BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE AT CHENNAI

Appeal No. 62 of 2021

IN THE MATTER OF:

DCM Shriram Limited

... Appellant

VERSUS

The National Biodiversity Authority

... Respondent

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DATE: 23.11.2021

PLACE: CHENNAI

DRAWN AND FILED BY:

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE AT CHENNAI

Appeal No. 62 of 2021

IN THE MATTER OF:

DCM Shriram Limited,
2nd Floor World Mark – 1, Aerocity,
New Delhi – 110 037. **... Appellant**

VERSUS

The National Biodiversity Authority
Rep. by its Member Secretary
5th Floor, TICEL Park, CSIR Road,
Taramani, Chennai – 600 113. **... Respondent**

REPLY AFFIDAVIT

MOST RESPECTFULLY SHOWETH:

I, J. Justin Mohan, son of Shri. R.B.Jeevaji, aged 49 years, Occupation: Government service residing at Chennai, do hereby solemnly affirm and sincerely state as follows: -

I. I am serving as Secretary in National Biodiversity Authority, the Respondent herein, having office at 5th Floor, TICEL Bio Park, CSIR Road, Taramani, Chennai – 600 113, Tamil Nadu and as such well

J. Justin Mohan

acquainted with the facts of the case, borne out of records. I am duly authorized to file this affidavit-in-reply on behalf of the Respondent.

II. I have gone through the contents of the Memorandum of Appeal filed by the Appellant and the annexures thereto and I submit that all the statement of facts averred in the Memorandum of Appeal are denied except those which are specifically dealt with hereunder as admitted.

1. It is submitted that the National Biodiversity Authority (NBA) was established by the Central Government in 2003 under Section 8 of the Biological Diversity Act, 2002 (BD Act). The NBA is a Statutory Body under the Ministry of Environment, Forests and Climate Change (MoEF&CC) and it performs facilitative, regulatory and advisory functions for the Government of India on issues pertaining to conservation, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of biological resources.

2. The Biological Diversity Act (2002) mandates implementation of the provisions of the Act through a decentralized system with the NBA focusing on advising the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources and advising the State

Governments in the selection of areas of biodiversity importance to be notified under Sub-Section (1) of Section 37 as Biodiversity Heritage Sites (BHS) and measures for the management of such sites. The NBA considers requests received from persons/entities by granting approval or otherwise for undertaking any activity referred to in Sections 3,4 and 6 of the Act.

The functions of NBA enumerated under Section 18 of the Act:

CHAPTER – IV- FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY;

18. Functions and powers of National Biodiversity Authority –

(1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in Sections 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in Sections 3, 4 and 6.

(3) The National Biodiversity Authority may –

(a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;

(b) advise the State Governments in the selection of areas of biodiversity, importance to be notified under sub – Section (1) of Section 37 as heritage sites and measures for the management of such heritage sites;

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any 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 such biological resource which is derived from India.

3. It is submitted that the BD Act was enacted as part of India's commitment to the Convention on Biological Diversity (CBD) of the United Nations in 1992. The Act provides for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge etc. This is to submit that Section 62 of the Act empowers the Central Government to make rules for carrying out the purposes of the Act. Accordingly, the Central Government notified the Biological Diversity Rules in 2004. Similarly, the Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulations was notified in 2014 as a consequence to the Nagoya Protocol adopted under the

Convention on Biological Diversity by exercising the powers conferred under section 64 read with sub-section (1) of section 18 and sub-section (4) of section 21 of the Act.

4. Under the scheme of the Act, for certain purposes, "Persons or Entities" i.e. non-citizens of India, non-resident citizens of India or any body-corporate, association or organization having a participation in its share capital or management are covered under Section 3(2) of the Act and are regulated by the National Biodiversity Authority ("NBA"). Whereas, for those purposes, "Persons or Entities" i.e. Indian Citizens and body corporates, associations and organizations registered in India without any foreign participation in their share capital or management are covered under Section 7 of the Act and are regulated by the State Biodiversity Boards ("SBBs").

5. Thus, a person or entity covered under Section 3(2) cannot obtain any biological resource occurring in India or knowledge associated thereto for research or commercial utilization or for bio-survey and bio-utilization without obtaining "Prior Approval" from NBA under Section 3 of the Act. Similarly, a person or entity covered under Section 7 has to give "Prior Intimation" to the State Biodiversity Board ("SBB") while obtaining any biological resource for commercial utilization or for bio-survey and bio-utilization and the Board shall regulate the access to biological resources as per Section 23 and 24 of the Act.

6. It is respectfully submitted that the subject matter of this Memorandum of Appeal filed under Section 18 read with Section 16 of the NGT Act, 2010 r/w Section 52A of the Biological Diversity Act, 2002 pertains to matters relating to the common decision/order of the Respondent dated 10.08.2021. It is submitted that the Appellant does not have any *locus standi* in this Appeal to challenge the orders/notices issued by the Respondent to the Appellants calling upon the Appellants to sign the access and benefit sharing agreement for research and commercial utilization of biological resources.

7. Under the scheme of the BD Act, for certain purposes, "Persons or Entities covered under Section 3(2)" i.e. non-citizens of India, non-resident citizens of India or any body-corporate, association or organization having a participation in its share capital or management are regulated by the National Biodiversity Authority ("NBA"). Whereas, for those purposes, "Persons or Entities covered under Section 7" i.e. Indian Citizens and body corporates, associations and organizations registered in India without any foreign participation in their share capital or management are regulated by the State Biodiversity Boards ("SBBs").

8. Thus, the Appellant who is covered under Section 3(2) cannot obtain any biological resource occurring in India or knowledge associated thereto for research or commercial utilization or for bio-

survey and bio-utilization without obtaining "Prior Approval" from NBA under Section 3 of the Act. A Person or Entity covered under Section 7, on the other hand, has to give "Prior Intimation" to the State Biodiversity Board ("SBB") under Section 7 while obtaining any biological resource for commercial utilization or for bio-survey and bio-utilization and abide by the terms and conditions stipulated by the State Biodiversity Board.

9. In the instant case, the Appellant has been accessing the biological resources since 2005 without any statutory approvals from the Respondent. Having violated the provisions of the BD Act by accessing the biological resources in an illegal manner, the Appellants had filed an application only in 2018 in Form – I (Application for accessing the biological resources) to regularise all their past activities. True copy of Form – I Application dt: 12.12.2018 filed by the Appellant in the NBA office is marked and appended as **ANNEXURE R1**.

10. The Appellants had filed the application with NBA pursuant to the 'Office Memorandum' (OM) issued by the Ministry of Environment, Forests and Climate Change (MoEF&CC) on 10.09.2018. The OM is intended to facilitate entities who are not fully aware of the Act but are desirous of complying the same by providing an opportunity to all such entities who are required to obtain approval of the Authority for undertaking activities specified under

Sections 3, 4 and 6 of the Act including cases that may relate to past, in line with the objectives of the Act and regulate them in a manner that enhances implementation of the Act.

11. MoEF&CC directed NBA that in cases where prior approval was required but a person/entity has not obtained such approval, shall be heard by the Authority, which shall then pass appropriate orders with respect to acts that may have occurred in past, taking into account scientific evidence as well as any damage that might have been caused in furtherance of the powers available to the Authority u/s 18 of the BD Act with the objective of ensuring conservation and sustainable use of biodiversity and fair and equitable sharing of benefits arising from its use. It further directed that NBA shall consider all such cases on the basis of merit and shall ensure that only cases are granted approval for future activities which would have otherwise been approved in the normal course had the person/entity concerned applied in time for approval.

12. Thus, the OM was a positive action initiated by MoEF&CC and was intended to regularise all past violations without taking necessary statutory approvals accorded under the BD Act. It was not intended to condone any past violations of illegal access by any person/entities. All such regularizations of the past activities are done on the basis of merit considering the quantity of biological resources accessed, endemic/endangered nature of the species

accessed, adverse impact on the environment due to the access, genetic erosion or impact caused to the ecosystem, adverse effect on the livelihoods of the local people, access that are contrary to national interest and other international agreements entered into by India etc.

13. The Authority also consults the concerned local bodies and collects information from the applicants if necessary before providing approvals. It is submitted that all the applications received by the NBA in furtherance of the OM issued, are decided by the specially constituted 'scientific committee' under Section 13 of the BD Act and then placed before the Authority for final decision. The Authority decided all such contravention cases in its 48th, 49th and 50th meeting on 29.10.18, 15.11.18, 10 & 11.12.18 and accorded approvals after imposing conditions in the form of 'upfront fee' as a measure for conservation and protection of biological resources. The Appellant had thus voluntarily applied before the NBA owing to the past violations to obtain the necessary approvals by submitting 39 applications. True copy of Letter dated 19.12.2018 from the Appellant on the payment for 20 Applications filed before the NBA is marked and appended as **ANNEXURE R/2**.

Thereafter, the NBA had examined the applications filed by the Appellant and had decided to grant approval subject to few conditions. The applications were examined and communications were sent to the Appellants seeking additional information of the

accessed biological resources. True copies of the communications sent and received by NBA are marked and appended as **ANNEXURE R/3, R/4, R/5, R/6, R/7, R/8 and R/9**. All approvals to access are given in the form of written agreement duly signed by the Authority and the Applicant as per Rule 14 (5) of the Biological Diversity Rules, 2004 (BD Rules). Having filed the application relating to past unapproved access of biological resources for over 14 years and after considering the application by NBA, the Appellant has no right to file an appeal before this forum challenging the conditions imposed by NBA. It is submitted that Section 16(*j*) of the National Green Tribunal Act, 2010 states that:

> "*any person aggrieved by the determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the BD Act, 2002 on or after the commencement of the National Green Tribunal Act 2010 may within a period of 30 days from the date on which the order or decision or direction or determination is communicated to him may prefer an appeal to the National Green Tribunal.*"

14. The Appellant is filing the instant appeal after a period of 2 years of the decision of the EC and the Authority.

The instant appeal is liable to be dismissed on the preliminary objections mentioned hereinabove. Without prejudice to the foregoing preliminary objections as to the very maintainability of the

appeal, this Respondent wishes to place the correct facts relating to the issue and subject matter of the appeal as follows:

15. It is respectfully submitted that the Appellant had placed all his submissions wholly on one aspect of the issue i.e. the imposition of upfront payment on the Appellant for access to research is illegal and contrary to the BD Act and Access and Benefit Sharing Regulations.

16. It is submitted that although the Appellant had submitted the application in Form – I on 12.12.2018 with the NBA seeking prior approval, the Appellant had already accessed the biological resources taken from India since 2005. It is most respectfully submitted that in accordance with the provision of BD Act, 2002 wherein it is categorically mentioned that the prior approval of the National Biodiversity Authority before accessing the biological resources is mandatory. The said provision of law is reproduced herein below:

CHAPTER II

REGULATION OF ACCESS TO BIOLOGICAL DIVERSITY

3. Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority.

—

(1) No person referred to in sub-Section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for

research or for commercial utilisation or for bio-survey and bio-utilisation.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-Section (1) are the following, namely: —

(a) a person who is not a citizen of India;

(b) a citizen of India, who is a non-resident as defined in clause (30) of Section 2 of the Income-tax Act, 1961 (43 of 1961);

(c) a body corporate, association or organisation—

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

17. It is submitted that the Appellant falls under Section 3 (2)(c) of the BD Act and as such it is mandatory to seek approvals for accessing the biological resources obtained from India. The Appellant has been accessing the biological resources comprising 73 varieties i.e. watermelon (*citrullus lantus.*) since the year 2005 and had applied for approval only in the year 2018 due to the OM issued by the MoEF&CC. Having waited for all these years since 2005 it clearly shows that the Appellant lacks bonafides in getting the approvals for accessing the biological resources.

Further, the Appellant has misinterpreted the BD Act suiting their convenience and advantage by reiterating that they are exempted from the purview of the Act as they are a seed industry and are involved in 'conventional breeding'. It is submitted that as per the information provided by the Applicant in their application,

the biological resources have been accessed from different sources for the following purposes:

i. Some seed material for use as a check for in-house trials.

ii. Some seed material for plant breeding.

iii. Some seed material for use as a check for in-house trials and for plant breeding.

The research and development of the accessed biological resource were conducted at R & D Farms of Bioseed Research India, Mokila, Telangana, India. The Act has only excluded those persons who are involved in conventional breeding for their livelihoods like farmers but does not exclude those involved with conventional breeding with a commercial motive.

18. It is further submitted that the Appellant had stated in their Form – I application (Application for access to biological resources and associated traditional knowledge) that it is a leading business conglomerate with a group turnover of Rs. 6050/- crores. The business portfolio comprises primarily of Agri-Rural Business (Urea & SSP fertilizers, Sugra, Farm inputs Marketing such as DAP, Crop care chemicals, Hybrid seeds etc.); Chlor-Vinyl business (Caustic Soda, Chlorine, Calcium Carbide, PVC resins, PVC Compounds, Power and Cement) and Value added business (Fenesta building systems – UPVC Windows & Doors).

19. It is submitted that the Appellant having violated Section 3 (2) of the BD Act had approached NBA claiming that they are already exempted from the purview of the Act and to avoid any inconvenience at later stage and in compliance with the directive as provided by MoEF&CC in the OM they had filed the Form-I application. It is once again submitted that the OM was issued by the Ministry of Environment Forest and Climate Change to regularise past activities of violations and not to provide any exemptions. Even if any exemptions are to be considered it shall be done as per the BD Act and Rules as stipulated in the OM.

20. **Whether imposition of monetary benefit sharing for accessing biological resources in conventional breeding of new plant varieties is illegal?**

It is submitted that the BD Act exempts conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping. The Appellant being a Section 3(2) entity does not fall under the purview of exemption under this category.

It is submitted that 'commercial utilization' under Section 2 (f) of the Act has been defined as:

"commercial utilisation" means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through

genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping.

Research under Section 2 (m) has been defined as:

"research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use.

21. Further to the above, Section 17 (d) of Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 clearly exempts certain activities or persons from seeking approval of NBA.

17. Certain activities or persons exempted from approval of NBA or SBB. —

The following activities or persons shall not require approval of the NBA or SBB, namely:--

(d) accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping, in India;

It is clear that the Appellant did not fall under this category of exemption and levy of ABS is not illegal as claimed by the Appellant. When a person or an entity is not exempted, the Act only regulates the activities and it does not fully curtail research or commercial activities. The legislative intent of the BD Act is to preserve the biological diversity in India by regulating activities of research and

commercial activities of certain individuals/entities. The Act regulates such activities by imposing monetary and non-monetary benefit sharing of resources while accessing biological resources that are obtained in India.

22. The Applicant *vide* letter dated 14.11.2021 confirmed that the accessed biological resources would be used for commercialization. The hybrids developed over the years are selected and commercialized. They have also stated that the details of commercialized products developed are business confidential information and that they would submit the annual turnover figures in person.

23. **Whether exemption for 'conventional breeding' under the Act is limited only to farmers as they too have 'commercial motive' in selling their produce and earning income?**

It is submitted that Regulation 17 of the Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations 2014 has clearly provided certain exemptions and the appellant shall not be covered for any exemption.

17. Certain activities or persons exempted from approval of NBA or SBB. —

The following activities or persons shall not require approval of the NBA or SBB, namely:--

(a) Indian citizens or entities accessing biological resources and/ or associated knowledge, occurring in or obtained from India, for the purposes of research or bio-survey and bio-utilization for research in India;

(b) collaborative research projects, involving the transfer or exchange of biological resources or related information, if such collaborative research projects have been approved by the concerned Ministry or Department of the State or Central Government and conform to the policy guidelines issued by the Central Government for such collaborative research projects;

(c) local people and communities of the area, including growers and cultivators of biological resources, and vaids and hakims, practising indigenous medicine, except for obtaining intellectual property rights;

(d) accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping, in India;

(e) publication of research papers or dissemination of knowledge, in any seminar or workshop, if such publication is in conformity with the guidelines issued by the Central Government from time to time;

(f) accessing value added products, which are products containing portions or extracts of plants and animals in unrecognizable and physically inseparable form; and

(g) biological resources, normally traded as commodities notified by the Central Government under Section 40 of the Act.

24. It is alleged by the Appellant that even farmers have 'commercial motive' in the sense of selling their produce commercially and earning income. That the Respondent/NBA erred in finding that the presence of a 'commercial motive' implies that benefit sharing must

be imposed. It is submitted that the Act differentiates the commercial activities done by a farmer and commercial activities undertaken by a body corporate, association or organisation. Merriam-Webster defines 'commercialize' as 'to manage on a business basis for profit'. The appellant cannot compare itself to a farmer who may be involved in conventional breeding for his livelihood and not as a business enterprise.

Commercialization is the process of introducing new products or services in the market. It involves production, distribution, marketing, sales, customer support, and other key functions critical to achieving the commercial success of the new product or service. These activities can be undertaken only by entities like the Appellant and these cannot be equated with the traditional activities of farming undertaken by a farmer who just sells his produce in the market for his livelihood.

The Appellant conveniently equates his large scale commercial activities with that of an individual farmer in order to gain exemption from the BD Act. The legislative intent of the BD Act is to regulate entities like the Appellant (Section 3(2) entity) undertaking large scale business operations using the biological resources obtained from India. Entities who fall outside Section 3 (2) of the BD Act are regulated under Section 7 of the BD Act.

CHAPTER II

REGULATION OF ACCESS TO BIOLOGICAL DIVERSITY

7. Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes.—No person, who is a

citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this Section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaids and hakims, who have been practicing indigenous medicine.

Hence, exemptions from regulations under the BD act are given only to the local people and communities of the area, including growers and cultivators of biodiversity, and vaids and hakims, who have been practicing indigenous medicine.

25. **Whether upfront payment can be demanded solely because the application was filed under OM?**

It is alleged by the Appellant that unilateral demand of upfront payment was not only contrary to the OM itself but also a violation of Section 48 of the Act. It is further alleged that the application was only for research and accordingly under the statutory notified ABS Regulations, no question of monetary benefits arises unless there is commercial utilization of the material which is not the case here.

It is respectfully submitted that demand of upfront payment is not contrary to the OM nor is a violation of Section 48. The Central Government vide its OM had directed the Authority:

"...in exercise of the powers vested to it under Section 48 of the Act, hereby directs that all such cases where prior approval was required but a person/entity has not obtained such approval, shall

be heard by the authority, which shall then pass appropriate orders with respect to acts that may have occurred in past, taking into account scientific evidence as well as any damage that might have been caused in furtherance of the powers available to the Authority under Section 18 of the Act with the objective of ensuring conservation and sustainable use of biodiversity and fair and equitable conservation and sustainable use of biodiversity and fair and equitable sharing of benefits arising from its use. The Authority shall consider all such cases on the basis of merit and shall ensure that only those cases are granted for approval for future activities which would have otherwise been approved in the normal course, had the person/entity concerned applied in time for prior approval."

26. It is submitted that the Authority after taking into consideration the period of access i.e. 2005 to 2018 (13 years) without approval, the status of the entity i.e. Section 3(2) of the BD Act, and the quantity of biological resource (73 varieties of watermelon) that was accessed had imposed upfront payment and other conditions for approval. The imposition of upfront payment was in consonance with the ABS regulations. The Guidelines for upfront fee was approved by the 46th Authority Meeting held on 24.07.2018 and further revised by the 50th Authority meeting held on 10-11 December 2018.

Further, in accordance with the 54th Authority decision, the Authority decided to condone the violations by fixing an upfront payment as the Applicant has already reaped benefits out of such access of biological resources by conducting a series of research activities. Based on the EC report, Authority in its 54th and 55th

meeting vide agenda no. 54.20.03, endorsed the recommendation that NBA Secretariat may deal with the applications based on the existing precedence to avoid delay in processing applications. Accordingly, NBA vide Office Order dated 19th March, 2020 decided to refer only those applications involving difficulty in deciding on ABS to be referred to the EC on ABS. True copies of the OM issued by the Ministry dated 10.09.2018 & 18.03.2019 and the office order dated 19.03.2020; and Authority Meeting (47, 48, 49, 50, 54 and 55) are marked and appended as **ANNEXURE R10 (Colly) and R11 (Colly)**.

It is submitted that in the 47th Authority (Item: 47.10) it was discussed and explained, the efforts put in by the Ministry to give the necessary directions under Section 48 of the BD Act, 2002 to NBA for enhancing implementation of the Act. It was further expressed that it is the right time to NBA to consider all the violation/contravention cases and regularize/streamline all the pending cases.

NBA to scrutinize the violation/contravention cases and categorize them accordingly and give preference to the cases that have procedural contraventions but for which, would have been approved

- For this a scientific committee was formed and the applications placed as violations were scrutinized. The recommendations of this committee were taken into consideration in the 48th, 49th and the 50th Authority meeting.

The Authority to meet three times (29.10.2018-48th Authority; 15.11.2018-49th Authority and 10.12.2018-50th Authority) for hearing the violation applicants.

It is submitted that the following were the excerpts of the 54th and 55th Authority Meeting relevant to the case:

54.10: Fixing of upfront payment for research of bio-resource obtained from India for Form I Applicants

The applications which were recommended by the said scientific committee were placed before the 48th and 49th Authority meeting for disposal under Para 4 and 5 of the O.M No. C-12025/8/15-CS –III dated 10.09.2018 issued by MoEF&CC. The Authority endorsed the recommendation of the said committee and approved Form III applications with the benefit sharing percentage as 1%, 5% and 5% on the commercial utilization of the process/product/innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively. Regarding Form- I applications where approval was sought for, already conducted research on biological resource obtained from India by entities, an upfront payment as per the approved guidelines may be levied. The instant application no. 3074 is decided based on the EC's decision on similar applications. Besides, organize awareness programs with regard to compliance of the Biological Diversity Act and furnish an undertaking that provisions of BD Act shall be compiled in future.

