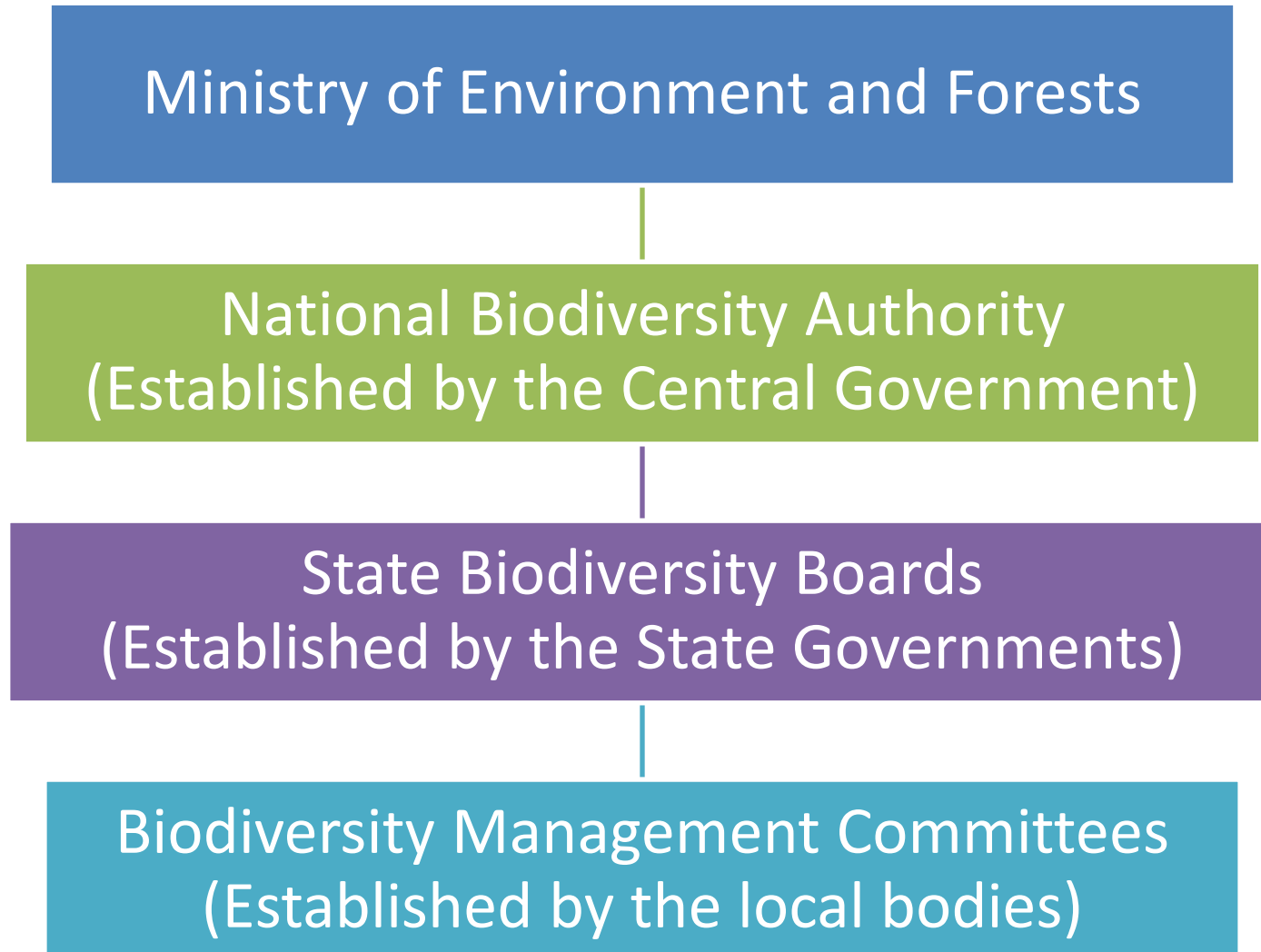
➤ Enacted for

- ❖ Conservation of biological diversity
- ❖ Sustainable use of its components
- ❖ Fair and equitable sharing of benefits arising out of the use of biological resources

➤ To implement the provisions of the Act, National Biodiversity Authority was established in October 2003



Institutional Structure for Implementing BDA



Functions of National Biodiversity Authority (NBA)

- To regulate and issue guidelines for access to biological resources involving non-Indian citizens and foreign firms
- Determination of fair and equitable benefit sharing
- Take measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with the biological resources
- Other functions of NBA
 - ❖ Advise Central Government on conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources
 - ❖ Advise the State Governments in the selection of areas of biodiversity importance to be notified as heritage sites and measures for the management of such heritage sites