The Authority decided to levy the highest rate of benefit sharing component as per existing guidelines (i.e 0.5%) for applications approved under OM dated 10/09/2018 and 18/03/2019 pertaining to violation cases for FORM I applicants and to collect the upfront payment as per the guidelines issued by the Authority for research applications

55.21.1: To consider Proceedings of the 59th meeting of the Expert Committee on Access and Benefit Sharing held on 05th - 06th March, 2020

Decision arrived:

(a) The Authority approved the recommendations of the 59th EC on ABS.

(b) The Authority ratified the action taken on the 192 applications.

(c) The Authority considered the timeline for levying higher percentage of the benefit sharing on the OM cases and agreed that higher percentage of benefit sharing to be levied from the date of commercial activities and for the same

27. It is submitted that NBA is empowered under Section 3(2), 19(1) and 19(3) of the BD Act; Rule 14 (4) of the BD Rules and Regulation 14 of the Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulations, 2014, to impose upfront payment for the purpose of granting approval for access to biological resources for research.

14. Determination of benefit sharing.—

(2) Determination of benefit sharing shall be based on considerations such as commercial utilization of the biological resource, stages of research and development, potential market for the outcome of research, amount of investment already made for research and development, nature of technology applied, time-lines and milestones from initiation of research to development of the product and risks involved in commercialization of the product:

Provided that special consideration may be given to cases where technologies/products are developed for controlling epidemics/diseases and for mitigating environmental pollution affecting human/ animal/plant health.

28. Further, with respect to the decision taken under the 54th Authority meeting, under the Agenda Item no. 54.10, i.e., 'Fixing of upfront payment for research of bio-resource obtained from India for Form I Applicants', the Authority decided to levy the highest rate of benefit sharing component as per existing guidelines for applications approved under OM dated 10/09/2018 and 18/03/2019 pertaining to violation cases for FORM I applicants and to collect the upfront payment as per the guidelines issued by the Authority for research applications.

Thus, it is clarified that the imposition of upfront payment as stipulated in Schedule A of the draft agreement sent on 12.06.2020 is not contrary to the ABS Regulations, 2014. True copies of the draft agreements sent to the Appellants is marked and appended as **ANNEXURE R/12 and R/13.** True copy of Email dated 20.07.2020

sent to the Appellants on draft agreements is marked and appended as **ANNEXURE R/14.** True copy of Email dated 28.07.2020 sent by Appellants confirming that Form I is filed for research purposes only is marked and appended as **ANNEXURE R/15**. True copy of Email dated14.08.2020 sent to Appellant clarifying the query on 'commercialization' is marked and appended as **ANNEXURE R/16**. True copy of Letter dated 02.09.2020 sent by Appellant seeking clarification on upfront fee is marked and appended as **ANNEXURE R/17**. – True copy of Email dated 23.10.2020 sent to the Appellant providing clarifications is marked and appended as **ANNEXURE R/18**.

29. The 54th Authority Decision as per agenda item no. 54.10, clarified the imposition of upfront payment. Further, the non-retrospective application of the Guidelines does not apply here, since the Applicant had accessed the biological resources while the BD Act was in force. Such an access is in violation of the BD Act. In the instant case, the applicant was given an opportunity to regularize the unauthorized access of the biological resources and condone the contravention of the provisions of the Act. Since this application was made under OM, the fixing of upfront payment is in accordance with the decision in the 54th Authority meeting (as explained above). The imposition of ABS is in accordance with Regulation 4 of the ABS Guidelines 2014. Further the decision of the said application received under OM was decided by the 59th EC on ABS. Moreover,

the levy of upfront payment for research activities by Section3(2) persons and entities is in accordance with fair and equitable sharing of benefits and the ABS amount shall be utilized for the cause of conservation and to promote research activities as decided by the Authority.

30. It is further submitted that the Appellant had misinterpreted the 'OM' as an 'amnesty scheme' provided by the Ministry that completely condones all unauthorized access of biological resources. The MoEF&CC had issued the OM to deal with contravention cases where any person/entities who ought to have obtained approval from NBA by regulating their past access as per the provisions of the Act. The Appellant had mentioned several times in the Memorandum of Appeal that they filed their applications under the amnesty scheme. It is respectfully submitted that the purpose of issuing the OM is not to grant just an amnesty but to regulate the past activities of unapproved access of biological resources by fixing *inter alia* a nominal 'upfront payment' as a condition for grant of approvals.

It is submitted that the Authority facilitated the OM as a means to regularise unapproved access of biological resources obtained in India rather than initiating legal action as per Section 55 and 56 of the Act against entities like the Appellant.

55. Penalties.—*(1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which*

may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

31. **Whether the Act was intended to be applied to seed companies involved in conventional breeding?**

It is submitted that the BD Act clearly demarcates the obligations of entities falling under Section 3(2) with that of entities under Section 7 of the BD Act. The Appellant being a Section 3(2) entity intends to claim certain exemptions accorded to a non-Section 3(2) entities by claiming that they belong to seed industry involved in conventional breeding. The main objective of imposing restrictions to Section 3(2) entities and activities under Section 6 is to check activities relating 'bio-piracy'. The BD Act was enacted to regularize the unethical or unlawful appropriation of biological or genetic materials that are obtained in India. Entities like the Appellant, in the guise of doing research and helping farmers, have only been exploiting the traditional knowledge and biological resources obtained from India without paying the upfront payment as decided by the Authority. It is submitted that countless biological resources have been accessed by the entities like the Appellant for conducting research and allied activities. The BD Act regulates all such activities by granting conditional approvals to conserve the valuable biological diversity of this country.

32. It is submitted that the Applicant has tried to give credence to their false claims by alleging that the Respondent had orally communicated that the Act will apply even for accessions done before 01.07.2004. Having filed the applications voluntarily for accessing the biological resources for 13 years, the Applicant ought to have utilized the OM issued by the Ministry to regularize their past activities. However, instead of complying with the direction(s) given by the Authority, the Appellant resisted all the conditions imposed for granting approvals. It is submitted that the Appellant had filed 39 applications in total seeking approval for accessing various varieties of biological resources. All the applications filed by the appellant could not be approved as the appellant has not paid the upfront ABS amount. It is submitted that the upfront payment for accessing biological resources is calculated based on the 'Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulations', 2014 as approved by the Authority.

It is pertinent to mention that on one hand, the appellant had paid the upfront payment for research for some of the applications file in NBA however, on the other hand they are disputing the levy of upfront payment for other applications by filing the instant appeals before the Hon'ble Tribunal. Hence it is most respectfully submitted that the appellants have come up with unclean hands by suppressing the facts relevant to this case. True copies of the details of all the applications filed and the upfront fee paid by the Appellant is marked and appended as **ANNEXURE R22 and R23.**

33. It is submitted that the Biological Diversity Act, 2002 (hereinafter the BD Act) exempts conventional breeding from the purview of the Act as per Section 2(f) and Regulation 17(d) of the 2014 Guidelines. It may be concluded from these two provisions that the exemption is only for conventional or traditional practices. The companies who produce seeds through conventional breeding or application of modern technological methods, with a commercial intent cannot claim this exemption and will not be considered as conventional breeding and traditional practices.

34. Further, the said exemption cannot be claimed for the purpose of research by the seed companies as the legislative intent to exempt conventional breeding is only from the purview of commercial utilization. The exemption is provided under the definition of commercial utilization in the BD Act. It is submitted that the comparative trials amount to research as per Section 2(m) of the BD Act as it amounts to the study or systematic investigation of a biological resource. Further, "conventional breeding" may not be within the purview of research. However, the activities undertaken by the seed companies for developing hybrids etc. does not come within the purview of conventional breeding. It is submitted that the benefit sharing was levied solely for the research activities undertaken by the Appellant without getting approvals from NBA. The Appellants have confirmed about their research activities in their communications dated 28.07.2020, 02.09.2020 and 13.01.2021

respectively. In this backdrop, the claim of Appellants that they were involved in conventional breeding and as such they are exempted is not sustainable in law.

35. It is admitted that the National Seed Association of India had sent several representations to NBA and other Authorities seeking exemptions to the seed industry from the applicability of the BD Act. These are all contrary to the existing law and have not been agreed by Government. It is submitted that under Section 40 of the BD Act, 421 species have been exempted from the purview of ABS if they are normally traded as commodities (NTAC). This is a qualified exemption for stakeholders who are involved in the trade, commercial production and exemption of these species. MoEF&CC has issued two gazette notifications u/s 40 vide S.O.1352 (E) dated 7th April, 2016 (385 species) and S.O.3533 (E) dated 7th November, 2017 (36 species till date, covering 421 plant species/biological resources as NTACs, exempting them from the ABS provisions of BD Act, 2002 when traded as commodity. Relevant portion of the notification has been reproduced hereinafter:

Note-1 *of the notification dated 7th April, 2016 makes it clear that this notification of biological resources as NTACs is only to facilitate trade of items and if any of these items is intended to be used for any other purpose (i.e. for research, bio-survey and bio-utilization or patenting) the relevant provisions of the aforesaid Act (i.e. BD Act, 2002) shall apply.*

Note-2 *provides that "the products that are derived from the items listed and traded as a matter of common practice shall also be treated as normally traded as commodities and in such cases, the onus of substantiation that the said products fall within common practice, shall lie on the claimant.*

36. It is further submitted that that the exemption is provided only when the exempted biological resources are "normally traded as commodities" subject to the terms enumerated in the notes given in the Notification table thereto.

1. *This notification is to facilitate trade of items including biological resources* ***which are normally traded as commodities*** *and if any of these items is intended to be used* ***for any other purpose****, the relevant provisions of the aforesaid* ***Act shall apply****.*
2. *The products* ***that are derived from the items*** *listed in the Table above and* ***traded as a matter of common practice*** *shall also be treated as normally traded as commodities and in such cases, the onus of substantiation that the said products fall within common practice, shall lie on the claimant.*

37. It is submitted that the Petitioner did not access the biological resources for trade as a matter of common practice but they were used in research activities with commercial motive. The objective of the BD Act, 2002 is not to exempt such activities as any such

exemptions contrary to the objectives that would lead to depletion of the biological resources and hamper the conservation of the precious biodiversity in India. The main objective behind the notifications issued under Section 40 of the Act is to facilitate trade of biological resources, which are normally traded as commodities and if any of these items are to be used for any other purpose, the relevant provisions of the Act will apply.

Hence, the Central Government had already provided exemption to a variety of biological resources from the purview of the BD Act. As the Appellant is an entity falling under Section 3(2) and had undertaken research activities, the same is very much regulated by the BD Act.

38. **Whether upfront payment is meant only for biological resources that have "high economic value" under the BD Regulations?**

It is submitted that the Act was enacted to provide approvals on applications that are filed on prospective basis. The Act did not envisage the modalities required for granting approvals for 'past access'. However, the OM issued by the Ministry has offered an opportunity for all the entities who failed to obtain necessary approvals to comply with the Act. Invoking principles of natural justice, the Authority had decided that for all the past access without approvals, a one-time payment (up-front payment) would be levied

to facilitate and enhance implementation of the Act in public interest towards meeting the objectives of Act, namely, conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising from commercial use. Hence, the Authority had lawfully imposed the upfront payment for all the past access for the entities who did not get approvals.

39. **Access and Benefit Sharing (ABS) Mechanism:** It is submitted that the Biological Diversity Act, 2002, envisages the ABS mechanism as a legal framework and this regulatory framework has been put in place in the Act to regulate activities of commercial utilization, research, bio-survey and bio-utilization of biological resources occurring in or obtained from India. ABS is a mechanism which secures fair and equitable share in the benefits arising out of access and utilization of biological resources for commercial purposes. The benefits thus secured are channelled to the benefit claimers and utilised for the conservation of biological diversity. The ABS mechanism is a legal regime which falls within the framework of international and national legal instruments.

40. It is submitted that the Act makes it mandatory for such persons to apply for prior approval from NBA in cases where they fall within the regulatory jurisdiction of the NBA. Further certain activities, namely, the transfer of research results relating to any biological

resource occurring in or obtained from India, by any person to any person who falls within the purview of the NBA; and application to obtain any Intellectual Property Right for any invention based on research or information relating to any biological resource obtained from India, are regulated under the ABS mechanism. For the purpose of the above mentioned activities, the National Biodiversity Authority is vested with regulatory powers.

Relevant provisions of the Act related to NBA: -

Sections 3, 4, 6, and 21 of the Biological Diversity Act, 2002 are in essence the regulatory provisions under the ABS mechanism envisaged by the Act.

41. **Whether the impugned order is without jurisdiction since it is passed by the Member-Secretary of the NBA who has no power to pass orders on applications u/s 3 or on benefit sharing?**

It is submitted that the Appellant is once again attempting to mislead this Hon'ble Tribunal and the Respondent places the correct facts and law on benefit sharing which is as follows:

The Appellant who has been accessing the biological resources since 2005 claiming for research/conventional breeding purposes had only filed applications for approval in 2018 under the OM issued by the Ministry. Pursuant to the OM, NBA received over 400 applications who sought approvals for the past success. An 'Expert

Committee (EC)' was constituted exclusively to scrutinize these applications on scientific basis and also on merits. Based on their recommendations, the outcome of each application is placed before the 'Authority' for final confirmations. Hence, the applications filed under the OM are scrutinized and ABS is fixed based on the quantity of access, period of access, purpose of access, nature of the entity (Indian/Non-Indian), commercialization of the resource, endemic nature of the resource etc. The Appellant's application had already been placed before the EC and then before the Authority, for grant of approval after deciding the quantum of ABS to be paid. The Appellant did not accept the decision of the EC/Authority and had only been resisting and avoiding the ABS payment and as such the approval could not be given in time.

It is most respectfully submitted that the Supreme Court of India in **Federation of Railway Officers Association and Ors. Vs. UOI**: (2003) 4 SCC 289 held that:

> *"...On matters affecting policy and requiring technical expertise Court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of the power, the Court will not interfere with such matters."*

In ***Tata Iron & Steel Co. Ltd. v. Union of India and Anr.***: *(1996) 9 SCC 709,* the Supreme Court had held that:

"...From the scheme of the Act it is clear that the Central Government is vested with discretion to determine the policy regarding the grant or renewal of leases. On matters affecting policy and those that require technical expertise, we have shown deference to, and followed the recommendations of, the Committee which is more qualified to address these issues."

In **Akhil Bharat Goseva Sangh v. State of A.P. & Others**: (2006) 4 SCC 162, the Supreme Court held that:

"...It is now well-settled by various decisions of this Court that the findings of expert bodies in technical and scientific matters would not ordinarily be interfered with by courts in the exercise of their power under Art. 226 of the Constitution or by this Court under Art.136 or 32 of the Constitution."

42. The Appellant instead of complying with the decision of the EC/Authority and signing the agreement, had requested a hearing once again by the NBA. As the Appellant was insisting for a personal hearing *vide* letter dated 13.01.2021 sent to the Chairman, NBA, a virtual meeting was fixed on 22.02.21. Accordingly, an email communication dated February 10, 2021 was sent to the Appellant for the virtual meeting to put forth their submissions before the Competent Authority. True copy of the email dated 13.01.2021 sent by the Appellant seeking personal hearing is marked and appended as **ANNEXURE R/19**. True copy of the email dated 20.02.2021 sent

to the Appellant confirming the virtual hearing is marked and appended as **ANNEXURE R/20.**

The Appellant was present for the meeting with their authorized representatives Mr. Paresh Verma, Ms. Rajani Jaiswal and advocate Mr. Adarsh Ramanujam. All presented their submissions challenging the levy of ABS before Mr. J. Justin Mohan, IFS the Secretary of NBA. It is submitted that Mr. Chitrarasu, Advisor-NBA clarified the rationale and the mechanism for the levy of ABS for the OM cases. The Representatives of the Appellant did not dispute nor raised any objections with regard to the process of hearing or the authority of the Secretary, NBA to conduct the hearing.

43. It is further submitted that there was no new finding nor self-contradictory order passed by the Competent Authority, instead the Secretary, NBA had only reiterated the decision of the EC/Authority on the payment of ABS and the recommendations of the approval to be granted. The meeting was scheduled to offer an opportunity of hearing once again in accordance with the Principles of Natural Justice. During the hearing the decisions of the Authority was explained to the Appellant on the need for ABS and the requirement of the Appellant to comply with the law of the land. The Appellants were asked to inform the areas from where the biological resources were accessed and the activities for which they would like to use the

J. Justin Mohan

ABS amount as per Section 27 (2) of the Act so that NBA can ensure that the amount can be used accordingly. True copy of the proceedings of the virtual hearing conducted on 22.02.2021 is marked and appended as **ANNEXURE R/21**.

Thus, NBA had only facilitated the grant of approvals for all the applications filed by the Appellants and enforce the decisions of the EC and the Authority who were specially constituted to decide the applications filed under the OM. The Secretary, NBA has powers to conduct meetings/hearings with the Applicant(s) and their representatives:

CHAPTER III
NATIONAL BIODIVERSITY AUTHORITY

16. Delegation of powers.—*The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under Section 50 and the power to make regulations under Section 64) as it may deem necessary.*

Further, in accordance with Rule 9 of the Biological Diversity Rules, 2004, the Secretary is responsible for coordinating and convening meetings and maintenance of records.

44. Hence, the calculation of ABS and the conditions for approval for the past access had already been fixed by the National Biodiversity Authority as per the provisions of law and it is out of place to raise a plea that the Secretary, NBA has no 'authority' to pass orders which has not been done in the instant case. The Appellant were given an effective opportunity of hearing by the EC and Authority before deciding their application. Apart from this, as requested by the Appellant, another meeting was convened on 22.02.2021 to hear the grievances of the Appellant. Inspite of efforts taken by the NBA Secretariat to facilitate the grant of approvals, the Appellants are now raising unacceptable plea that NBA had pre-decided the issue and denied opportunity of hearing by exercising unreasonable and arbitrary powers.

45. **Whether NBA failed to harmoniously apply the BD Act along with the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFRA)?**

It is submitted that the mandate and jurisdiction for according approvals under the BD Act and the PPVFR Act are different.

Section 6(3) of the BD Act, makes it clear that the provisions of this Section i.e. relating to application for Intellectual Property shall not apply to any person making an application for any rights under any law relating to the protection of plant varieties enacted by Parliament. Thus BD Act is harmoniously applied in respect of

PPVFRA Rights. However, it is submitted that all activities pertaining to access to biological resources for research, bio survey and bio utilization leading to commercial utilization are governed only under the BD Act. Further Section 18(4) of the BD Act empowers the NBA on behalf of the Central Government to take any measure necessary to oppose grant of IPR in any country outside India on any biological resource or associated knowledge obtained from India.

Therefore, the rights provided by the PPVFRA are limited only to according breeder rights to farmers and breeders who have legally accessed such biological resources enunciated under the BD Act. Further commercialization of varieties outside India on varieties registered in India are also covered only the BD Act.

46. **Whether Respondent threatened the Appellant with prosecution and the benefit sharing was not mutually agreed as the same is levied in an arbitrary and unreasonable manner?**

It is submitted that the Appellant came forward voluntarily and submitted 39 applications seeking approvals for different varieties of biological resources taken from India that were accessed since 2005. In the case of instant appeal that was filed pursuant to the application with NBA seeking approval for accessing 73 varieties of *citrullus lanatus*. for research purposes. As the application was filed for past access, the same was placed before the Expert Committee.

The representative of the applicant Dr. Rajani Jaiswal appeared before the 59th Expert Committee and presented the case on 5th-6th March 2020. She sought for the criteria for fixing the benefit sharing component for the hybrids developed. Further, she agreed to furnish the details such as the hybrids/parental line developed from the accessed biological resources and the year wise sale figure of the commercialized products.

47. The Expert Committee observed that this Form-I filed under OM of MoEF&CC is for the biological resources accessed in 2005-2018 and the research started in the year 2005 and still ongoing till date. The EC on ABS taking note of the OM of MoEF&CC recommended to consider the application for approval for research already conducted subject to the upfront payment of Rs.2,19,000/- (Rupees Two lakh nineteen thousand).

Mode of Calculation: 73 BR (germ plasm) x 1 Unit x 1-time x 3000 (Agri/Market/institute/cultivated) = Rs.2,19,000/-.

48. Based on the EC recommendations NBA had sent the draft agreement to the appellant granting 3 years' time from the date of signing the agreement. The EC also recommended that in case of commercialization, the Appellant shall pay higher benefit sharing of 0.5% under regulation 4 of the ABS Regulations, 2014 from the date of commercialization. All applications that were filed for past access without proper approvals had 'fixed ABS' as per the Regulations and

there is less scope for any negotiations. As the Appellant did not accept the EC recommendations and was not also willing to sign the agreement, NBA had no other option except to take legal recourse as per the provisions of the BD Act and there was no threat of any prosecution as alleged by the Appellant.

The contents of all the grounds from A to EE is denied and the reply to all the grounds is reiterated as mentioned in the foregoing paras and the same is not reproduced here for the sake of brevity.

In the light of the above, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the present Appeal with exemplary costs, direct the Appellants to pay the necessary ABS as levied by the NBA and comply with the provisions of the Act and pass other directions as this Hon'ble Tribunal deem fit and proper in the case.

DEPONENT

VERIFICATION

Verified that the statements made above in paras 1 to 48 are true to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at Chennai on the 23rd day of November, 2021.

DEPONENT

जे. जस्टिन मोहन, आईएफ़एस
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.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/1 (Colly)

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A/C PAYEE ONLY

ICICI Bank (01) CHENNAI

Drawee Branch CENOTAPH ROAD

DD No. 508491

VALID FOR THREE MONTHS ONLY

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ON DEMAND PAY NATIONAL BIODIVERSITY FUND OR ORDER

RUPEES TEN THOUSAND only

₹ 10,000.00

Purchaser name: BIOSEED RESEARCH INDIA (DCM SHRIRAM) FOR VALUE RECEIVED

04/1/5 Not above 10,000.00

0076 DD CENPAY

JUBILEE HILLS, HYDERABAD

Issuing Branch

Authorised Signatory

Authorised Signatory

Please sign above

⑈508491⑈ 000229000⑆ 000076⑈ 16

ANNEXURE - R1

3074

Appeal : 62

Rajani Jaiswal, Ph. D.
Manager- Intellectual Property, Plant Variety Protection, Contractual and Relationship Management
e-mail: Rajani.Jaiswal@bioseed.com
Tel: +91 40 67066666; 040 67066672
Fax: +91 40 67066606

BIOSEED

Bioseed Research India,
Division of **DCM Shriram Limited**
Plot No. 234, B Block, Phase II,
Kavuri Hills, Hyderabad-500033,
Telangana, India

Dt: December 10, 2018

Via courier

NATIONAL BIODIVERSITY AUTHORITY
CHENNAI.
DIARY No. 2281
RECEIVED ON 12/12/18

To,
The Chairman,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Subject: Form I application according to Office Memorandum (OM) dated September 10, 2018, Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India for prior access to seed material of Watermelon.

Dear Sir,

This is in response to the Office Memorandum (OM) dated September 10, 2018 from Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India, we are seeking approval for prior access to seed material of Watermelon (*Citrullus lanatus*).

Without prejudice to our rights and contention that as per the Biological Diversity Act, 2002 for conventional breeding, no prior approval is required to be taken, however to avoid any inconvenience at the later stage and in compliance with the directive as provided by MoEFCC in the OM dated September 10, 2018, we submit herewith Form I along with the prescribed Fee of Rs. 10,000/-(Demand Draft No. 508491 dated 04/12/2018) for your approval.

Kindly accord your approval for the same.

Thanking you.

Sincerely

Rajani Jaiswal

Enclosures:

(1) Form I
(2) Rs. 10,000/- Demand Draft No. 508491 dated 04/12/2018
(3) Attested Copy of Certificate of Incorporation
(4) Attested Copy of Board Resolution
(5) Attested Copy of Identity Proof

FORM I
(see rule 14)

Application form for access to Biological resources and associated traditional knowledge

Part A

1. Full particulars of the applicant

I. Name: DCM Shriram Limited, India.

II. Permanent address:

1st Floor, Kanchenjunga Building,
18 Barakhamba Road,
New Delhi – 110001, India
Tel.: +91 11 23316801
Fax: +91 11 23318072

III. Address of the contact person / agent, if any, in India:

Dr. Paresh Verma
President, Bioseed South East Asia & Research Director – Bioseed Research India
Plot No. 234, B Block
Phase II, Kavuri Hills
Hyderabad - 500 033
Tel: +91 40 67066666; 040 6706622;
Mob: 9347076327
e-mail: paresh.verma@bioseed.com

IV. Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication):

- DCM Shriram Ltd. (DSL) is a leading business conglomerate with a group turnover of Rs. 6,050 crores. The business portfolio of DCL comprises primarily of Agri-Rural Business (Urea & SSP fertilizers, Sugar, Farm inputs Marketing such as DAP, Crop care Chemicals, Hybrid Seeds etc.); Chlor-Vinyl Business (Caustic Soda, Chlorine, Calcium Carbide, PVC resins, PVC Compounds, Power and Cement) and Value added business (Fenesta Building Systems- UPVC Windows & Doors).

- DCM Shriram Ltd., a spin-off from trifurcation of the reputed erstwhile DCM Group in 1990, is managed by Mr. Ajay S. Shriram, Chairman &

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Senior Managing Director, Mr. Vikram S. Shriram, Vice Chairman & Managing Director and Mr. Ajit S. Shriram, Joint Managing Director along with a highly professional executive team.

V. Nature of business:

- Ag-biotech, Agri-rural, Chlorovinyl and Value added Businesses.
- Bioseed Research India (BRI), a division of DSL is in Agricultural business including development of hybrid seeds, Ag-biotech and Agri-rural. BRI is involved in Research and Development activities in the field of crop improvement through plant breeding and agricultural biotechnology (Ag-biotech). BRI is further involved in development and production of improved hybrids and cultivars of various field and vegetable crops, germplasm, and packaging and supply of the seeds of the hybrid and cultivars in domestic and/or international Market.

VI. Turnover of the organization in US$:

- Approximate 1 B US$,
- Financial statements of previous two years are attached herewith.

2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed

a. Identification (scientific name) of biological resources and its traditional use:
   - Watermelon (*Citrullus lanatus*) varieties as provided in the attached Annexure I
   - Traditional use: None.

b. Geographical location of proposed collection:
   - Provided in the attached Annexure I

c. Description / nature of traditional knowledge (oral / documented):
   - None

d. Any identified individual / community holding the traditional knowledge:
   - None

e. Quantity of biological resources to be collected (give the schedule):
   - 10 to 200 gm

f. Time span in which the biological resources is proposed to be collected:
   - The Watermelon varieties have been accessed between the year 2005 to 2018.

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g. Name and number of person authorized by the company for making the selection:
   - Dr. Bhanuranjan Swain, Bioseed Research India, Plot No. 234, B Block, Phase II, Kavuri Hills, Hyderabad - 500 033

h. The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it:

   The Watermelon varieties (*Citrullus lanatus*) as provided in the Annexure I as attached wherewith have been accessed from the different sources for the following purpose.

   - Some seed material for use as a check for in-house trials
   - Some seed material for plant breeding
   - Some seed material for use as a check for in-house trials and for plant breeding

i. Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access:
   - To the best of our knowledge the collection did not endanger any component of biological diversity and there was no risk involved in accessing the said varieties.

3. Details of any national institution which will participate in the Research and Development activities.
   - Not Applicable

4. Primary destination of accessed resource and identity of the location where the R&D will be carried out.
   - R&D Farms of Bioseed Research India, Mokila, Telangana, India.

5. The economic and other benefits including those arriving out of any IPR, patent obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he/she belongs.
   - The benefits cannot be anticipated at this stage since the some projects are still in progress.

6. The biotechnological, scientific, social or any other benefits obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he/she belongs.
   - The benefits cannot be anticipated at this stage since the some projects are still in progress.

7. Estimation of benefits that would flow to India/communities arising out of the use of accessed bioresources and traditional knowledge.
    - The benefits cannot be anticipated at this stage since the some projects are still in progress.

8. Proposed mechanism and arrangements for benefit sharing.
    - Mechanism and arrangements for benefit sharing can be decided between DSL and National Biodiversity Authority (NBA) through a mutual agreement executed on the terms and conditions agreed upon by both the parties.

9. Any other information considered relevant.
    - Seed material of the Watermelon varieties as listed in Annexure I has been accessed to use in conventional breeding program, we request you to kindly exempt the accession of the said seed material under BDA.

13/c

Part B
Declaration

I/ we declare that:

- Collection of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of proposed biological resources shall not entail any environmental impact;
- Collection of proposed biological resources shall not pose any risk to ecosystems;
- Collection of proposed biological resources shall not adversely affect the local communities;

I/we further declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Place: Hyderabad
Date: 30/11/2018

Signed
Name: **Paresh Verma**
Title: **President, Bioseed South East Asia & Research Director – Bioseed Research India**

Annexure I

Watermelon

Sl. No.	DETAIL NAME	SOURCES OF ACCESSION	DATE	PURPOSE
1	SUGAR BABY	Market, West Bengal	Jan-05	CHECK
2	AMRIT	Market, Own	Jan-05	CHECK
3	BIO SUDHA	Market, Bangalore	Jan-05	CHECK & BREEDING
4	BIO SHEETAL	Market, Bangalore	Jan-05	CHECK
5	SUGAR BALL	Market, West Bengal	Jan-05	CHECK
6	MADHUBALA	Market, Bangalore	Jan-05	CHECK
7	NS-295	Market, Bangalore	Jan-05	CHECK
8	GS-18	Market, Bangalore	Jan-05	CHECK
9	MHW-6	Market, Bangalore	Jan-05	CHECK
10	MHWM-285 (SUCHITRA)	Market, Bangalore	Jan-05	CHECK
11	APORVA	Market, Bangalore	Jan-05	CHECK & BREEDING
12	SANTRUPTI	Market, Bangalore	Jan-05	CHECK
13	5001	Field collection, Karnataka	Jan-05	CHECK
14	5002 (KLONDIKE STRIPED)	Field collection, Karnataka	Jan-05	CHECK
15	5003	Field collection, Karnataka	Jan-05	CHECK
16	5004	Field collection, Karnataka	Jan-05	CHECK
17	5005	Field collection, Karnataka	Jan-05	CHECK
18	5006	Field collection, Karnataka	Jan-05	CHECK & BREEDING
19	5007	Field collection, Karnataka	Jan-05	CHECK
20	UNKNOWN	Market, Unknown	Jan-05	CHECK
21	NIRMAL-148	Market, Hyderabad	21.07.05	CHECK
22	NAMDHARI (NS-750 (450))	Market, Hyderabad	21.07.05	CHECK
23	INDAM 9307	Market, Hyderabad	31.01.06	CHECK
24	MADHUBALA	Market, Hyderabad	31.01.06	CHECK
25	KASHISH	Market, Hyderabad	24.02.06	CHECK
26	RIA	Market, Hyderabad	24.02.06	CHECK
27	GS-9	Market, Hyderabad	24.02.06	CHECK
28	V. CUH-999	Market, Hyderabad	24.02.06	CHECK
29	US 2144	Market, Bangalore	not known	CHECK
30	Water melon	Field collection, Karnataka	not known	CHECK
31	KIRAN	Market, Hyderabad	not known	CHECK

32	ROJA	Market, Hyderabad	not known	CHECK
33	PAKHEEZA	Market, Bangalore	not known	CHECK
34	OZEKI-777	Market, Bangalore	not known	CHECK
35	US 2144	Market, Hyderabad	not known	CHECK
36	SUPER DRAGON	Market, Gujarat	not known	CHECK
37	AUGUSTA	Market, Odisha	not known	CHECK
38	SUGAR BABY	Market, Hyderabad	not known	CHECK
39	ARUN	Market, Hyderabad	not known	CHECK
40	GOSUN NO. 295	Market, Hyderabad	not known	CHECK
41	CHAMPION (786)	Market, Bangalore	not known	CHECK
42	ROYAL 295	Market, Bangalore	not known	CHECK
43	NO. 999	Market, Delhi	not known	CHECK
44	PS-298	Market, Delhi	not known	CHECK
45	SUDHA	Market, Bangalore	not known	CHECK
46	MOHINI	Market, Bangalore	not known	CHECK
47	BSW-02	Seed Export, Dharwar	not known	CHECK
48	BSW-03	Seed Export, Dharwar	not known	CHECK
49	BSW-04	Seed Export, Dharwar	not known	CHECK
50	BSW-05	Seed Export, Dharwar	not known	CHECK
51	BSW-06	Seed Export, Dharwar	not known	CHECK
52	BSW-07	Seed Export, Dharwar	not known	CHECK
53	BSW-08	Seed Export, Dharwar	not known	CHECK
54	BSW-09	Seed Export, Dharwar	not known	CHECK
55	OZEKI-777	Market, Bangalore	not known	CHECK
56	BEJO-2000	Market, Jalna	not known	CHECK
57	MEETHA	Market, Delhi	not known	CHECK
58	COOL KING 12	Market, Pune, MH	not known	CHECK & BREEDING
59	SUGAR PACK	Market, Pune, MH	not known	CHECK
60	BLACK BOY	Market, Pune, MH	not known	CHECK
61	INDAM PATANGRA	Market, Hyderabad	not known	CHECK
62	TAJUMA	Market, Bangalore	04.10.17	CHECK
63	KANHA-35	Market, Bangalore	04.10.17	CHECK
64	SUMAN-235	Market, Bangalore	04.10.17	CHECK
65	IBH-23	Market, Bangalore	04.10.17	CHECK
66	YAMUNA	Market, Bangalore	04.10.17	CHECK
67	KIRAN-2	Market, Bangalore	27.10.17	CHECK

68	AUGUSTA	Market, Odisha	17.05.18	CHECK & BREEDING
69	POONAM	Market, Odisha	17.05.18	CHECK
70	TSW-01	Market, Bangalore	15.06.18	CHECK
71	KANHA-35	Market, Bangalore	15.06.18	CHECK
72	ANMOL	Market, Bangalore	18.09.18	CHECK
73	SUPRIT	Market, Bangalore	18.09.18	CHECK & BREEDING

9/L 54

सत्यमेव जयते

प्रारुप एक
Form 1

निगमन का प्रमाण-पत्र

Certificate of Incorporation

सं० ५५-३४९२३ का सं १९१०

No. 55-34923 of 1988-89

मै एतद् द्वारा प्रमाणित करता हूँ कि आज डीसीएम इन्जीनियरिंग इन्डीस्ट्रीज प्राइवेट लिमिटेड
कम्पनी अधिनियम 1956 (1956 का 1) के अधीन निगमित की गई है और यह कम्पनी परिसीमित है।

I hereby certify that DCM ENGINEERING INDUSTRIES PRIVATE LIMITED is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the Company is Limited.

मेरे हस्ताक्षर से आज ता० 17 माघ, 1910 को दिया गया।

Given under my hand at NEW DELHI this SIXTH day of FEBRUARY One thousand nine hundred and EIGHTY NINE

कम्पनी रजिस्ट्रार दिल्ली एवं हरियाणा

Sd/-
(बी.भवानी शंकर)
कम्पनी रजिस्ट्रार
दिल्ली एवं हरियाणा
(B.BHAVANI SANKAR)
Registrar of Companies
DELHI & HARYANA

55

The Company has been converted into a Public Company from the deemed Public Company U/S 44 of the Companies Act, 1956.
Sd/-
Registrar of Companies
Dtd. 21.9.89

सत्यमेव जयते

The word "Private" has been deleted from the Company name U/S 43-A (I) of the Companies Act, 1956
Sd/-
Asstt. Registrar of Companies
Dtd. 18.9.89

प्रारुप एक
Form 1

निगमन का प्रमाण-पत्र
Certificate of Incorporation

सं० ५५-३४९२३ का सं १९९०
No. 55-34923 of 1988-89

मै एतद् द्वारा प्रमाणित करता हूँ कि आज डीसीएम इन्जीनियरिंग इन्डीस्ट्रीज प्राईवेट लिमिटेड
कम्पनी अधिनियम 1956 (1956 का 1) के अधीन निगमित की गई है और यह कम्पनी परिसीमित है।

I hereby certify that DCM ENGINEERING INDUSTRIES PRIVATE LIMITED is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the Company is Limited.

मेरे हस्ताक्षर से आज ता० 17 माघ, 1910 को दिया गया।

Given under my hand at NEW DELHI this SIXTH day of FEBRUARY One thousand nine hundred and EIGHTY NINE

कम्पनी रजिस्ट्रार दिल्ली एवं हरियाणा

Sd/-
(बी.भवानी शंकर)
कम्पनी रजिस्ट्रार
दिल्ली एवं हरियाणा
(B.BHAVANI SANKAR)
Registrar of Companies
DELHI & HARYANA

7/2 56

FRESH CERTIFICATE OF INCORPORATION
CONSEQUENT ON CHANGE OF NAME

COMPANY. NO. 55-34923

IN THE OFFICE OF THE REGISTRAR OF COMPANIES,
DELHI AND HARYANA

(UNDER THE COMPANIES ACT, 1956 (OF 1956)

In the matter of DCM ENGINEERING INDUSTRIES LIMITED
I hereby certify that DCM ENGINEERING INDUSTRIES LIMITED

Which was originally incorporated on SIXTH

day of FEBRUARY One Thousand Nine Hundred EIGHTY NINE Under Companies Act, 1956 and Under the name DCM ENGINEERING INDUSTRIES PRIVATE LIMITED having duly passed the necesary special resolution in terms of section 21 of the Companies Act, 1956 and the approval of Central Government signified in writing have been accorded thereto in the Department of Company Affairs, New Delhi approval letter No. 21/55-34923/4669 Dated 22-2-90
The name of the said Company is this day changed to DCM INDUSTRIES LIMITED and this certificate is issued pursuant to Sec. 23 (1) of the said Act.

Given under my hand at NEW DELHI this FIRST day of MARCH One thousand Nine Hundred and NINETY

कम्पनी रजिस्ट्रार
दिल्ली एवं हरियाणा

Sd/-
(B. BHAVANI SANKAR)
REGISTRAR OF COMPANIES
DELHI AND HARYANA

6/57

FRESH CERTIFICATE OF INCORPORATION
CONSEQUENT ON CHANGE OF NAME

COMPANY NO. 55-34923

IN THE OFFICE OF THE REGISTRAR OF COMPANIES,
DELHI AND HARYANA

(UNDER THE COMPANIES ACT, 1956 (OF 1956)

In the matter of DCM INDUSTRIES LIMITED
I hereby certify that DCM INDUSTRIES LIMITED

Which was originally incorporated on SIXTH

day of FEBRUARY One Thousand Nine Hundred EIGHTY NINE Under Companies Act, 1956 and Under the name DCM ENGINEERING INDUSTRIES PRIVATE LIMITED having duly passed the necessary special resolution in terms of section 21 of the Companies Act, 1956 and the approval of Central Government signified in writing have been accorded thereto in the Department of Company Affairs, New Delhi approval letter No. 21/34923/15254 Dated 18-7-90
The name of the said Company is this day changed to DCM SHRIRAM CONSOLIDATED LIMITED and this certificate is issued pursuant to Sec. 23 (1) of the said Act.

Given under my hand at NEW DELHI this TWENTIETH day of JULY One thousand Nine Hundred and NINETY

कम्पनी रजिस्ट्रार
दिल्ली एवं हरियाणा

Sd/-
(B. BHAVANI SANKAR)
REGISTRAR OF COMPANIES
DELHI AND HARYANA

DCM SHRIRAM

Extracts from the minutes of the Meeting of the Board of Directors held on 22.2.2014

5. Change of name of the Company

Resolved that, consequent upon change in the name of the Company, fresh Power of Attorney(ies) in lieu of existing Power of Attornies, if required, be executed including the following in favour of Company's Directors/Officials/ Authorised Signatories who have been given and are holding valid Power of Attorney(ies) of the Company on the date of change of its name without limiting the general authorization given above :

S. No.	In Favour of	Designation	UNIT(S)
1	Mr. Ajay S.Shriram	Chairman & Sr.Managing Director	Corporate Office
2	Mr. Vikram S.Shriram	Vice Chairman & Managing Director	Corporate Office
3	Mr. Ajit S. Shriram	Dy. Managing Director	Corporate Office
4	Dr. N.J.Singh	Whole Time Director EHS)	Corporate Office
5	Mr. K.K.Kaul	Sr. Executive Director	SFC/SCW
6	Mr. Sunil M.Radhakrishna	Sr. Executive Director	DSCL Sugar
7	Mr. A.K. Awasthi	Chief Executive	Hydro Power
8	Mr. Sovan Chakrabarty	ED & & Business Head	Corporate Office
9	Mr. J.K.Jain	ED & CFO	Corporate Office
10	Mr. Rajesh Gupta	President	Hariyali Kisaan Bazaar
11	Mr. Anil Kumar	President & Business Head (Chemicals)	Corporate Office
12	Dr. Sharad Sharma	President	Bioseed India
13	Mr. Sushil Baveja	President & Head - Corporate HR	Corporate Office
14	Dr. Paresh Verma	Research Director	Bioseed India
15	Mr. N.K.Garg	Sr. Vice President	Corporate Office
16	Mr. Rajat Mukerjei	Sr. Vice President & SBU Head -- Cement	Corporate Office
17	Mr. Parveen Kumar Aggarwal	Sr. Vice President	Corporate Office
18	Mr. Prem Das	Sr. Vice President	SFC/SVC/SCW
19	Mr. Rajiv Arora	Vice President	SHRIRAM POLYTECH
20	Mr. O.P.Gupta	Vice President	DSCL SUGAR
21	Mr. Sanjay Chhabra	Vice President	AGRI BUSINESS
22	Mr. Vinoo Mehta	Vice President	SFC
23	Mr. Saket Jain	Vice President	Fenesta Building System
24	Mr. Amit Agarwal	Joint Vice President	Corporate Office
25	Mr. Dinesh Sardana	Joint Vice President	DSCL SUGAR
26	Mr. Anoop Singh	Joint Vice President	DSCL SUGAR

27	Mr. B.K.Khurana	Joint Vice President	HARIYALI KISAAN BAZAAR
28	Mr. Pradeep Tyagi	Joint Vice President	DSCL SUGAR
29	Mr. Amarendra Kumar Rakesh	General Manager	SFC/SCW
30	Mr. J.Banerjee	General Manager	Fenesta Building System
31	Mr. K.Kesavan	General Manager (Finance & Accounts)	Bioseed India
32	Mr. Sudhir Kohli	General Manager & Head Marketing	SVC
33	Mr. Shobhit Rastogi	Addl. General Manager (Comm) – Loni	DSCL SUGAR-
34	Mr. Sanjay Dimri	Addl. General Manager	SHRIRAM POLYTECH
35	Mr. A.K. Chakraborty	Addl. General Manager	DSCL SUGAR
36	Mr. A.K.Mathur	Addl. General Manager	SFC/SCW
37	Mr. Manish Joshi	Addl. General Manager	HARIYALI KISAAN BAZAAR
38	Mr. Jacob Abraham	Asst. General Manager (Commercial)	SAC, BHARUCH
39	Mr. Devesh Agarwal	Senior Manager	DSCL SUGAR
40	Mr. S.N.Mittal	Senior Manager	Corporate Office
41	Mr. Anup Kumar Sharma	Senior Manager	HARIYALI KISAAN BAZAAR
42	Mr. Naresh Punjabi	Addl. Manager	SVC
43	Mr. Sushil Handa	Retainer	HARIYALI KISAAN BAZAAR

Resolved also that Shri Ajay S. Shriram, Chairman & Sr. Managing Director, and Shri Vikram S. Shriram, Vice Chairman & Managing Director, be and are hereby severally authorised to sign, seal, register and deliver the said Power of Attornies.