Functions of the State Biodiversity Boards

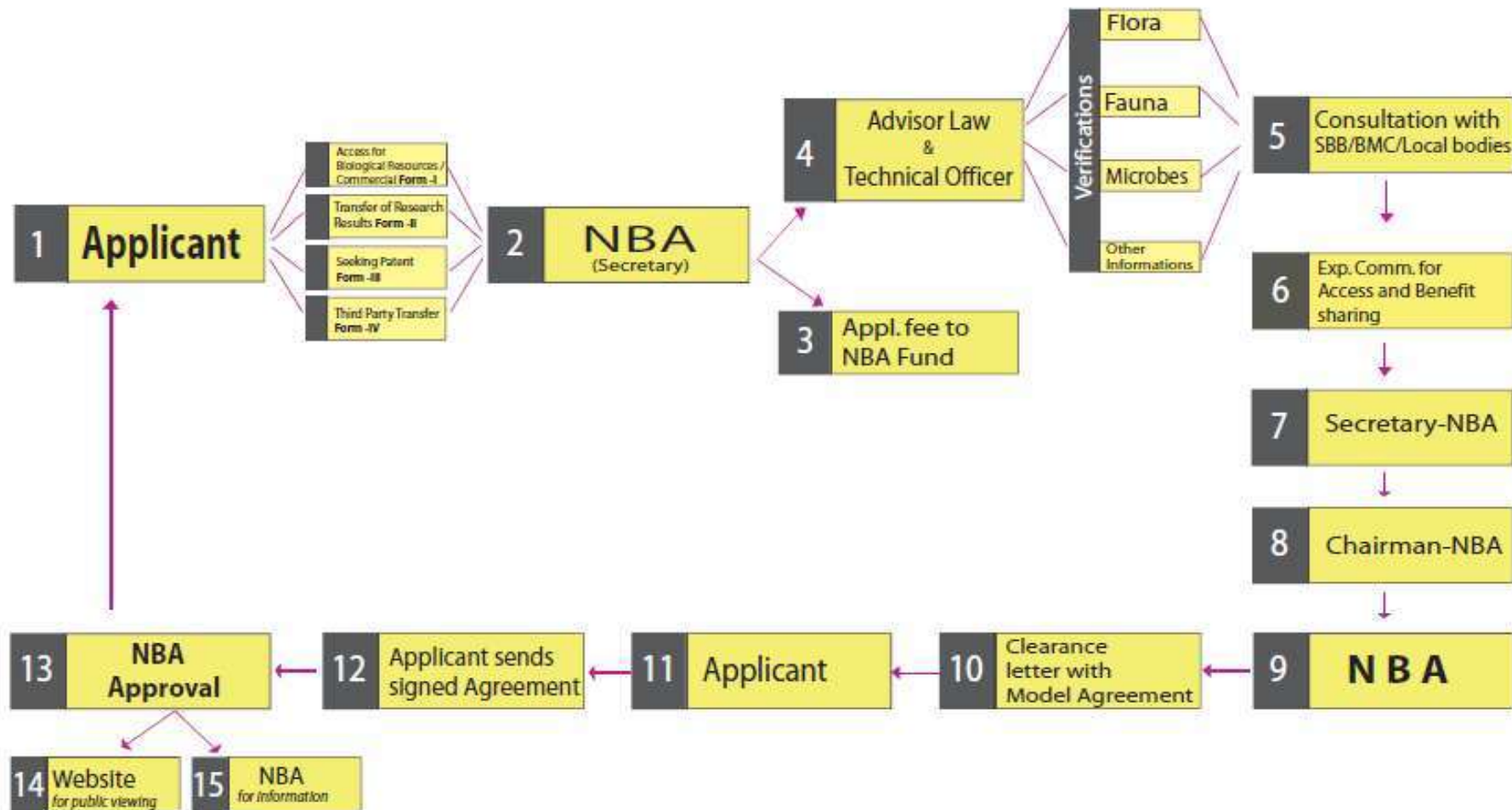
- To advise the State Government on matters relating to the BDA
- Granting of approvals to Indians for commercial utilization or bio-survey and bio-utilization of any biological resource

Biodiversity Management Committee

➤ Responsible for

- ❖ Promoting conservation, sustainable use and documentation of biodiversity
 - ❖ Preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms
 - ❖ Chronicling of knowledge relating to bio-diversity
 - ✓ Preparing People's Biodiversity Register (PBR) in consultation with local people
 - Comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them
 - ❖ Advising SBB or NBA on any matter referred to it
 - ❖ Maintaining data about traditional healers and practitioners
- BMC may levy charges by way of collection fees from any person for collecting biological resources for commercial purposes from areas falling within its territorial jurisdiction
- Till October 2013, 32,221 BMCs have been set up