Resolved also that the common seal shall be affixed in the presence of either Shri Ajay S. Shriram, Chairman & Sr. Managing Director or Shri Vikram S. Shriram, Vice Chairman & Managing Director and Shri B.L. Sachdeva, Company Secretary of the Company, who shall countersign the same in token thereof.

Resolved also that Shri B.L. Sachdeva, Company Secretary be and is hereby severally authorized to take all necessary actions, which are incidental and consequential to give effect to the above resolutions.

Certified True Copy
For DCM Shriram Ltd.

(Sameet Gambhir)
Company Secretary

3/L 60

भारत गणराज्य REPUBLIC OF INDIA

इसके द्वारा, भारत गणराज्य के राष्ट्रपति के नाम पर, उन सभी से जिनका इससे संबंध हो, अनुरोध एवं अपेक्षा की जाती है कि वे धारक को बिना किसी रोक-टोक के स्वतंत्र रूप से आने-जाने दें, और उसे हर तरह की ऐसी सहायता और सुरक्षा प्रदान करें जिसकी उसे आवश्यकता हो।

THESE ARE TO REQUEST AND REQUIRE IN THE NAME OF THE PRESIDENT OF THE REPUBLIC OF INDIA ALL THOSE WHOM IT MAY CONCERN TO ALLOW THE BEARER TO PASS FREELY WITHOUT LET OR HINDRANCE AND TO AFFORD HIM OR HER, EVERY ASSISTANCE AND PROTECTION OF WHICH HE OR SHE MAY STAND IN NEED.

भारत गणराज्य के राष्ट्रपति के आदेश से
BY ORDER OF THE PRESIDENT OF THE REPUBLIC OF INDIA

विदेश मंत्रालय Ministry of External Affairs 50101 GOVT. OF INDIA

अश्विनी सत्तारु, IFS
ASHWINI SATTARU IFS
क्षेत्रीय पासपोर्ट अधिकारी
Regional Passport Officer
क्षेत्रीय पासपोर्ट कार्यालय
Regional Passport Office
हैदराबाद / HYDERABAD

पासपोर्ट
PASSPORT

भारत गणराज्य
REPUBLIC OF INDIA

19

भारत गणराज्य REPUBLIC OF INDIA

प्रकार / Type: P

संघ राज्य क्षेत्र / Union Territory: IND

पासपोर्ट सं. / Passport No.: Z3324463

उपनाम / Surname: VERMA

दिया गया नाम / Given Name(s): PARESH KUMAR

राष्ट्रीयता / Nationality: INDIAN

लिंग / Sex: M

जन्म तारीख / Date of Birth: 05/09/1958

जन्म स्थान / Place of Birth: GWALIOR, MADHYA PRADESH

जारी करने का स्थान / Place of Issue: HYDERABAD

जारी करने की तिथि / Date of Issue: 03/08/2015

समाप्ति की तिथि / Date of Expiry: 02/08/2025

P<INDVERMA<<PARESH<KUMAR<<<<<<<<<<<<<<<<<<<<

Z3324463<8IND5809057M2508027<<<<<<<<<<<<<<<8

Z3324463

BHAGWATI PRASAD VERMA

VIMLA VERMA

MEENAKSHI VERMA

F NO.76 DAFFODIL L&T SERENE COUNTY TELECOM NAGAR.

GACHIBOWLI,HYDERABAD

PIN:500033,TELANGANA,INDIA

L4096/56 13/08/2013 HYDERABAD

HY307871585151S

62

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/2

Pages - 63 – 64

ANNEXURE-R2

NATIONAL BIODIVERSITY AUTHORITY
राष्ट्रीय जैव विविधता प्राधिकरण
5th Floor, Ticel Bio Park, Near Ascendas Building, Taramani, CHENNAI - 600 113
5 फ्लोर, टैसेल बयो पार्क भवन, अस्सेन्डास बिल्डिंग समीप, तरमनि, चेन्नै - ६०० ११३
Tel: +91-44-2254 1075/2777
Fax:+91-44-2254 1200
Email: accounts@nbaind.a.in
Website: www.nbaindia.org

F.NBA/TECH APPL/9/TRF/1950/1951/1952/1953/1954/1955/1956/1957/1958/1959/1960/1961/1962/1963/1964/1965/1966/1967/1968/1969 / 3768

दिनांक/Date: 19-12-2018

प्रति/To,

Dr. Paresh Verma
President, Bioseed South East Asia & Research Director,
M/S. DCM Shriram Limited
Plot No. 234, B Block,
Phase II, Kavuri Hills,
Hyderabad – 500 033

महोदय/महोदया,
Sir/Madam,

विषय: पावती अग्रेषित करने के बारे में.
Sub: Forwarding of receipt - Regarding

इसकेसाथ फ़ार्म I केरूपमेंरू. 2,00,000/- (रूपये दो लाख मात्र) काटी.आर. संख्या 55 dated 19-12-2018 संलग्नहै.

Please find enclosed herewith T.R. No. 55 dated 19-12-2018 for Rs. 2,00,000/- (Rupees Two Lakhs only) towards Form I (20 nos.).

भवदीय /Yours faithfully,

(एस. कांचना / S. Kanchana)
कृतेलेखाअधिकारी/ for Accounts Officer

संलग्नक: यथोक्त
Encl: As above

O/C
19-12-18

20/12
Despatcher
National Biodiversity Authority
6th Floor, TICEL Biopark,
Taramani Link Road,
Taramani, Chennai - 600 113.

P.T.O

04

G.A.R. 3 [See Rule 22 (1)]
M.R. 8 [See Rule 15]

RECEIPT

Original

No.

Dated

Received from

Shri Kameswara Dairing, 18 Basavanna Road N. Delhi - 110001

with Letter No. , dated

the sum of Rupees Two Lakhs only.

in Cash
by Cheque
by Bank Draft

on account of ICICI Ch.No. 508480 to 508499 dt. 4.12.18.

in payment of Form I (20 nos)

Signature

Designation Deputy Director
National Rural Livelihoods
Chennai

₹ 2,00,000/-

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/3

Pages - 65 - 67

28/-653

Vimalraj Tech Asst <absdesk2@nbaindia.in>

ANNEXURE- R3

Seeking details for Form-I applications TRF 1950 - 1959 (Ten Nos.) - reg.

NBA Technical <techbs@nba.nic.in> Wed, Dec 26, 2018 at 6:11 PM
To: paresh.verma@bioseed.com
Cc: Vimal Tech Asst <absdesk2@nbaindia.in>, umagandhi NBA <umagandhi@nbaindia.org>, T Rabikumar <secretary@nba.nic.in>, "chairman, NBA" <chairman@nba.nic.in>

No. NBA/Tech Appl/ /9/ TRF1950–1959 (Ten Nos.) /18/18-19/ (thru email only) dated: 26.12.2018

To

Dr. Paresh Verma
President, Contractual and relationship
Sociates Management, Bioseed research India,
Plot: 234, B Block Phase II, Kavuri Hilla,
Hyderabad: 500 033

Sir,

Sub: Form I applications (Ten Nos.) received from M/s. DCM Shriram Ltd – reg.

I invite your attention to Ten nos. Form I applications to access the biological resources for research purpose and acknowledge receipt of the same. On scrutiny of the said applications, the following documents/ information which are required for processing them are found lacking:

S. No	DCM Shriram (DD No.)	Bio-resource	NBA Ref. No.	Clarification/ documents sought for
1.	508490	*Capsicum frutescens*	TRF 1950	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Dr. Sanjay Bulgundi authorized to make a collection/selection of the bio-resources 4) Provide any self attested Govt. ID proof of Dr. Sanjay Bulgundi such as Aadhaar/Driving Licence etc.,
2.	508487	*Zey mays*	TRF 1951	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Dr. Bijendra Pal authorized to make a collection/selection of the bio-resources 4) Provide any self attested Govt. ID proof of Dr. Bijendra Pal such as Aadhaar/Driving Licence etc.,
3.	508491	*Citrullus lanatus*	TRF 1952	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Dr. Bhanuranjan Swain authorized to make a collection/selection of the bio-resources 4) Provide any self attested Govt. ID proof of Dr. Bhanuranjan Swain such as Aadhaar/Driving Licence etc.,
4.	508493	*Cucurbita*	TRF 1953	1) Provide full scientific name including species name (If available)

				2) Provide the details of Bioresources in the following format given below 3) Provide the collection of bioresources in the following format given below 4) Authorization letter in favour of Dr. Bhanuranjan Swain authorized to make a collection/selection of the bio-resources 5) Provide any self attested Govt. ID proof of Dr. Bhanuranjan Swain such as Aadhaar/Driving Licence etc.,
5.	508494	*Luffa aegyptiaca*	TRF 1954	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Dr. Bhanuranjan Swain authorized to make a collection/selection of the bio-resources 4) Provide any self attested Govt. ID proof of Dr. Bhanuranjan Swain such as Aadhaar/Driving Licence etc.,
6	508483	*Solanum lycopersicum*	TRF 1955	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Mr. Amaresha Mittur authorized to make a collection /selection of the bio-resources 4) Provide any self attested Govt. ID proof of Mr. Amaresha Mittur such as Aadhaar/Driving Licence etc.,
7	508482	*Solanum melanogena*	TRF 1956	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Mr. Amaresha Mittur authorized to make a collection /selection of the bio-resources 4) Provide any self attested Govt. ID proof of Mr. Amaresha Mittur such as Aadhaar/Driving Licence etc.,
8	508488	*Brassica*	TRF 1957	1) Provide full scientific name including species name (If available) 2) Provide the details of Bioresources in the following format given below 3) Provide the collection of bioresources in the following format given below 4) Authorization letter in favour of Mr. Raghunandan Patidar Swain authorized to make a collection /selection of the bio-resources. 5) Provide any self attested Govt. ID proof of Mr. Raghunandan Patidar Swain such as Aadhaar/Driving Licence etc.,
9	508481	*Cajanus cajan*	TRF 1958	1) Provide the details of Bioresources in the following format given below 2) Provide the collection of bioresources in the following format given below 3) Authorization letter in favour of Dr. Bijendra Pal authorized to make a collection/selection of the bio-resources

				4) Provide any self attested Govt. ID proof of Dr. Bijendra Pal such as Aadhaar/Driving Licence etc.,
	508486	*Solanum melanogena*	TRF 1959	1) Provide authorization letter in favour of Dr. Dwarkesh Prihar authorized to make a collection /selection of the bio-resources 2) Provide any self attested Govt. ID proof of Dr. Dwarkesh Prihar such as Aadhaar/Driving Licence etc.,

1. Details of the biological resource and its traditional use:

Sl.no	Common name	Accession No.	Scientific name	Nature of Bioresources (Plant/ animal/ microbes)	Part of bioresources i.e stem, leaf, seed etc.,	Time of access (Date/ month/year)
1						

2. Details of collection/geographical localities of each varieties (for collected BR from wild or cultivated areas)

S.No.	Name of biological resource/ Accession No.	Source of access wild or cultivated	Nature of specimen (live or dead , whole plant or its parts like leaf, seed, flower, stem etc. thereof	Quantity	Village / Panchayat	Town/ Taluk	District	State	Name of the persor authorized to collect
1.									

3. If the biological resource (s) is to be collected or procured from the Institute/ Organization/ Company/local trader/individual, provide exact contact details (address and contact number).

Hence, you are requested to provide the documents/ information **of each application separately** called for within 15 days from the date of receipt of this communication.

In future, please make use of hassle-free e-filing of your application thru this office website www.nbaindia.org for access to biological resources and associated traditional knowledge along with prescribed application fee and other supporting documents.

Please acknowledge receipt.

Yours faithfully,
Sd/-
(K.P. Raghuram)
Technical Officer (BS),
NBA, Chennai

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NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/4

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ANNEXURE - R4
29h 68

NBA

Dr. S. Rajesh Kumar <absdesk6@nbaindia.org>

Reminder- Seeking information for form I Applications (Ten No 's) TRF -1950-1959- reg

NBA Technical <techbs@nba.nic.in> Fri, May 24, 2019 at 1:14 PM
To: rajani.jaiswal@bioseed.com, paresh.verma@bioseed.com
Cc: Vimal Tech Asst <absdesk2@nbaindia.in>, Rajesh kumar YP <absdesk6@nbaindia.org>, Secretary NBA <secretary@nba.nic.in>, "chairman, NBA" <chairman@nba.nic.in>

No. NBA/Tech Appl/ /9/ TRF1950–1959 (Ten Nos.)/18/19-20 Dt 24.05.2019
(thru email only)

REMINDER

To

Ms. Rajani Jaiswal, Ph. D.
Manager-Intellectual Property,
Plant Variety Protection, Contractual and Relationship Management
Bioseed Research India (a Division of DCM Shriram Limited)
Plot: 234, B Block Phase II, Kavuri Hilla,
Hyderabad: 500 033

Madam,

Sub: Applications in Form-I for seeking approval of NBA – reg.
Ref: 1. Your applications (TRF1950-1959) in Form –I dated 10.12.2018
2. This office email communication of even no. dated 26.12.2018 & 19.02.2019
3. Your email communication dt. 03.01.2019 & 02.03.2019

****

This has reference to the applications (Ten Nos.) in Form-I dated 10.12.2018 received from **M/S. DCM Shriram Ltd.,** on the captioned subject.

2. Upon scrutiny of the said applications, certain documents/ information were called for by this office vide email letter dated 26.12.2018 and subsequently reminded on 19.02. 2019. In response, you have acknowledged the receipt of the same vide office email dt. on 03.01.2019 and 02.03.2019.

3. Since the documents/ information called for have not been furnished to this office till date. You are hereby requested to submit the same within 15 days from the date of receipt of this letter failing which your applications will be treated as closed as per the closing procedure in vogue.

Please acknowledge receipt.

Yours faithfully,
Sd/-
(K.P. Raghuram)
Technical Officer (BS),
NBA, Chennai.

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NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/5

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ANNEXURE- R5

Rajani Jaiswal, Ph. D.
Manager- Intellectual Property, Plant Variety Protection, Contractual and Relationship Management
e-mail: Rajani.Jaiswal@bioseed.com
Tel: +91 40 67066666; 040 67066672
Fax: +91 40 67066606

BIOSEED

Bioseed Research India,
Division of **DCM Shriram Limited**
Plot No. 234, B Block, Phase II,
Kavuri Hills, Hyderabad-500033,
Telangana, India

Dt: May 29, 2019

Via courier

To,
The Chairman,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Subject: Form I application according to Office Memorandum (OM) dated September 10, 2018, Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India for prior access to seed material of *Citrullus lanatus* (Water melon)

NBA Ref: NBA/Tech Appl/9/TRF 1952/18/19-20 email dated 24.5.19

Dear Sir,

This is in response to the queries received 24.5.19, we are herby submitting the required information in response to the queries.

Thanking you.

Sincerely

Rajani Jaiswal

Enclosures:

(1) Response to the queries
(2) Copy of the authorization Letter
(3) Copy of the Photo ID

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BIOSEED

Authorization Letter

I, **Paresh Verma**, President, Bioseed South East Asia & Research Director, Bioseed Research India, and Hyderabad hereby authorize **Dr. Bhanuranjan Swain**, Scientist-Breeder, Bioseed Research India, Mokila, Telangana to access Water melon, Cucumber, Sponge gourd, Bottle gourd, Bitter gourd, Ridge gourd, and Pumpkin for the purpose of conventional breeding programme of Bioseed Research India, a unit of DCM Shriram Ltd.

Paresh Verma

Date: 29/05/2019

Place: Hyderabad

President, Bioseed South East Asia &
Research Director – Bioseed Research India
Plot No. 234, B Block
Phase II, Kavuri Hills
Hyderabad - 500 033
Tel: +91 40 67066666; 040 6706622;
Mob: 9347076327
e-mail: paresh.verma@bioseed.com

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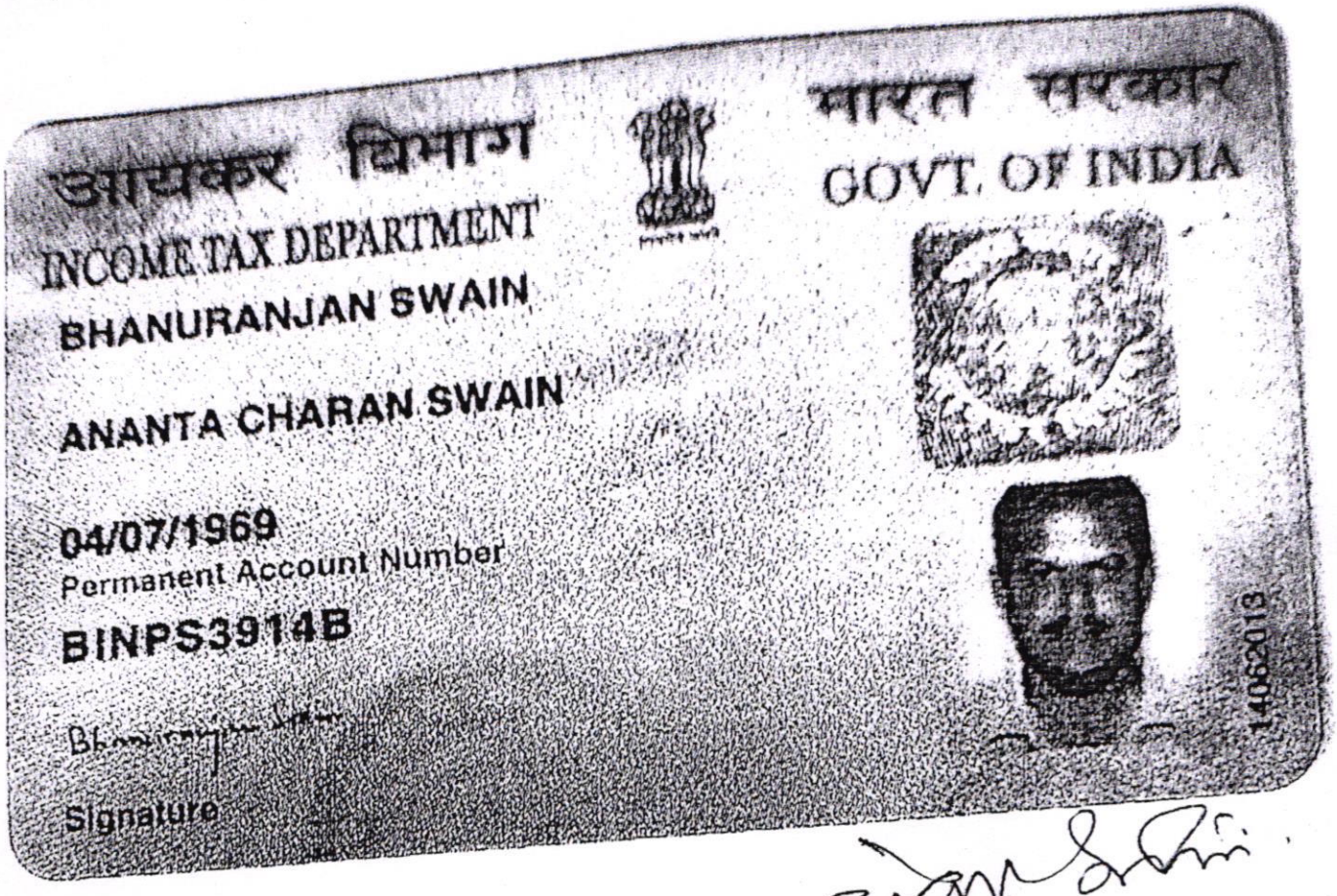

Bhanuranjan Swain

Response to the queries

1) Provide the details of Bioresources in the following format given below
2) Provide the collection of bioresources in the following format given below

Ans: The details of the Bioresources the collection of bioresources are provided below.

Common Name:	Water Melon
Scientific name:	*Citrullus lanatus*
Nature of Bioresources (Plant/ animal/ microbes):	Plant
Part of bioresources i.e stem, leaf, seed etc.:	Seed

Sl. No.	GERMPLASM ACCESSION #	DETAIL NAME	SOURCES OF ACCESSION	DATE	Nature of specimen (live or dead , whole plant or its parts like leaf, seed, flower, stem etc. thereof	Quantity	Village / Panchayat	Town/ Taluk	District	State	Name of the person authorized to collect	Contact details
1	WAM-11	SUGAR BABY	Market, West Bengal	Jan-05	Seeds	2-30 gm	—	—	—	West Bengal	Dr. Bhanuranjan Swain	9148966706
2	WAM-12	AMRIT	Market, Own	Jan-05	Seeds	2-30 gm	—	—	—	—	Dr. Bhanuranjan Swain	9148966706
3	WAM-13	BIO SUDHA	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706

1-2

4	WAM-14	BIO SHEETAL	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
5	WAM-15	SUGAR BALL	Market, West Bengal	Jan-05	Seeds	2-30 gm	—	—	—	West Bengal	Dr. Bhanuranjan Swain	9148966706
6	WAM-16	MADHUBALA	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
7	WAM-17	NS-295	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
8	WAM-18	GS-18	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
9	WAM-19	MHW-6	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
10	WAM-20	MHWM-285 (SUCHITRA)	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
11	WAM-21	APORVA	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
12	WAM-22	SANTRUPTI	Market, Bangalore	Jan-05	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
13	WAM-23	5001	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
14	WAM-24	5002 (KLONDIKE STRIPED)	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
15	WAM-25	5003	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
16	WAM-26	5004	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan	9148966706

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											Swain	
17	WAM-27	5005	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
18	WAM-28	5006	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
19	WAM-29	5007	Field collection, Karnataka	Jan-05	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
20	WAM-36	UNKNOWN	Market, Unknown	Jan-05	Seeds	2-30 gm	Details not available	Details not available	Details not available	Details not available	Dr. Bhanuranjan Swain	9148966706
21	WMIH-1	NIRMAL-148	Market, Hyderabad	21.07.05	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
22	WMIH-2	NAMDHARI (NS-750 (450))	Market, Hyderabad	21.07.05	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
23	WMIH-3	INDAM 9307	Market, Hyderabad	31.01.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
24	WMIH-4	MADHUBALA	Market, Hyderabad	31.01.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
25	WMIH-5	KASHISH	Market, Hyderabad	24.02.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
26	WMIH-6	RIA	Market, Hyderabad	24.02.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
27	WMIH-7	GS-9	Market, Hyderabad	24.02.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
28	WMIH-8	V. CUH-999	Market, Hyderabad	24.02.06	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706

17-19

29	WMIH-9	US 2144	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Telangana	Dr. Bhanuranjan Swain	9148966706
30	WMIL-1	Water melon	Field collection, Karnataka	not known	Seeds	2-30 gm	—	—	—	Karnataka	Dr. Bhanuranjan Swain	9148966706
31	WMIH-10	KIRAN	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
32	WMIH-11	ROJA	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
33	WMIH-12	PAKHEEZA	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
34	WMIH-13	OZEKI-777	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
35	WMIH-14	US 2144	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
36	WMIH-15	SUPER DRAGON	Market, Gujarat	not known	Seeds	2-30 gm	—	—	—	Gujarat	Dr. Bhanuranjan Swain	9148966706
37	WMIH-16	AUGUSTA	Market, Odisha	not known	Seeds	2-30 gm	—	—	—	Odisha	Dr. Bhanuranjan Swain	9148966706
38	WMIH-17	SUGAR BABY	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
39	WMIH-18	ARUN	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
40	WMIH-19	GOSUN NO. 295	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
41	WMIH-20	CHAMPION (786)	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan	9148966706

30, 36-37

											Swain	
42	WMIH-21	ROYAL 295	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
43	WMIH-22	NO. 999	Market, Delhi	not known	Seeds	2-30 gm	Delhi	Delhi	Delhi	Delhi	Dr. Bhanuranjan Swain	9148966706
44	WMIH-23	PS-298	Market, Delhi	not known	Seeds	2-30 gm	Delhi	Delhi	Delhi	Delhi	Dr. Bhanuranjan Swain	9148966706
45	WMIH-26	SUDHA	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
46	WMIH-27	MOHINI	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
47	WMIH-28	BSW-02	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
48	WMIH-29	BSW-03	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
49	WMIH-30	BSW-04	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
50	WMIH-31	BSW-05	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
51	WMIH-32	BSW-06	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
52	WMIH-33	BSW-07	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706
53	WMIH-34	BSW-08	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	9148966706

54	WMIH-35	BSW-09	Seed Export, Dharwad	not known	Seeds	2-30 gm	Dharwad	Dharwad	Dharwad	Karnataka	Dr. Bhanuranjan Swain	91489667
55	WMIH-37	OZEKI-777	Market, Bangalore	not known	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	91489667
56	WMIH-38	BEJO-2000	Market, Jalna	not known	Seeds	2-30 gm	Jalna	Jalna	Jalna	Maharashtra	Dr. Bhanuranjan Swain	91489667
57	WMIH-39	MEETHA	Market, Delhi	not known	Seeds	2-30 gm	Delhi	Delhi	Delhi	Delhi	Dr. Bhanuranjan Swain	91489667(
58	WMIH-40	COOL KING 12	Market, Pune, MH	not known	Seeds	2-30 gm	Pune	Pune	Pune	Maharashtra	Dr. Bhanuranjan Swain	914896670
59	WMIH-41	SUGAR PACK	Market, Pune, MH	not known	Seeds	2-30 gm	Pune	Pune	Pune	Maharashtra	Dr. Bhanuranjan Swain	914896670
60.	WMIH-42	BLACK BOY	Market, Pune, MH	not known	Seeds	2-30 gm	Pune	Pune	Pune	Maharashtra	Dr. Bhanuranjan Swain	914896670
61	WMIH-43	INDAM PATANGRA	Market, Hyderabad	not known	Seeds	2-30 gm	Hyderabad	Hyderabad	Hyderabad	Telangana	Dr. Bhanuranjan Swain	9148966706
62	WMIH-44	TAJUMA	Market, Bangalore	04.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
63	WMIH-45	KANHA-35	Market, Bangalore	04.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
64	WMIH-46	SUMAN-235	Market, Bangalore	04.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
65	WMIH-47	IBH-23	Market, Bangalore	04.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
66	WMIH-48	YAMUNA	Market, Bangalore	04.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan	9148966706

											Swain	
67	WMIH-49	KIRAN-2	Market, Bangalore	27.10.17	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
68	WMIH-50	AUGUSTA	Market, Odisha	17.05.18	Seeds	2-30 gm	—	—	—	Odisha	Dr. Bhanuranjan Swain	9148966706
69	WMIH-51	POONAM	Market, Odisha	17.05.18	Seeds	2-30 gm	—	—	—	Odisha	Dr. Bhanuranjan Swain	9148966706
70	WMIH-52	TSW-01	Market, Bangalore	15.06.18	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
71	WMIH-53	KANHA-35	Market, Bangalore	15.06.18	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
72	WMIH-54	ANMOL	Market, Bangalore	18.09.18	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706
73	WMIH-55	SUPRIT	Market, Bangalore	18.09.18	Seeds	2-30 gm	Bangalore	Bangalore	Bangalore	Karnataka	Dr. Bhanuranjan Swain	9148966706

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30/-
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3) Authorization letter in favor of Dr. Bhanuranjan Swain authorized to make a collection/selection of the bio-resources

Ans: Please see attached the authorization letter in favor of Bhanuranjan Swain.

4) Provide any self attested Govt. ID proof of Bhanuranjan Swain such as Aadhaar/Driving License etc.,

Ans: Please see copy of the self ID proof of Bhanuranjan Swain.

5) If the biological resource (s) is to be collected or procured from the Institute/ Organization/ Company/local trader/individual, provide exact contact details (address and contact number).

Ans: Not Applicable

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/6

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ANNEXURE - R 6

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Nirmala K <exetech2@nbaindia.in>

Application in Form I -seeking clarification/information-Appl.no.3074-reg.

Anandhakumar <techasstb@nba.nic.in> Wed, Aug 21, 2019 at 9:56 AM
To: paresh.verma@bioseed.com, rajani.jaiswal@bioseed.com
Cc: Nirmala <exetech2@nbaindia.in>, Sheeba Anitha <yptech2@nbaindia.in>, Jai NBA <techasstz@nba.nic.in>, NBA Technical <techbs@nba.nic.in>, secretary nba <secretary@nba.nic.in>, chairman nba <chairman@nba.nic.in>

NBA/Tech Appl/9/3074/19/19-20 (*Through email only*) Date: 21.08.2019

To

Dr. Paresh Verma,

President, Bioseed South East Asia & Research

Director- Bioseed Research India,

Plot No. 234, B Block,

Phase II, Kavuri Hills,

Hyderabad, Pin-500 033.

Email: paresh.verma@bioseed.com

Sir,

Sub: Application in Form- I seeking approval of NBA as per O.M. dated 10.09.2018 of the MoEF&CC – clarification/information-reg.

*****

This has reference to the application in Form-I submitted on behalf of M/s. DCM Shriram Limited, Hyderabad seeking approval for accessed biological resource (73-Water melon seed varieties) for research.

2. On perusal of the application, it is observed that the following clarification/ information/documents are lacking for its further process:

a. In your email dated 29.05.2019, you have furnished the details of biological resources in the Enclosure 1. In this connection, from serial numbers 1 to 2, 13 to 19, 30, 36-37 and from 68 to 69 you have not mentioned the geographical locations. Hence, please update the requested information and furnished the following pro-forma.

I. Details of biological resources:

Common Name:

Scientific Name: (Genus & species)

Parts:

Sl. No.	Name of the variety /Germplasm (Accession number)	Quantity accessed	Date of access	Source of access (Market/ trader/ institution)	Place of access (village, Taluk, District, State), if purchased from the trader/institute, please	Duration of the research period (start date and end date/	Purpose of research (Please refer 2.h of the application)

					furnished the contact details	tentative end date)	

ii. Research Details:		
1	Type of research carried out	
2	A brief note on research (100 words)	
3	Outcome of the research.	
4	Details of new varieties/ products developed. If any, as the outcome of the research.	
5	Details of commercialization of products developed. a. Date of commencement of commercialization b. Year wise sale figure.	

You are requested to submit the above-mentioned information/clarification, within 15 days of receipt of this communication.

Please acknowledge the receipt.

Yours faithfully,

P. Anandhakumar,

Technical Assistant,

National Biodiversity Authority,

5th Floor, TICEL Bio Park,

Phase-1, CSIR Road,

Taramani, Chennai-600 113.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/7

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ANNEXURE-R7

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Rajani Jaiswal, Ph. D.
Manager- Intellectual Property, Plant Variety Protection, Contractual and Relationship Management
e-mail: Rajani.Jaiswal@bioseed.com
Tel: +91 40 67066666; 040 67066672
Fax: +91 40 67066606

BIOSEED

Bioseed Research India,
Division of **DCM Shriram Limited**
Plot No. 234, B Block, Phase II,
Kavuri Hills, Hyderabad-500033,
Telangana, India

Dt: 4-10-2019

Via courier

To,
The Chairman,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Subject: Change of Address
Application: Form I
NBA Ref: NBA/Tech Appl/9/3074/18/19-20

Dear Sir,

With reference to the Form I application as cited above, we would like to inform you that with effect from August 5, 2019 address of the registered office of DCM Shriram Ltd. has been changed to-

2nd Floor, (West Wing), Worldmark 1,
Aerocity, New Delhi - 110037, India
Tel.:011-42100200

We request you to please update your records accordingly.

Thanking you.

Sincerely

Rajani Jaiswal

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/8

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 ANNEXURE-R8

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Subject: **Re: Reminder II -Applications in Form I- seeking clarification/information-Appl.no.3086-reg.**
To: NBA Technical <techbs@nba.nic.in>
Cc: Paresh Verma <paresh.verma@bioseed.com>,
Jai shankar NBA <techasstz@nba.nic.in>, Anandh NBA <techasstb@nba.nic.in>

Date: 11/15/19 11:52 AM
From: Rajani Jaiswal <rajani.jaiswal@bioseed.com>

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Dear Sir,
We have sent our response to the queries for the said application by courier.
Thanks and Regards
Rajani

On Fri, Nov 15, 2019 at 10:43 AM NBA Technical <techbs@nba.nic.in> wrote:

NBA/Tech Appl/9/3086/18/19-20 (***Reminder II -through email only***) Date: 15.11.2019

To

Dr. Paresh Verma,
President, Bioseed South East Asia & Research
Director- Bioseed Research India,
Plot No. 234, B Block,
Phase II, Kavuri Hills,
Hyderabad-500 033.
Email: paresh.verma@bioseed.com

Sir,

Sub: Form-I Applications by M/s. DCM Shriram Limited, Hyderabad (19 Appl.nos. 3072, 3110, 3098, 3116, 3108, 3078, 3080, 3100, 3076, 3074, 3070, 3086, 3082, 3102, 3112, 3090, 3104, 3084, 3114) – seeking information/document-reg.

*****

This has reference to the Form I applications filed by M/s. DCM Shriram Limited, Hyderabad seeking approval of NBA as per O.M. dated 10.09.2018 of the MoEF&CC for the biological resources already accessed for research.

NBA vide email dated 21.08.2019, 23.08.2019 and 28.08.2019 requested to furnish some vital information for further processing these applications. Reminders were send on 17.09.2019 and 18.09.2019. However, even after the lapse of two-months time, this office has not received response from your end.

Please note that without providing the information/ documents called for, it would be difficult to process the application further. You are therefore requested to submit the same within 15 days of receipt of this communication.

Please acknowledge receipt.
Yours faithfully,
K.P.Raghuram
Technical Officer (BS)
National Biodiversity Authority,
5th Floor, TICEL Bio Park, CSIR Road,
Taramani, Chennai-600 113

——— Original Message ———
From: **"Anandhakumar"** <techasstb@nba.nic.in>
Date: Sep 18, 2019 2:30:34 PM
Subject: Reminder-Application in Form I- seeking clarification/information-Appl.no.3086-reg.
To: paresh.verma@bioseed.com, rajani.jaiswal@bioseed.com
Cc: Nirmala <exetech2@nbaindia.in>, Sheeba Anitha <yptech2@nbaindia.in>, Jai NBA <techasstz@nba.nic.in>, NBA Technical <techbs@nba.nic.in>, secretary nba <secretary@nba.nic.in>, chairman nba <chairman@nba.nic.in>,

NBA/Tech Appl/9/3086/18/19-20 (***Reminder-through email only***) Date: 18.09.2019

Sir,

This has reference to this office email dated 21.08.2019, wherein you were requested to furnish certain information/documents for processing the application. So far, this office has not received any response/reply from your end.Therefore, please furnish the details called for within 15 days of receipt of this communication.

Please acknowledge receipt.

Yours faithfully,

P. Anandhakumar,

Technical Assistant,

National Biodiversity Authority,
5th Floor, TICEL Bio Park, CSIR Road,
Taramani, Chennai-600 113.

——— Original Message ———
From: **"Anandhakumar"** <techasstb@nba.nic.in>
Date: Aug 21, 2019 2:58:22 PM
Subject: Application in Form I- seeking clarification/information-Appl.no.3086-reg.
To: paresh.verma@bioseed.com, rajani.jaiswal@bioseed.com
Cc: Nirmala <exetech2@nbaindia.in>, Sheeba Anitha <yptech2@nbaindia.in>, Jai NBA <techasstz@nba.nic.in>, NBA Technical <techbs@nba.nic.in>, secretary nba

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/9

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ANNEXURE - R9

Rajani Jaiswal, Ph. D.
Manager- Intellectual Property, Plant Variety Protection, Contractual and Relationship Management
e-mail: Rajani.Jaiswal@bioseed.com
Tel: +91 40 67066666; 040 67066672
Fax: +91 40 67066606

BIOSEED

Bioseed Research India,
Division of **DCM Shriram Limited**
Plot No. 234, B Block, Phase II,
Kavuri Hills, Hyderabad-500033,
Telangana, India

ABS F DESK
Reg. No.: 46
IN 2/11 OUT 2/11

Dt: November 14.2019

Via courier

To,
The Chairman,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Subject: Form I application according to Office Memorandum (OM) dated September 10, 2018, Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India for prior access to seed material of Watermelon (*Citrullus lanatus*).

NBA Ref: NBA/Tech Appl/9/3074/18/19-20; email dt. 21.8.19

Dear Sir,

This is in response to the queries received via email dt. 21.8.2019, we are herby submitting the required information in response to the queries.

Thanking you.

Sincerely

Rajani Jaiswal

Enclosures:
(1) Response to the queries

Response to queries

a. In your email dated 29.05.2019, you have furnished the details of biological resources in the Enclosure 1. In this connection, from serial numbers 1 to 2, 13 to 19, 30, 36-37 and from 68 to 69 you have not mentioned the geographical locations. Hence, please update the requested information and furnished the following pro-forma.

Reply: The information related to geographical locations for serial numbers 1 to 2, 13 to 19, 30, 36-37 and from 68 to 69 is not available with us.

i. Details of biological resources:
Common Name:
Scientific Name: (Genus & species)
Parts:

Sl. No.	Name of the variety /Germplasm (Accession number)	Quantity accessed	Date of access	Source of access (Market/ trader/ institution)	Place of access (village, Taluk, District, State), if purchased from the trader/institute, please furnished the contact details	Duration of the research period (start date and end date/ tentative end date)	Purpose of research (Please refer 2.h of the application)
1-73	Details are provided in the Annexure I of the Form I filed on December 10, 2018	Details are provided in the Annexure I of the Form I filed on December 10, 2018	Details are provided in the Annexure I of the Form I filed on December 10, 2018	Details are provided in the Annexure I of the Form I filed on December 10, 2018	Details are provided in the Annexure I of the Form I filed on December 10, 2018	Start Date: 2005 onwards End Date: The process of developing new variety through conventional breeding is a continuous process and hence end date cannot be provided	The material accessed will be used as a check for in-house trials and /or for conventional plant breeding purpose.

ii. Research Details:		
1	Type of research carried out	Conventional plant breeding
2	A brief note on research (100 words)	Bioseed Research India, a unit of DCM Shriram Ltd. is engaged in carrying out

		conventional plant breeding research which involves controlled crossing between two genotypes followed by selection of desirable progenies over successive generations to develop a new variety/parental line/hybrid. Breeding methods most commonly used include pedigree selection and back crossing. It takes about 4-5 years to develop a new parental line. New parental lines are used to make new experimental hybrid combinations which are tested over multiple locations and 5 years to determine their suitability in a specific agro-climatic region. The hybrid thus selected gets commercialized. This process of developing new parental lines and hybrids is a continuous process targeting incremental gains in each cycle.
3	Outcome of the research.	Hybrid products suitable for production in various target market segments / agro-climatic regions.
4	Details of new varieties/ products developed. If any, as the outcome of the research.	New hybrids have been developed over the years. Introduction of new products and withdrawal of old products from market is a continuous process which is commonly followed in the seed industry. List of hybrids /varieties to be provided soon.
5	Details of commercialization of products developed. a. Date of commencement of commercialization b. Year wise sale figure.	This is Business confidential information. However, we can share total annual turnover. We request for oral hearing with the Secretary and the Chairman of the NBA to explain our position regarding this matter.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/10 (Colly)

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ANNEXURE-R10

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(8)

F.N. C-12025/8/15-CS-III
Government of India
Ministry of Environment, Forest and Climate Change

2nd Floor, Vayu Wing,
Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi-110003

Dated: 10th September, 2018

OFFICE MEMORANDUM

Subject: Directions under Section 48 of the Biological Diversity Act, 2002, to the National Biodiversity Authority for enhancing implementation of the Act.

The Biological Diversity Act, 2002 (hereinafter referred to as the "Act") came into force in 2003 to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto. The Biological Diversity Rules, 2004 were introduced to facilitate implementation of the Act. One of the functions of the National Biodiversity Authority (hereinafter referred to as the "Authority") under Section 18 (1), is to regulate activities referred to in Sections 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing. Further, Section 18 (3) of the Act empowers the Authority to perform such other functions as may be necessary to carry out the provisions of the Act.

2. It has been brought to the notice of the Ministry by the Authority that a large number of entities are not fully aware of the provisions of the Act but are desirous of complying with the same. Thus, there is a need to provide an opportunity to all such entities which are required to

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obtain prior approval of the Authority for undertaking activities as specified under Sections 3, 4 and 6 of the Act, including cases that may relate to past, in line with the objectives of the Act and regulate them in a manner that enhances implementation of the Act.

3. The Biological Diversity Act, 2002 lays down procedure for taking cognizance of matters relating to the Act. Section 61 of the Act provides that cognizance of any offence under this Act can be taken only by the Central Government or officers authorized in this behalf by the Central Government. Further, any benefit claimer can make a complaint only after providing a notice of not less than thirty days to the Central Government or an authority/officer authorized by it.