Access and Benefit Sharing Mechanism



Determination of equitable benefit sharing

- While granting approval relating to access, the NBA must ensure equitable benefit sharing (BS) arising out of
 - ❖ ... the use of accessed biological resources, their by products
 - ❖ innovations and practices associated with their use and applications and knowledge
 - in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the “benefit claimers”
 - ✓ Benefit claimers: conservers of biological resources, their byproducts, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application

Criteria for Benefit Sharing

- The formula for benefit sharing is determined on a case-by case basis
- Quantum of benefits is mutually agreed upon between accessors and the NBA in consultation with the local bodies and benefit claimers, keeping in view
 - ❖ The extent of use
 - ❖ The sustainability aspect
 - ❖ Impact and expected outcome levels, including measures ensuring conservation and sustainable use of biological diversity
- NBA stipulates the time frame for assessing benefit sharing on short, medium, and long term benefits
- Where BRs or TK is accessed from a specific individual or a group of individuals or organizations, NBA takes steps to ensure that the agreed amount is paid directly to them
 - ❖ Where such individuals or group of individuals or organizations cannot be identified, the monetary benefits are deposited in the National Biodiversity Fund
- 5% of the assessed benefits are to be earmarked for the Authority or Board as the case may be, towards administrative and service charges

Monetary and Non-monetary Benefits

- Grant of joint ownership of IPRs to the NBA, or where benefit claimers are identified, to such benefit claimers
- Transfer of technology
- Location of production, research and development units in such areas, which will facilitates better living standards to the benefit claimers
- Association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilization
- Setting up of venture capital fund for assisting the benefit claimers
- Payment of appropriate monetary compensation and non-monetary benefits to the benefit claimers

Experience of Implementing BDA

- 117 agreements concluded out of 844 applications in 4 categories from 2003 to August 2013
 - ❖ Access of biological resources for research/commercial purpose (19/144)
 - ❖ Transfer of research results (12/36)
 - ❖ Applying for IPRs (63/575)
 - ❖ Third party Transfer (23/76)

Actual Benefit Sharing

- Seven cases, total amount involved - Rs. 4.3 million
 - ❖ Rs. 20,000 has been sent to a BMC and the rest remains with the NBA
 - ❖ In two cases in the state of Madhya Pradesh, monetary benefits have been transferred directly either to the SBB or the BMC concerned

Examples of Implemented ABS Agreements

- **PepsiCo** exported 2000 MT seaweed to Malaysia, Philippines and Indonesia. The seaweed is grown by fisherman community in Tamil Nadu. The collection, cleaning and baling was done by women self help groups. They were given training by the company. The NBA was paid royalty @ 5% of FoB amounting to Rs. 3.9 million by the exporter. Efforts are being made by the SBB to form BMCs of the 754 benefit claimers spread across four districts. Due to claims that this seaweed is becoming an invasive species, NBA has now stopped providing access permits.



Examples ...

- **Bio India Biologicals** Company exported 2000 kg of Neem Leaves (*Azadirachta indica*) to Japan. They were collected from Amarchinta village BMC of Mahboobnagar district, Andhara Pradesh. The NBA was paid a royalty @ 5% of FoB amounting to Rs. 55,035 by the exporter which transferred Rs. 20,000 to the BMC for planting Neem saplings and creation of awareness about biodiversity conservation.



Examples ...

- **Natural Remedies Pvt. Ltd**, Bengaluru, purchased *kalmegh* (*Andrographis paniculata*), a medicinal herb, from BMC of Malajkhand in the Balaghat district of MP. They paid Rs. 21,000 directly to the BMC



Examples ...

- **Dr. Geeta Pandurang Pawar**, an Ayurvedic doctor from Pune, had applied for no objection certificate for obtaining a patent for an Ayurvedic anti snake venom comprising four medicinal plants. In this case NBA had fixed the BS as 2% of the gross sales or gross revenue of the product. On commercialization of the patent product, the applicant paid Rs. 3,940 as BS to the NBA.

Examples ...

- Agreement between the Madhya Pradesh State Biodiversity Board (MPSSB) and a local firm (**Gram Moolige Company Ltd.**) for collecting medicinal plants
- The firm paid Rs. 22,265 to the SBB in April 2013.

Task Ahead

- Creation of awareness among all stakeholders
- Strengthening of institutional structures, particularly at local levels
- Close monitoring of all ABS Agreements.

Biodiversity is Life

Biodiversity is our life

The only Resource in which Rural Poor are Rich is their Traditional Knowledge-Let us bring benefits to them by implementing ABS regime

If you want to walk fast, walk alone

If you want to walk far, walk together



Thanks