4. The Central Government has taken note of these provisions and after taking into account all material facts before it, in exercise of the powers vested to it under Section 48 of the Act, hereby directs that all such cases, where prior approval was required but a person/entity has not obtained such approval, shall be heard by the Authority, which shall then pass appropriate orders with respect to acts that may have occurred in past, taking into account scientific evidence as well as any damage that might have been caused in furtherance of the powers available to the Authority under Section 18 of the Act, with the objective of ensuring conservation and sustainable use of biodiversity and fair and equitable sharing of benefits arising from its use. The Authority shall consider all such cases on the basis of merit and shall ensure that only those cases are granted approval for future activities which would have otherwise been approved in the normal course, had the person/entity concerned applied in time for prior approval. The Central Government further directs the Authority to take decisions thereon within a period of 100 days from the date of issuance of this Office Memorandum, including course of action for matters related to past. These directions shall come into force with immediate effect. The Authority shall also continue to spread awareness about the Act to various stakeholders to avoid the occurrence of such activities.

5. These directions are intended to facilitate and enhance implementation of the Act in public interest towards meeting the objectives of the Act, namely, conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising from commercial use. In implementing these directions, the Authority shall be guided by the principles of natural justice and various pronouncements of Hon'ble Courts in similar matters, including judgments cited below.

6. In respect of the requirement of prior environmental clearance under the Environment Protection Act, 1986, the Ministry had issued a Notification S.O. 804 (E) dated 14th March, 2017, wherein six months period was provided to apply for environmental clearance for projects on which the project proponent had started work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance. The Hon'ble High Court of Madras while vacating the stay on the aforesaid Notification vide Judgment dated 13th October, 2017 in *Puducherry Environment Protection Association Vs. Union of India*, Writ Petition (Civil) No. 11189 of 2017, held that,

> *"...However, one time relaxation and that too only in cases where the projects are otherwise in compliance with or can be made to comply with the pollution norms is, in my view, not impermissible. The notification ought not to be interfered with.*
>
> *It is reiterated that protection of environment and prevention of environmental pollution and degradation are non-negotiable. At the same time, the Court cannot altogether ignore the economy of the Nation and the need to protect the livelihood of hundreds of employees employed in projects, which as stated above, otherwise comply with or can be made to comply with norms.*
>
> *The impugned notification does not compromise with the need to preserve environmental purity, but only allows those industries and/or projects which might otherwise have been given prior environmental clearance, but omitted to obtain environmental*

clearance to operate, on the conditions imposed by the authorities concerned, including their liability under the principle polluter pays."

7. Similarly, in respect of the requirement of prior forest clearance under the Forest (Conservation) Act, 1980, the Hon'ble Supreme Court in *Supreme Court Monitoring Committee Vs. Massoorie Dehradun Development Authority & Ors.* (1997) 11 SCC 605, held that,

> *" ...the State of UP as well as the MDDA will enlist cases in which they gave permission to make use of any forest land for non-forest purpose without seeking the prior approval of the Central Government. All those cases will be forwarded to the Central Government for seeking ex post facto approval in the matter which will be considered in accordance with the Rules framed under the 1980 Act."*

8. The Hon'ble Supreme Court in T.N. Godavarman Thirumulpad, Vs. Union of India, Writ Petition (Civil) 202 of 1995 held that,

> *"...according to CEC this was a typical case where ex post facto approval under the 1980 Act is sought after the mine has been allowed to operate illegally. Since fait accompli situation arose according to CEC there was no option but to recommend the case for grant of permission for the use of forest land for mining lease, conveyor belt system and associated activities subject to certain conditions mentioned therein".*
>
> *The Hon'ble Court in the same case further held that, "...accordingly, we see no reason to interfere with the decision of MoEF granting site clearance...";*

9. The Hon'ble Bombay High Court in Vijay Krishna Kumbhar vs The State Of Maharashtra & Others held that,

> *"In such a matter it would have been more appropriate to take action in accordance with section 37 of the M.R.T.P Act. Now as*

indicated above, the P.M.C. has already started action. After the P.M.C. gave permission, it appears that the developer has also made construction. Now it has become a fait accompli. Therefore there is no alternative except to follow the action which has become fait accompli and take further actions in accordance with the Government's directions."

10. This issues with the approval of the Competent Authority.

C. Palpandi 10/9/2018
(Dr. C. Palpandi)
Deputy Director

To

The Chairperson
National Biodiversity Authority
5th Floor, TICEL Bio Park, CSIR, Road, Taramani,
Chennai, Tamil Nadu 600113

Copy to: Secretary, National Biodiversity Authority

F. No. C-12027/6/19-CS-III
Ministry of Environment, Forest and Climate Change
Government of India
CS-III (Biodiversity) Division

Indira Paryavaran Bhawan
Vayu Wing, Jor Bagh
New Delhi - 110003
Dated 18 March 2019

OFFICE MEMORANDUM

Subject: Directions under section 48 of the Biological Diversity Act, 2002, to the National Biodiversity Authority for enhancing implementation of the Act.

With reference to the O.M. of even No. dated 10.9.2018 on the above-mentioned subject, the Central Government further directs the National Biodiversity Authority to accept and consider within a period of another 60 days from the date of issuance of this O.M., all such cases where prior approval was required but not obtained, on the basis of merit ensuring that only those cases are granted approval which would have otherwise been approved in the normal course, had the person/entity concerned applied in time for prior approval.

(Tarun Kathula)
Director (CS-III)
Email: t.k.kathula@gov.in

Shri T. Rabikumar
Secretary
National Biodiversity Authority
Chennai

Copy to:
The Chairman, National Biodiversity Authority, Chennai

National Biodiversity Authority
राष्ट्रीय जैव विविधता प्राधिकरण
(Statutory body of Ministry of Environment, Forest and Climate Change, Government of India)

J. Justin Mohan, IFS
Secretary
+91 44 2254 1071
+91 44 2254 1074
secretary@nba.nic.in www.nbaindia.org

5th Floor, CSIR Road, TICEL Bio Park,
Taramani, Chennai - 600 113, Tamil Nadu, India.
5 वां तल, सीएसआईआर रोड, टाइसल बायो पार्क,
तरमणि, चेन्नई - 600113 तमिल नाडु, भारत.

NBA/Admin/2/28/07 Date: 19-03-2020

OFFICE ORDER

The Expert Committee to revise the ABS (Guidelines) chaired by Shri.A.K.Goyal was entrusted with the responsibility of recommending the streamlining of the movement of files in NBA, which will reduce the delay in the processing of applications received from individuals and entities.

The Committee has submitted its recommendations to streamline the approval process by NBA on 1st September 2019. The recommendations were reviewed based on existing procedures and requirements and accordingly, the following directions are issued in supersession of earlier Orders, with respect to processing of applications and streamlining the approval process:

1. Form-III applications shall be dealt by the IPR Section and all other applications (Form-I, Form-II, Form-IV, Form-A, Form-B, Form-C and collaborative research projects) shall be dealt by the Technical Section.

2. Applications for ABS shall be downloaded / received by the concerned section. A folder shall be made each day for each category of application by providing a unique Id no.
3. The applications shall then be forwarded to Accounts Section within two days for verifying the receipt of application fees by the concerned section. The Accounts Section shall then verify the receipts and return the file within two days.

4. The concerned sections i.e. IPR and Technical shall thereafter scrutinize the applications from the scientific, legal and administrative angle within seven days.

5. Once the applications are scrutinized and if any information is required, the same may be obtained by the Section Heads from the applicant/ concerned SBB/ any other agency.

6. If the application is in order, the concerned section may fix the benefit sharing component and draft the agreement and forward the same to the Secretary, NBA through the Legal Section. In the case of Form-III applications, the applications shall be directly sent to the Secretary.

7. In case of applications falling under violation category, the same shall be forwarded through the legal section to the Secretary. However, all past violation /OM cases shall be dealt by the Legal section as per the existing norms.

8. The Legal Section shall provide legal inputs if any and forward the same within seven days.

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9. In case where the Technical and IPR section is not able to take decision on a particular application, such application shall be referred to the internal committee chaired by the Secretary, NBA and comprising the Heads of the Technical, IPR, Legal, Accounts and Administrative Sections. The Internal Committee may invite subject matter specialists whenever required. Only those applications which require further deliberation may alone be referred to the Expert Committee on ABS.

10. The Secretary, NBA shall accord approval of the files and forward the same to the Chairman, NBA within three days.

11. Once the Chairman accords the final approval, the files shall be sent to the concerned sections through the Secretary.

12. The draft agreements shall be despatched to the applicant within two days. Upon receipt of the Final agreement on stamp paper, the Secretary shall sign the agreement after ensuring that the required ABS payments have been received by the Accounts Section, wherever required.

13. The Technical and IPR sections shall be the custodian of the concerned files and enter the required details in the database, by the concerned section, to ensure compliance by the applicants.

14. The IPR and Technical Section shall monitor the post approval process like receipt of deposition of voucher specimens, submission of periodical reports, payment of ABS, disbursing the same to the benefit claimers, uploading IRCC in the ABSCH, etc wherever required. For this purpose, a dedicated team shall work within the IPR and Technical Sections.

15. Follow up action on approved files shall be dealt by the concerned sections.

16. The above process shall come into force with immediate effect and will continue until further orders taking into account the full operationalization of ABS application software.

Secretary, NBA.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/11(Colly)

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ANNEXURE- R 11 (colly)
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सत्यमेव जयते

Ministry of Environment
Forests and Climate Change

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 47th AUTHORITY MEETING

26th September 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

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Proceedings of the 47th Authority Meeting of the National Biodiversity Authority held on 26-09-2018.

The forty seventh Authority meeting of the National Biodiversity Authority (NBA) was held on 26th September 2018 at the Conference Hall, National Biodiversity Authority, Chennai chaired by Dr. B.Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson extended a warm welcome to the members. She also welcomed the new nominee of the MoES, Dr M. A. Atmanand of NIOT, Chennai.

Chairperson briefed the members about the activities of NBA from the last authority meeting which included participation in national and international workshops/conferences, conducting awareness programmes on the Biological Diversity Act and hosting a workshop on 'Mainstreaming biodiversity concerns into Forestry and Forest Management'. NBA observed Independence Day on August 15th and Hindi week from September 10th – 14th, 2018.

Chairperson informed the Authority that NBA has taken over an office space of around 5000 sq. ft. vacated by the Animal Welfare Board of India, Chennai and proceeding with the renovations of the building.

The Secretary, NBA then apprised about the status of ABS applications received, trends in receipt of application and their disposals.

Thereafter, the agenda items were considered as under:

47.01: Confirmation of Proceedings of the 46th Authority meeting

The draft proceedings of the 46th Authority meeting of the National Biodiversity Authority held on 24th July, 2018 at New Delhi was circulated to the Members for seeking their comments. No comments for revision of the draft proceedings were received. The proceedings were placed for confirmation.

Decision:

a) The members confirmed the proceedings.

47.02 Action taken report of the 46th Authority meeting

Most of the decisions taken during the 46th Authority meeting are being acted upon and the members noted the action taken report on the decisions.

47.03: Compliance of Decision in the 17th to 21st Authority meeting

The Action report on the decisions of 17th to 21st Authority meeting was summarized.

Decision:

a) Members noted the action taken report and approved.

ACTION:SECRETARY,NBA.

47.04 To consider Form-III and Form-I applications cleared by the EC on ABS for ratification

The decision under agenda item no.44.03 in the 44th Authority meeting was as follows:

"The Authority authorized the Chairperson to convey approval to the applications, which have recommended by the EC on ABS, except applications, which are identified as violation of the BD Act and have disputes. Such approvals will be placed before the Authority for ratification."

While clarifying to members, the Chairperson and Secretary replied that NBA has already communicated to UGC and other scientific Institutions to add a clause in the project guidelines itself on the mandates of the Biological Diversity Act.

Dr. PC Battacharjee and Dr. Yogesh Souche suggested that a similar exercise can be carried out and inform the State Science, Technology and Environment Institutions to create awareness and make a provision in their guidelines to follow the mandates of BD Act, 2002 while they sanction projects. Dr Darshan Shankar added that e-mails can be directly sent to all the Universities (around 900) about the mandates of the BD Act.

Secretary mentioned that NBA is active in Facebook and also in some related groups in the social media. In addition, the Chairperson added that all the organizations who receive NBA funds, are being asked to put up a write up about the BD Act in the Proceedings as well as Abstract book. She also mentioned that one page advertisement year round has been given in journals such as Current Science, Down to Earth and Threatened Taxa.

Decision:

a) Form-III and Form-I applications cleared by the EC on ABS are ratified.

b) NBA to communicate with State Boards to include the provisions of BD Act in the State Scientific project sanction orders so as to create awareness,

c) NBA may also write to all to Universities in India also regarding the same.

ACTION:SECRETARY,NBA.

47.05: To seek guidance on Application in Form-I (Appl. No. 1863) submitted by M/s. Shanghai Shen Da Imp & Exp Co. Ltd China for access to Red Sanders wood

Secretary elaborated the details on the Form I application submitted on 23rd December 2016 by Shri. Wang Qiurong of Shanghai Shen Da Imp. & Exp. Co., Ltd, China for accessing 74.216311 MTs of Red Sanders from M/s. Andhra Fogaku Pvt Ltd, Hyderabad, India for the purpose of commercial utilization (furniture making) pursuant to the permission issued by the DGFT.

The Members had a long deliberation and Dr Atmanand and Dr Darshan Shankar expressed their view that the application for export of Red sander's wood can also be considered by EC on ABS, so that all the aspects of such application can be discussed by the experts rather than going for internal decision making process. In reply to it, the Secretary elaborated that the decision of exclusion of Red Sanders was taken in the 30th EC on ABS which was held in Hyderabad. The members and the Chairperson have opined that the earlier decision can be revisited and accordingly henceforth RS applications may also be referred to EC on ABS for consideration by it as the EC have representatives from all fields.

Decision:

a) Form I application submitted M/s Shanghai Shen Da Imp. & Exp. Co., Ltd,is accepted and ratified.

b) Henceforth, NBA to refer applications related to Red Sanders also to the Expert Committee on ABS.

ACTION:SECRETARY,NBA.

47.06: Ratification of decisions on Form-B applications

Under agenda item 32.06 of 32nd Authority meeting, it was decided as follows: - "The Chairman, NBA is authorized to accord approval or otherwise for Form- B applications, without referring to the SBB and the EC on ABS and it shall be placed in the subsequent authority meetings for ratification".

Decision:

a) Members noted the decisions and ratified.

ACTION:SECRETARY,NBA.

47.07: 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 shall provide prior intimation to the NBA in the prescribed format viz., Form-C for deposition of micro-organisms in other country's repository for claim of novel species for publication in journals. However, if any non-Indian person /entity intend to access the deposited Indian biological resource from the foreign repository, he/she should obtain prior approval of NBA as per Section 3 of the BD Act, 2002.

Secretary elaborated that NBA has received 71 such intimations since March 2016 - 24th July, 2018 and the same have been reported to the Authority from time to time. Since July, 2018, NBA has received 16 Form-C applications of which twelve (12) intimations were received through online and four (4) through offline.

Members noted the improvement in the process of clearing application and also the increase in compliance as a result of awareness created among the relevant stakeholders.

Decision:

a) Members noted the improvement.

ACTION:SECRETARY,NBA.

47.08: To consider the applications for access to Red Sanders wood approved by the Chairperson, NBA

In the 32nd Authority meeting (32.07), the Authority authorized the Chairperson, NBA to accord approval of applications on Red Sanders without following the normal procedure and also directed the NBA Secretariat to place such approvals in the subsequent Authority meeting for ratification.

In compliance to the above decision, Chairperson has approved 4 applications for access of Red sander's wood.

Decision:

a) Approvals accorded by Chairperson are ratified.

ACTION:SECRETARY,NBA.

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47.09: Proceedings of the 49th Meeting of Expert Committee on Access and Benefit Sharing on ABS held on 10th &11th July 2018 at NBA, Chennai

The 49th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 10th&11th July, 2018 at the National Biodiversity Authority, Chennai. A total of One hundred and twenty three (123) applications and one generic issue were placed before the EC for examination. The representatives of Four (4) applicants appeared before the EC and clarified their position on their applications. As per the decision taken in the 44th Authority meeting, Sixty four (64) Form-III applications and Six (6) Form-I which were recommended for approval by the EC on ABS are being cleared and draft agreement sent to applicants. Further, EC observed violation of Section 3 (1) of the BD Act in respect of 40 applications.

The applicability of Biological Diversity Act on patents for technology development process / products with use of biological resources was discussed by the members.

Dr. Atmanand suggested to develop an utility "App" for the application process of ABS which will facilitate to quicken the process and may encourage more stakeholders to comply with the BD Act. He also suggested to explore the possibility of having a dedicated Computer server for NBA other than NIC cloud server to have more flexibility in managing the application process. He further suggested that it would be desirable if there is a possibility for the Applicant to check his/her application status online.

Decision:

a) Proceedings of the 49th Meeting of Expert Committee on Access and Benefit Sharing on ABS is accepted and ratified.

b) NBA to explore the possibility of checking the application status online.

ACTION:SECRETARY,NBA.

47.10: Directions under Section 48 of the BD Act, 2002 to NBA for enhancing implementation of the Act.

Section 48 of BD Act stipulates that NBA shall in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. The

MoEF&CC has issued an Office Memorandum, dated 10th September, 2018 to NBA by giving directions under Section 48 of the Biological Diversity Act.

The MoEFCC OM, *inter alia,* states that *"in exercise of the powers vested to it under Section 48 of the Act hereby directs that all such cases where prior approval was required but a person/ entity has not obtained such approval ,**shall be heard by the Authority**, which shall then pass appropriate orders with respect to acts that may have occurred in past, taking into account scientific evidence as well as any damage that might have been caused in furtherance of the powers available to the Authority under 18 of the Act, with the objective of ensuring conservation and sustainable use of biodiversity and fair and equitable sharing of benefits arising out of its use. The Authority shall consider all such cases on the basis of merit and shall ensure that only those cases are granted approval for future activities which would have otherwise been approved in the normal course, had the person/entity concerned applied in time for prior approval. The Central Government further directs the Authority to take decisions thereon within a period of 100 days from the date of issuance of this Office Memorandum including course of action for matters related to past. These directions shall come into force with immediate effect. The Authority shall also continue to spread awareness about the Act to various stakeholders to avoid the occurrence of such activities"*

Dr Sujatha Arora, Adviser MoEFCC, explained the efforts put in by the Ministry to give the direction and expressed that it is the right time to NBA to consider all the violation/contravention cases and regularize/streamline all the pending cases. She further emphasized that Central Government may not open the window again as was done now. Therefore, clearing all the cases within the time limit is of paramount importance.

As on date, there are around 234 violations/contravention cases with NBA that has to be considered within the 100 days of the issue of OM. The members suggested NBA to utilize the opportunity and to advertise through media for encouraging the ABS applicants to comply with the BD Act.

Secretary also explained the challenge in screening the applications as the legal section may not have enough manpower and expertise on deciding the aspects of bioresources. Dr Atmanand suggested that NBA can invite some experts to support the legal section of NBA in studying and grouping the cases. Dr. Darsan Sankar opined that a hearing of the applicants can be done after the applications are studied, assessed and scrutinized by an Expert Committee as the number of cases for hearing is high. He also suggested NBA to fix a criteria

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and categorize the cases that are mostly of procedural violations/contraventions that would have otherwise been approved.

The number of meetings for hearing the applicants and clearing the cases were discussed and tentatively agreed to have three Authority meetings before the deadline of 18th, December 2018 (100 days).

Decision:

a) NBA to scrutinize the violation/contravention cases and categorize them accordingly and give preference to the cases that have procedural contraventions but for which, would have been approved.
b) NBA to upload the Ministry's direction in the NBA website and in newspapers for publicity.
c) The Authority to meet three times (29.10.2018; 10.12.2018 and 18.12.2018) for hearing the violation applicants.

ACTION:SECRETARY,NBA.

47.11: To consider draft annual report of NBA for the year 2017-18.

The draft Annual Report on the activities of NBA for the year 2017-18 along with audited Annual Account statement was placed before the Authority.

Decision:

a) The draft Annual Report on the activities of NBA for the year 2017-18 was noted and approved.

ACTION:SECRETARY,NBA.

47.12: To consider the Reconstitution of Expert Committee on Normally Traded Commodities.

Expert Committee on Normally Traded Commodities was reconstituted vide Office Order No.F.NBA/2/9/2002-Admin/12/18-19/1676 dated 17 August, 2018 under the Chairmanship of Shri. C. Achalender Reddy, IFS, Director (I/C), CIPS, Hyderabad and Dr. B.S.Prakash, ADG (ANP), ICAR, New Delhi as the co-chair. Dr. Darshan Shanker suggested to add an expert from Transdisciplinary University (TDU) as a member in the committee.

Secretary mentioned that NBA is developing a database on biological resources with the assistance of BSI, ZSI and other collaborators. He requested the access of database of biological resources maintained by Trans-Disciplinary University, (TDU) Bangalore to which Dr Darshan Shankar agreed.

Decision:

a) The Authority ratified the issue of office Order for reconstitution of the Expert Committee on Normally Traded Commodities.

ACTION:SECRETARY,NBA.

47.13. Items for information

1. EXIM Committee for Export and Import of seeds and planting materials:

The Department of Agricultural Cooperation & Farmers Welfare, GOI constituted the EXIM Committee for Export and Import of seeds and plant materials of which Secretary is one of the members in the committee. Based on the 235th EXIM Committee minutes, M/s. JK Agri Genetics Ltd., Hyderabad had provided an affidavit-cum-declaration that the firm does not come under the provisions contained in Section 3(2) of the Biological Diversity Act, 2002. Based on the affidavit, the EXIM committee granted approval to the said export proposal. NBA has informed the DAC that JK Agri Genetics Pvt Ltd will fall under section 3(2) of the BD Act since they have non-Indian participation in its share capital, and NBA sought clarification from the exporter.

NBA has requested EXIM committee to re-examine the case for which DAC has responded favorably.

2. Issuance of Internationally Recognized Certificate of Compliance

NBA has uploaded 145 approvals granted in the ABS CH platform and generated Internationally Recognized Certificate of Compliance. India is a leading country among 198 parties in publishing IRCCs, a tool for monitoring the use of Genetic resources under Nagoya Protocol.

3. Deposition of microbial cultures in DSMZ, German Culture Collection:

As per the decision taken in the 37th Authority meeting, Indian researchers/scientists shall provide prior intimation to the NBA in the prescribed format viz., Form – C for deposition of micro-organisms in other country's repository for claim of novel species for publication in journals. If any non-Indian person / entity intend to access the deposited Indian biological resource from any foreign repository, he/she should obtain the prior approval of NBA as per Section 3 of the BD Act, 2002.

To access the strains which are from Indian origin for the purpose of research or for commercial utilization or for obtaining IP Rights, the buyers/ users of the strain is required to obtain prior approval of the National Biodiversity

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Authority, Government of India, Chennai, India as per the provisions of the Biological Diversity Act, 2002

4. Capacity Building Workshop on ABS provisions of the BD Act and e-Filing Process of ABS Applications to the Patent Attorneys

Centre for Biodiversity Policy and Law, NBA organized a Capacity Building Workshop on Access and Benefit Sharing (ABS) provisions of the BD Act and e-Filing Process of ABS Applications to the Patent Attorney's on 14th September, 2018 at NBA, Chennai.

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ANNEXURE –I

LIST OF OFFICIAL/NON-OFFICIAL MEMBERS PARTICIPATED

1. Dr B Meenakumari, Chairperson, National Biodiversity Authority
2. Dr Sujata Arora, Advisor, MoEF&CC
3. Dr P C Battacharjee, Guwahati.
4. Dr. Gunasekaran Asst. Commissioner, Seeds, Department of Agriculture and Cooperation.
5. Dr. Darshan Shankar, VC, TDU, Bangalore.
6. Dr. M A Atmanand, Director, NIOT, Chennai.
7. Dr. Yogesh Shouche, NCCS, Department of Biotechnology, University of Pune.

Secretary, National Biodiversity Authority

Shri T Rabikumar, IFS,

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Ministry of Environment
Forests and Climate Change

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 48th AUTHORITY MEETING

29th October 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

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Proceedings of the 48th Authority Meeting of the National Biodiversity Authority held on 29-10-2018.

The forty eighth Authority meeting of the National Biodiversity Authority (NBA) was held on 29th October 2018 at the Conference Hall, National Biodiversity Authority, Chennai and was chaired by Dr. B. Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson, NBA extended a warm welcome to the members and briefed about the activities of NBA from the last authority meeting which included participation in national and international workshops/ conferences. It was informed that NBA also during the period celebrated 15th Foundation day and Swatch Bharath initiatives on 1st and 2nd October 2018 respectively.

The Secretary, NBA then apprised about the status of ABS applications received, trends in receipt of application and their disposals.

Thereafter, the agenda items were considered as under:

48.01: Confirmation of Proceedings of the 47th Authority meeting

The draft proceedings of the 47th Authority meeting of the National Biodiversity Authority held on 26th September, 2018 at Chennai was circulated to the Members vide email dated 12th October, 2018 for seeking their comments. In response, Prof. Umesh Rai and Dr. Darshan Shankar have informed no comments on the draft

Decision: The members confirmed the proceedings of the 47th Authority Meeting.

Action: Secretary, NBA

48.02 Action taken report of the 47th Authority meeting

Action on most of the items has been taken and action on the remaining items is in progress.

Decision: Members noted the action taken.

Action: Secretary, NBA

48.03: Proceedings of the 50th Meeting of Expert Committee on Access and Benefit Sharing on ABS held on 10th & 11th September 2018 at NBA, Chennai.

The 50th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 10th & 11th September 2018 at the National Biodiversity Authority, Chennai. A total of 61 applications were placed before the EC for examination.

To mark the occasion of 50th meeting of the EC on ABS on 11th Sep 2018, the EC Chairman along with many experts like Dr.R.S.Rana, Shri Ramesh G.Kalaghatgi, Former EC Chairmen and Dr.T.P Rajendran, Co-chair Dr K Venkataraman Former Secretary, NBA participated in the meeting and shared their experiences with the NBA and gave valuable inputs to strengthen the implementation process of the BD Act.

Decision: The Authority approved the recommendations of the EC on ABS.

Action: Secretary, NBA

48.04 Proceedings of the 51st Meeting of Expert Committee on Access and Benefit Sharing on ABS held on 15th & 16th October, 2018 at NBA, Chennai

The 51st meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 15th & 16th October, 2018 at the National Biodiversity Authority, Chennai. A total of 93 applications were placed before the EC for examination. The representatives of three (3) applicants appeared before the EC and clarified their position on their applications.

It was decided in the EC that, in the light of the Office Memorandum dated 10th September 2018 from the MOEF&CC, while examining ABS applications during the 100 days' time of the OM, the applications will be considered and, suitable recommendation made on a case by case basis.

The EC has recommended 26 cases to be considered under the O.M. dated 10th September 2018. While considering the recommendation of EC, members suggested that the benefit sharing in all such cases may be kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively. It was also discussed with regards to patent applications pertaining to Section 3(2) entities where necessary approvals under section 3(1) has not been obtained, the members suggested that the applicants shall have to get approval under Section 3(1) before considering these Form III applications under Section 6.

Decision: 1. The Authority approved the recommendations of the EC on ABS.

2. The benefit sharing of the 26 cases (Annexure 2) shall be 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively in all such cases where the approval is granted under the light of O.M. dated 10th September 2018.

3. The applicants who are to apply in Form I may be intimated.

Action: Secretary, NBA

48.05 To consider cases where the patent has been granted after the approval of the Authority but before the agreement was signed by NBA

Rule 18(5) of the BD Act 2002 requires that prior approval of NBA for any Intellectual Property Right for an invention based on any research or information on a biological resource obtained from India shall be in the form of a written agreement. There are some cases where Authority had approved the Form III but the signing of the agreements was delayed due to discussions between the applicant and NBA. In the meantime, patent applications were granted in foreign jurisdictions/ countries

As per the decision taken in the 40th Authority meeting (Agenda item No. 40.03 & 40.04), it had directed NBA secretariat to sign the agreement even after the patents were granted after considering CSIR application (Application No. 133-A30) as a special case. Details of the 17 cases of applications of CSIR were placed before the Authority for consideration. Similar decision is taken for all

other such cases where the patents were granted in foreign jurisdictions/ countries.

It was also brought to the notice of the members that the Authority has considered 30 cases pertaining to CSIR where in principle, applicants has been granted but patents have been granted without approval of NBA i.e. signing of agreements. The members agreed that in case where patents are granted after in principle approval by the Authority, the Secretariat may convey the approval of the Authority to the applicant by signing the agreement.

Decision: The Authority decided that the Secretariat may sign the agreement in all such cases where the patents are granted after the in principle approval by the Authority.

48.06: Dealing with O.M. dated 20-09-3028 issued by MOEF&CC

The above OM was placed in the 47th Authority meeting as Agenda item no. 47.10 and the Authority has asked to constitute a committee to scrutinize and categorize the ABS Applications. A committee of experts was constituted vide office order No.. NBA/Law Gen/28/51/18-19/2422 dated 10-10-2018. The Committee met on two occasions (3 days) and examined 112 applications pertaining to 45 applicants and the recommendations of the committee was placed before the Authority for consideration.

. The 45 applicants pertaining to 112 applications were invited for hearing in the Authority, of which 18 presented themselves (Annexure 2) and nine (9) applicants have sought for a new date to present their case. After considering,

recommendations of the committee of experts constituted by NBA to scrutinize these cases for scientific evidence, Member discussed about the benefit sharing in cases were patents have been granted elsewhere without the prior approval of NBA. Members opined that higher benefit sharing percentage can be fixed. Secretary NBA explained that the EC on ABS follow a sectoral approval and whenever traditional knowledge is involved, it usually doubles the benefit sharing percentage. After discussion, the members agreed that the benefit sharing may be kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively.

Members also discussed about the compliance of the provisions of the BD Act in future by each of the applicant whose applications have been considered under the O.M. dated 10th September, 2018. The Authority also directed the applicants to spread awareness of the regulatory requirement under the BD Act and it shall be institutionalised to ensure the same and an undertaking should be obtained from the applicants that the provisions of the BD Act shall be complied in future. Dr. Darshan Shankar suggested that NBA can develop a logo for NBA compliance which the applicants can display in their respective organisation regarding the compliance of the BD Act.

There were applications under Form III for 15 IPR by 3(2) entities who have failed to get approval under Section 3(1) to access the bio resources from India for doing research. Members suggested that the applicants in all such

cases shall seek the approval of NBA under Section 3(1) and inform them to submit application under Section 3(1).

All the applicants were advised to take proactive steps to educate their staff, partners and collaborators about the provisions of the Act. It was decided that in all the cases, the applicants shall organize awareness programs with regards to with compliance to BD Act and submit a report to NBA.

In case Form I application where approval is sought to do research of bio resource obtained from India by industries, an upfront payment as per the approved guidelines may be included while communicating the approval.

In case of Bioseed Research India Private Limited (Application No. 621-Form IV) procured five (5) Kg of rice in 2012 from Acharya NG Ranga Agricultural University to transfer the rice to an organization in Netherlands. But for certain reasons the transfer did not happen and the rice was discarded. The Authority asked the applicant to sign an Affidavit with NBA that the rice material procured was not utilized for any purpose and the case can be closed.

At their request, M/s, Bharat Biotech International Ltd (Application Nos. 1649, 918, 938, 1030 and 1446-Form III) was deferred to the next Authority meeting for unavailability of information on the applications. Livie Bio Pesticides Ltd (Application No. 1440-Form III) and Tata Chemicals Pvt. Ltd (Application No. 620, 618, 619& 617- Form-I) were asked to provide the status of commercialization.

M/s Dabur India Limited (Application Nos. 1472-Form-I) accessed 142 bio resources in 2016-17 that goes into 350 products. The representative of Dabur India Limited requested that the benefit sharing may be on the purchase price of the bio resource than on the ex-gross factory price. Dr. Dinesh Misra opined that the benefit sharing should be on the end product as the mere presence of the bio resource adds value to the final product. Dr. Atmanand was of the opinion that benefit sharing should be proportionate to the input cost of the bio resources. Dr. Darshan Shankar observed that these are AYUSH based industries which needs support and encouragement. These products have multi-level composition and usually include a significant proportion of inputs which are of non-bio resource origin. Secretary, NBA pointed out that benefit sharing of commercial utilization has two options as per the ABS guidelines while granting approval; it has to be mutually agreed. In the instant case, since large quantity of bio resources are accessed and conservation of these bio resources is a matter of utmost priority to ensure sustainable supply. He pointed out that so far NBA has not considered any benefit sharing on the purchase price and was apprehensive whether in other cases of commercial utilization such as access to microbial cultures the benefit sharing on purchase price would become insignificant.

Chairperson, NBA is of the opinion that the purpose of legislation is to encourage more users of the bio resources to comply with the provisions of the BD Act. After detailed discussion, it was decided in the instant case to charge benefit sharing on the purchase price of the bio resource.

Decision: 1. The Authority approved the Form III applications with the Benefit sharing kept at kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively given in Annexure 2.

2. After detailed discussion, it was decided Dabur India Limited in the instant case (Application No. 1472-Form I) may be charged of benefit sharing on the purchase price of the bio resource for the year 2016-17 only. The basis of the benefit sharing will be reviewed for subsequent applications

3. The applicants shall furnish an undertaking that provisions of BD Act shall be compiled with in the future.

4. The clauses in the approvals (agreements) may be modified appropriately by the NBA Secretariat.

5. It was also decided that NBA may go ahead with the implementation of the decision without waiting for the finalization of the proceedings.

Action: Secretary, NBA

48.07: Items for information

1. Designated Repositories:

NBA constituted a Core Expert Group (CEG) to develop guidelines for eligibility conditions/parameters for identification of repositories under section 39 of the BD Act in accordance with the decision taken in the 42nd Authority meeting

of NBA. The CEG developed a draft Criteria for designation of national repositories and recommended the same to the Authority for consideration. The Authority in its 46th meeting considered the recommendations and directed NBA to write to the notified repositories and seek details of deposits held by them. NBA vide letter dated 05.10.2018 communicated the Criteria for designation of national repositories such as details of specimens held by them which were deposited and focal point for corresponding with NBA as required in the guidance issued in this regard.

2. Seeking Proposal from Andhra Pradesh Biodiversity Board:

The PCCF, Andhra Pradesh Forest Department vide letter dated 11.11.2016 submitted a revised proposal seeking financial assistance with a tune of Rs.100.55 Crores (i) For infrastructure investment, (ii) For annual infrastructure maintenance & manpower and (iii) For annual regeneration and conservation measures. They have requested for release of 75% of the total amount out of the benefit sharing amount realized on the access of Red Sanders wood, while the balance of 25% fund will be borne by the AP Government. As decided in the 40th Authority meeting NBA released a sum of Rupees three Crores as first installment to AP Forest Department for afforestation and conservation of Red Sanders.

Subsequent to the decision of the 40th Authority meeting of NBA, NBA vide letter dated 28.02.2017 released an amount of Rupees Three Crores to the Andhra Pradesh State Biodiversity Board to disburse the same to the Andhra Pradesh Forest Department, as a first instalment, for the purpose of afforestation,

regeneration and protection of Red Sanders forest areas and conservation of Red Sanders.

NBA vide letter dated 01.10.2018 requested the AP SBB to submit a proposal to NBA for seeking funds for carrying out the activities suggested in the report by the BMC / VSS/ EDC/ JFMCs/FPCs concerned of the 20% of the BS amount accrued as access of Red Sanders, as recommended by the Expert Committee. It was also requested that the SBB may advise the Andhra Pradesh forest department to submit a proposal to NBA through SBB for releasing the second installment of BS funds.

2. **Plant quarantine and Animal quarantine** – Compliance with provisions of the BD Act while exporting the biological resources:

In the 44th Authority meeting, the members pointed out that some of the firms are selling the biological resources through online portal for which compliance of the BD Act has to be ensured and the same needs to be monitored. Members directed the NBA to apprise the Plant Quarantine department and Animal quarantine department, about the provisions of the BD Act and its requirement for ensuring compliance of BD Act by the Parties, while exporting the biological resources. Accordingly, NBA vide letter dated 04.09.2018 & 11.10.2018 requested the Joint Secretary, Department of Animal Husbandry Dairying and Fisheries & Plant Protection Adviser, Directorate of Plant Protection, Quarantine & Storage respectively to involve the Animal Quarantine and Certification Service to ensure that export of the biological resources from

India is taking place with due approval of the NBA/ SBB as per the provisions of BD Act.

4. Awareness creation on the implementation of the BD Act

NBA is actively undertaking several initiatives for creating awareness amongst various stakeholders about the provisions of the Biological Diversity Act, 2002, Biological Diversity Rules, 2004 and Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014, through various initiatives, including advertisement in newspapers, electronic media such as radio programs / media workshops/ organizing meetings with different stakeholders, and sensitizing scientists, researchers, and academicians.

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ANNEXURE-1

List of Participants

Official Members

1. **Dr (Mrs) B.Meenakumari**
   Chairperson,
   National Biodiversity Authority, Chennai

2. **Dr Sujata Arora**
   Adviser / Scientist 'G'
   Ministry of Environment, Forest and Climate Change Government of India
   Room No. V 235, Vayu Block, Second Floor
   Indira Paryavaran Bhawan Jor Bagh Road
   New Delhi-110 003

3. **Shri. T. Rabikumar, IFS**
   Secretary,National Biodiversity Authority,
   Chennai –600 113

Non-Official Members

4. **Dr. Yogesh Shouche**
   Senior Microbiologist,
   National Centre for Cell Science
   Department of Biotechnology Lab,
   University of Pune Campus,
   University Road, Ganeshkhind,
   Pune, Maharashtra – 411 007

5. **Dr P C Bhattacharjee**, Retd.,
   Professor & Head,
   Department of Zoology,
   A/3 Asiyana Housing Complex
   Maligon,
   Guwahati – 781011, Assam

6. **Shri Darshan Shankar,**
   Chancellor,
   Trans Disciplinary University, C/o
   Foundation for Revitalization of Local
   Health Traditions (FRLHT),
   74/2, Jarakabande Kaval, Post Attur
   via Yelahanka,
   Bangalore - 560 064

7. **Dr. M A Atmanand,**
   Director,
   National Institute of Ocean
   Technology,
   Ministry of Earth Sciences,
   Velachery-Thambaram Main Road,
   Narayanapuram, Pallikaranai,
   Chennai – 600 100

8 **Dr. Dinesh Misra,**
   No. 65, Sector 8,
   Gandhi Nagar,
   Gujarat-382008

ANNEXURE-2

List of Applicants attended the Hearing

Sl No.	Applicant	Names	Application Nos	Numbers	Remarks
1	M/s. Sri Biotech laboratories ; Valagro Biosciences Ltd.	Fornara Luca; Rajesh Mandarapo	1564 & 1566 (*Form- I)*	2	Approved
2	M/s. Kopper Sustainable Solution Ltd.,	G. Babulreddy	1441 (*Form – I*)	1	Approved with upfront payment
3	M/s. Laila Impex	P.B. Gangadhar	1632, 1490 & 1018 *(Form – III)*	3	Approved
4	M/s.Pioneer overseas Corporation	Malathi Lakshmikumar; T. Srinivasa	576 (*Form- IV)* & 575 (Form-I)	2	**Recommendation to apply through Form I**
5	IGCEB	Dr.Syed Shams Yazdani (IGCEB)	1575 *(Form – III)*	1	**Recommendation to apply through Form I**
6	M/s. Dow Agro sciences	Malathi Lakshmikumar; B.Suresh Babu	1049, 1043, 1042, 995, 997, 999, 1001 &1041 (*Form-I)*	8	Approved
7	M/s. Gangagen Biotechnologies Pvt. Ltd	Aradhana Vipra	1887 (*Form-I)*	1	Approved
8	M/s Bharat Biotech International Ltd	M. Divya	1458, 1030, 1446, 930 & 918 (*Form – III)*	5	Deferred
9	M/s Livie Bio Pesticides Ltd	Arun Kumar (KRS Partners)	1440 *(Form – III)*	1	**Recommendation to apply through Form I**
10	M/s. Anthem Bioscience Pvt., Ltd.,	Dr. Sangesh; Dr. Satish	943 (*Form – I)*	1	-
11	M/s. Dabur India Limited	Dr. S. Badrinarayan; A.K. Sharma	1627, 1616, 1612, 1611, 1610, 1609, 1608, 1607*(Form-III)*	8	**Recommendation to apply through Form I**
12	M/s. Syngenta India Limited	Kapil; Surya Rao Ragali	1064 & 1176 *(Form – I)*	2	Approved
13	Dr.Suresh Patankar Balakrishna		1019 *(Form-III)*	1	Approved

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14	CSIR	Dr. Shikha Rastogi; Dr. Ajayta Agarwal	2023, 2085,2029, 1958, 1954, 1952, 1947, 1945, 1934, 1933, 1931, 1928, 1910, 1908, 1900, 1898, 1895, 1894, 1803, 1760, 1758, 1730, 1686, 1685, 1683, 1600, 1597, 1595, 1594, 1175 *(Form- III)*	30	Approved
15	M/s. Tata Chemicals Pvt Ltd	Neeti Wilson; Sheetal Talwar; Ramesh Verma	620, 618, 619 & 617 *(Form-I)*	4	Approved
16	ICMR-NIRT	Dr. Srikanth Prasad Tripathy; Dr. H.K. Hemanth Kumar	1100 *(Form-III)*	1	Approved
17	M/s. Bioseed Research India Private Limited	Rajani Jaiswal	621 *(Form- IV)*	1	Approved
18	Indian Institute of Science	Brinda Varma	858 *(Form - III)*	1	Approved
	Total			**73**	

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Ministry of Environment
Forests and Climate Change

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 49th AUTHORITY MEETING

15th November 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

Proceedings of the 49th Authority Meeting of the National Biodiversity Authority held on 15-11-2018.

The forty ninth Authority meeting of the National Biodiversity Authority (NBA) was held on 15th November 2018 at the Conference Hall, National Biodiversity Authority, Chennai and was chaired by Dr. B. Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson, NBA extended a warm welcome to the members and briefed about the activities of NBA from the last authority meeting

The draft proceedings of the 48th Authority meeting, incorporating the suggestions made by some of the members, which could not be included in the Agenda was circulated to the members. The revised proceedings were placed for confirmation. The members discussed the Agenda item No. 48.06 of the 48th Authority meeting with respect to case of M/s Dabur India Limited (Application No. 1472-Form I), where the applicant had accessed 142 bio-resources in 2016-17 that goes into 350 products. The Authority members in the 48th Authority meeting (Agenda item No. 48.06) decided that the benefit sharing may be charged on the purchase price of the bio-resources for the year 2016-17 only. The basis of the benefit sharing will be reviewed for subsequent applications. Based on this decision, Dr. J.B .Bhat opined and suggested that an assess mechanism is required for the products developed using Indian bio resources if sold outside India.

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The members also suggested NBA to be involved actively in different social media such as Twitter, Facebook to create more awareness on the compliance of the Biodiversity Act, 2002

After the deliberations, the members confirmed the revised proceedings of the 48th Authority meeting.

Thereafter, the agenda items were considered as under:

49.01: To consider ratification of decisions of Chairperson, NBA for granting exemption to inventions based on biological resources obtained outside of India.

The NOC granted to M/s Indus Biotech by the Chairperson was placed before the members for ratification.

Decision: The members ratified the action taken by the Chairperson.

Action: Secretary, NBA

49.02: : Printing & hosting the comprehensive list of Invasive alien species prepared by CEBPOL and NBA EC on IAS

A document on the list of Invasive Alien species was placed before the members of the Authority. Dr. Sandilyan explained the methods and criteria used to develop the list of Invasive Alien species in India. Dr. J.R. Bhatt suggested that the list to be sent to eminent scientists who have expertise in the flora and fauna of India for their valuable inputs, comments, value addition and vetting. He also suggested that a Scheme can be initiated from the Ministry on developing a concrete list of Invasive Alien Species.

Decision: 1. NBA to send the list of Invasive Alien species prepared to eminent scientists with expertise in flora and fauna of India for their valuable inputs, comments, value addition and vetting.

2. A document on the species listed may be prepared for documentation.

Action: Secretary, NBA

49.03: To seek guidance on Application in Form-I (Appl. No. 1862) submitted by M/s.Shanghai Shen Da Imp & Exp Co. Ltd China for access to Red Sanders wood

Shri. Wang Qiurong of Shanghai Shen Da Imp. & Exp. Co., Ltd, China submitted a Form-I application (Appl. No. 1862) for seeking prior approval of NBA for Red Sanders from M/s. Andhra Fogaku Pvt Ltd, Hyderabad, India for the purpose of commercial utilization (furniture making) pursuant to the permission issued by the DGFT. In spite of repeated reminders, the applicant had not furnished vital information sought by NBA.

In this regard, it is pertinent to mention that the Authority in its 45th meeting, vide agenda item no.45.05, held on 27th March, 2018 and in its 47th Authority meeting, vide agenda item no. 47.05 held on 26th September 2018, considered five such Red Sanders applications (Application Nos.950, 952, 1155, 1156 and 1863) who exported the RS wood to the foreign country without executing the ABS agreement, while their applications were still under process. The Authority observed that applicants submitted their application and also paid 5% of the auctioned amount as benefit sharing to NBA as upfront payment. The RS wood was, however, exported to China with the approval of Customs and DRI before executing agreement with NBA. Further, as per the tender

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agreement (APFDC/DRI/STC/MMTC), the exporting agency does all activities on behalf of the applicant, including the transport of RS wood to the destination port. Previously the Authority has decided as follows:

The Authority, in the instant case, decided to forgo the procedure for these four applicants from execution of agreement for accessing biological resources as they had filed the applications and paid the upfront payment as benefit sharing.

The Members decided that the instant case is similar to the previous cases mentioned above and decided to take a consistent stand and forgo the procedure for this particular applicant from execution of agreement for accessing biological resources as they have filed the applications and paid the upfront payment as benefit sharing.

Decision: The Authority decided to forgo the procedure for this particular applicant from execution of agreement for accessing biological resources as they have filed the applications and paid the upfront payment as benefit sharing. The Form I application submitted by M/s Shangahai Shen Da Imp. & Expo Ltd is accepted and ratified.

Action: Secretary, NBA

49.04 Dealing with O.M. dated 10-09-2018 issued by MOEF&CC

In compliance to OM dated 10-09-2018, the above OM was placed in the 47th Authority meeting as Agenda item no. 47.10 and the Authority constituted a committee to to scrutinize and categorize the ABS Applications. A committee of experts was constituted vide office order No. NBA/Law Gen/28/51/18-19/2422 dated 10-10-2018. The Committee met on one occasion

(2 days on 01.11.18 & 02.11.18) and examined 80 applications and gave their recommendations and a total of 120 applications was placed before the Authority for consideration.

The 43 applicants who sought time for personal appearance before the Authority were invited to present their case along with 77 applicants recommended by EC for consideration, of which 36 presented themselves and seven (7) provided written submission through mail.

After considering, recommendations of the committee of experts constituted by NBA to scrutinize these cases for scientific evidence, Member discussed about the benefit sharing in cases were patents have been granted elsewhere without the prior approval of NBA. Secretary NBA explained that the EC on ABS follow a sectoral approval and whenever traditional knowledge is involved, it usually doubles the benefit sharing percentage. After discussion, the members agreed that the benefit sharing may be kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively.

Members also discussed about the compliance of the provisions of the BD Act in future by each of the applicant whose applications have been considered under the O.M. dated 10th September, 2018. The Authority also directed the applicants to spread awareness of the regulatory requirement under the BD Act and it shall be institutionalised to ensure the same and an undertaking should be obtained from the applicants that the provisions of the BD Act shall be complied in future.

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There were applications under Form III by 19 IPR 3(2) entities who have failed to get approval under Section 3(1) to access the bio resources from India for doing research. Members suggested that the applicants in all such cases shall seek the approval of NBA under Section 3(1) and inform them to submit application under Section 3(1).

All the applicants were advised to take proactive steps to educate their staff, partners and collaborators about the provisions of the Act. It was decided that in all the cases, the applicants shall organize awareness programs with regards to with compliance to BD Act and submit a report to NBA. In case Form I application where approval is sought to do research of bio resource obtained from India by industries, an upfront payment as per the approved guidelines may be included while communicating the approval.

In the case of M/s Piramal Enterprises (Form I- Application No. 856), where the applicant along with different Institutes in a DBT funded project, assayed 1000 isolates of microbes accessed from NCCS and other related institutes. M/s Piramal Enterprises, after doing the research assigned all the data to DBT, without prior approval from NBA. The Authority members asked the applicants to provide an affidavit stating that the research has been completely assigned to DBT and also to provide a certificate from DBT verifying the above.

M/s Piramal Life Sciences Ltd in their Form-III application No. 396 on *Murraya koenigii* was granted an Indian patent on 3.10.2011 without the prior approval of NBA but was ceased on 29.3.2014. The Authority members asked the applicant to provide an affidavit that no patents have been submitted

elsewhere related to the instant case. The members of the Authority observed that the applications Form I- Application No. 856 and Form-III application No. 396 submitted by the same company had different names in the Application. The Authority members asked the applicant to provide a self-attested Acquisition of the company name.

In the case, M/s Monsanto Holdings Pvt Ltd., (Form II Application No. 289) transferred Bt Cotton to their company in Pakistan through NBPGR and the applicant has seized all operations on Bt Cotton in Pakistan from 2014. The applicant is now a subsidiary of M/s. Bayer Bioscience Pvt Ltd. The Authority members asked the applicants of M/s Monsanto Holdings Pvt Ltd to provide an Affidavit stating that the bio resource used was sent through NBPGR with PVP registration status and no monetary transactions was involved as it was for research purposed and there are no court case present and no investigative enquiry pertaining to it. The members asked the Applicant to also mention about M/s Monsanto Holdings Pvt Ltd being the subsidiary of M/s. Bayer Bioscience Pvt Ltd in the Affidavit. The Authority members decided to close the case after the consideration of the Affidavit.

The lists of recommendations given by the Authority for the Applications are provided in Annexure 2 and 3.

Decision: 1. The Authority approved the Form III applications with the Benefit sharing kept at kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively given in Annexure 2.

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2. The applicants shall furnish an undertaking that provisions of BD Act shall be compiled with in the future.

3. The clauses in the approvals (agreements) may be modified appropriately by the NBA Secretariat.

Action: Secretary, NBA

49.05 : Items for Information

The case relating to submission of Form III applications by M/s Ultratech India Ltd., New Mumbai 400 705 was presented before the authority for information and guidance

Decision: The Authority deferred the item to the 50th Authority meeting

49.06: Any other matter with the information of the Chair

An additional Agenda regarding approval for access to Red Sander Wood was circulated to the members along with the recommendation of EC on ABS regarding three Form I applications pertaining to access to Red Sander Wood for consideration.

Decision: The Authority considered and ratified the recommendations of the EC on ABS

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ANNEXURE-1

List of Participants

Official Members

1. **Dr (Mrs) B.Meenakumari**
   Chairperson,
   National Biodiversity Authority,
   Chennai

2. **Dr J.R.Bhat,**
   Adviser
   Ministry of Environment, Forest and Climate Change Government of India
   Room No. V 235, Vayu Block,
   Second Floor
   Indira Paryavaran Bhawan Jor Bagh Road
   New Delhi-110 003

3. **Shri Elamurugannan, IFS,**
   AIG Forest, MoEF&CC,
   Government of India,
   Indira Paryavaran Bhawan Jor Bagh Road New Delhi-110 003

4. **Dr. M A Atmanand,**
   Director,
   National Institute of Ocean Technology,
   Ministry of Earth Sciences,
   Velachery-Thambaram Main Road,
   Narayanapuram, Pallikaranai,
   Chennai – 600 100

5. **Dr. Manoj Kumar Modi,**
   Scientist-E, Department of Biotechnology,
   Government of India,
   CGO Complex, Block No.2,
   Lodhi Road, New Delhi-110003.

Non-Official Members

6. **Dr. Yogesh Shouche**
   Senior Microbiologist,
   National Centre for Cell Science
   Department of Biotechnology Lab,
   University of Pune Campus,
   University Road, Ganeshkhind,
   Pune, Maharashtra – 411 007

7. **Dr. Parimal Bhattacharjee**
   Professor & Head,
   Department of Zoology,
   A/3 Asiyana Housing Complex Maligon
   Guwahati-781011

8. **Shri Darshan Shankar,**
   Chancellor,
   Trans Disciplinary University, C/o Foundation for Revitalization of Local Health Traditions (FRLHT),
   74/2, Jarakabande Kaval, Post Attur via Yelahanka, Bangalore - 560 064

Secretary to the Authority

Shri. T. Rabikumar, IFS
Secretary, National Biodiversity Authority,
Chennai –600 113

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ANNEXURE-2

List of Applicants attended the Hearing

Sl No.	Applicant	Names	Form	Application Nos	Number of Applications	Recommendations
1	M/s Laila Neutraceuticals	P.B. Gangadhar	III	1147, 1149, 1150, 1151, 1158, 1160, 1171, 1172, 1193, 1194, 1195, 1196, 1205	13	Approved
2	M/s Laila Pharmaceuticals	P.B. Gangadhar	III	1148, 1157	2	Approved
3	M/s Cadila Pharmaceuticals Ltd	Nilesh Shah, Sunita K. Sreedharan	III	1457	1	Draft Agreement to be sent
4	Katragadda Bhaskara Rao & Mr. Babu P. Vadlamudi	Katragadda Bhaskara Rao	III	922	1	Approved
5	Mr. Shatrughna Prasad Vaidya	Dr. R.K Ravikumar	III	260	1	Approved
6	M/s Metahelix Life Sciences Ltd	Mr. Suresh kumar & Dr. Sandhya Agarwal	III	1116	1	Approved
7	Dr. Pawan Kumar Saharan	Ms. Uma Baskaran, Deepti Sood	III	768	1	Approved
8	M/s Advance Enzyme Technologies Ltd	Ms. Uma Baskaran, Deepti Sood	III	707, 712	2	Apply in Form I
			I	1482	1	Approved draft agreement to be sent
9	Tamil Nadu Agriculture University	Dr. R. Gnnanam & Mr. V. Udayasuriyan	III	718	1	Approved

10	M/s Nagarjuna Energy Pvt. Ltd.	Mr. Arun Kumar	III	1003, 1004, 1005, 1006, 1050	5	Approved
11	M/s Sentiss Pharma Pvt Ltd	Dr. A. Yamuna, K&S Partners	III	676, 975	2	Approved 4 Indian entity
12	M/s Amplicon Express Inc.	Mr. B. Jaganmay Anand	~~III~~ I	864	1	Approved
13	M/s Piramal Enterprises	Ms. Seema Akhelikar, Yogita Karakkadavath, Sridevi Krishnan	I	856	1	Closure. Affidavit saying that the research is assigned to DBT and a certificate from DBT to verify
			III	396	1	Self attested Acquisition to be given. Affidavit that there are no patents
14	Acharya Vidya Narayan	Ms. Seema Akhelikar, Yogita Karakkadavath, Sridevi Krishnan	III	121	1	Approved. Benefit sharing to be shared from the time of the commercialization
15	M/s Sun Pharmaceuticals Industries Ltd.		I	1640	1	Apply in Form I for all the species that have been screened.
			III	1199	1	Apply in Form I. Upfront payment considered and will be reverted back
16	M/s Indian Oil Corporatioon Ltd.		III	674, 673, 753, 744, 1657, 1658	6	Apply in Form I
17	M/s Bioved Pharmaceuticals Pvt Ltd.	Mr. S.R. Bajekar & Ms. Suneeta Chaskar	III	730, 835, 837	3	Apply in Form I
18	Fiona Rachel Savory	Dr. Uma Ramakrishnan	I	511	1	Approved draft agreement to be sent
19	M/s Ari Healthcare Pvt Ltd.	Dr. Nipanikar Sanjay & Sanjeevan Kanjilal	III	1571	1	Approved

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20	M/s Monsanto Holdings Pvt Ltd.	Mr. T. Sreenivasan, Dr. Deepak Prem	II	289	1	Affidavit that the bioresource was sent through NBPGR with PVP registration status and no monetary transactions happened; there are no court case present and no investigative enquiry. The Affidavit should also mention about Monsanto being the subsidary of Bayer. Closure after consideration
21	M/s Maharashtra Hybrid Seeds Company Ltd. (MAHYCO)	Mr. T. Sreenivasan	III	577	1	Approved
22	University of Delhi, South Campus & M/s MAHYCO	Mr. T. Sreenivasan	III	1674	1	MAHYCO to apply in Form I
23	M/s Phytomyco Research Pvt Ltd.		III	1749, 1750	2	Apply in Form I
24	M/s Reliance Industries Ltd.	Mr. Tomal Dattaroy, Mr. C. Surendra Raju	III	1722, 1735, 1740, 1805, 1734, 1736, 1737, 1739, 1719	9	Apply one Form I for the organism Spirulina in the case of 1737, 1739, 1736 and 1719 or Form I should be applied based on the research projects.
25	Rajiv Gandhi Centre for Biotechnology	Dr. E. Sreekumar	II	1086	1	Emory University should apply in Form III to comply with the BD Act
26	M/s Bayer Biosciences Pvt Ltd.	Ms. Abhilasha Tripathi	IV	616, 515, 615, 625	4	Application 615, 616: Affidavit to be given stating that Indian biological resource was not used. Application 515, 625: Apply in Form I for ratification.Affidavit for reason for closure. Form IV will be closed after approval of Form I
27	M/s Jamia Hamdard & M/s/ Arbo Pharmaceuticals	Ms. Mita, Khurana & Khurana Law firm	III	976	1	Approved

28	Dr. Shukla Mukesh Harilal, Shri. Trivedi Meetesh Pradipkumar	Ms. Mita, Khurana & Khurana Law firm	III	1485	1	Approved
29	Dr. Shukla Mukesh Harilal	Ms. Mita, Khurana & Khurana Law firm (Gave Authorization letter to present)	III	770	1	Approved
30	M/s/. Bharat Biotech International Ltd.	Mr. B. Karth, Hasan & Singh firm	III	918, 930, 1446, 1030, 1458	5	Apply in Form I. Affidavit to state that there are no cases under subjudice.
31	M/s/. Transpek Industry Ltd.	Mr. Mandar	III	1602	1	Apply in Form I.
32	M/s. Bharat Petroleum Corporation Ltd.	Ms. Gayathri	III	740	1	Apply in Form I. Affidavit to state that there are no cases under subjudice and no commercialization has been done.
33	Prof. Aparna Dixit	Ms. Gayathri	III	964	1	Approved
34	Omni Active Health Technologies Ltd.	S. Majumdar	III	1076	1	Apply in Form I. Benefit sharing to be shared from the time of the commercialization.
35	M/s. Charak Pharma Pvt Ltd.		III	102	1	Rejected/Closure (Draft Agreement to be sent)
36	Dr. Atul M. Desai		III	1034	1	Approved
	Total				81	

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ANNEXURE-3

List of Applicants who gave written submission through mail.

Sl No.	Applicant	Form	Application Nos	Number of Applications	Recommendations
1	M/s. Tata Chemicals Pvt. Ltd. (Attended hearing of 48th Authority meeting on 29th October 2018)	III	496	1	Apply in Form I
2	M/s. Sri Biotech Laboratories India Ltd	III	1126, 1128	2	The Original management to apply in Form I
3	Wacker Metroarck Chemical Pvt Ltd.	III	934	1	Apply in Form I
4	ICAR	III	1548, 1549	2	To attend the hearing on 10th December 2018.
5	CSIR (Attended hearing of 48th Authority meeting on 29th October 2018)	III	2035, 2016	2	Approved
6	M/s. Puri Oil Mills	III	1463	1	Approved
7	Dr. Suresh Patankar Balakrishna (Attended hearing of 48th Authority meeting on 29th October 2018)	III	1513	1	Approved
	Total			10	

सत्यमेव जयते

Ministry of Environment
Forests and Climate Change

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDING OF THE 50th AUTHORITY MEETING

10th-11th December 2018

Venue

Conference Hall,
National Biodiversity Authority,
Chennai

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Proceedings of the 50th Authority Meeting of the National Biodiversity Authority held on 10th and 11th December 2018.

The fiftieth Authority meeting of the National Biodiversity Authority (NBA) was held on 10th and 11th of December 2018 at the Conference Hall, National Biodiversity Authority, Chennai and was chaired by Dr. B. Meenakumari, Chairperson, NBA. The list of participants is placed at **Annex-I.**

At the outset, the Chairperson, NBA extended a warm welcome to the members and briefed about the activities of NBA from the last Authority meeting. The Chairperson mentioned about the successful participation of NBA, CEPBOL and MoEF&CC in the Fourteenth meeting of the Conference of the Parties (COP-14) to the Convention on Biodiversity held between17th-29th November 2018 at Sharm El- Sheikh, Egypt. She also informed the members about organizing a side event by NBA, MoEF&CC, UNEP, GEF, GIZ, UNDP, CEBPOL, UNU-IAS on "India's insights from head starting the implementation of Access and Benefit Sharing and launch of an online course on ABS" at COP-14 on 27th November 2018.

NBA had organized a Human resource development training program for the staff on 6th and 7th December, 2018.

The Secretary, NBA then apprised about the status of ABS applications received, trends in receipt of application and their disposals.

Thereafter, the agenda items were considered as under:

50.01: Action taken report of the 48th Authority meeting

The Authority in the 48th Authority meeting had decided that the applicant who had applied in Form III and had accessed bio resource without the approval of NBA, should apply under Section 3(1) to access the bio resources from India for doing research and then consequently Form III would be approved with the Benefit sharing kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively. A total of 16 Form I applications have been received of the cases that were considered under the O.M. dated 10-09-2018 issued by MOEF&CC under Section 48 of the Biological Diversity Act.

Decision: 1. Members noted the action taken.

Action: Secretary, NBA

50.02: Access and Benefit Sharing of M/s Ultratech India. Ltd

M/s Ultratech India Ltd., New Mumbai 400 705 submitted Form III application (Application No. 724) on 20.02.2014 seeking prior approval of NBA for obtaining patent (1519/MUM/2012) for the invention titled "Herbal composition for vaginal treatment". The applicant used five biological resources procured from M/s. Konark Limited, a vendor in Mumbai. The Application was placed in the 35th

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EC on ABS, which recommended for approval with benefit sharing as per Regulation 9 of the ABS Regulations, 2014 and the 36th Authority approved it. The Applicant, on 24.05.2016, executed the ABS Agreement. As on date, the patent is yet to be granted.

In their annual report submitted to NBA dated 29.07.2017, the Applicant intimated that they have developed a product based on the invention, viz. "18 Again" and furnished the ex-factory sale figure during the period from July 2016 to June 2017 as Rs.10.16 lakhs. The Applicant, having commercialized the invention, shall pay a benefit sharing of 0.2% of the annual gross ex-factory sale of the product which shall be worked out based on the annual gross ex-factory sale minus government taxes, as per the benefit sharing clause approved by the Authority, after the grant of the patent.

Now, the Applicant has sent the benefit sharing amount before the grant of the patent. However, the benefit sharing obligation is triggered only after the grant of patent as per the Benefit sharing agreement. Members discussed whether the amount can be accepted. It was also informed that when patent is granted, it will be from the date of filing of the patent. So, any commercialization during such period i.e. from the date of filing of the patent would come under the purview of Section 6 of the Biodiversity Act, 2002. If, the patents are not granted, then such activities would be out of purview of the Section 6 of Biodiversity Act, 2002.

The members of the Authority discussed the instant case and deliberated that NBA should accept the benefit sharing amount from the Applicant. The

members also mentioned that a prior intimation regarding the benefit sharing has to be given to the Maharashtra SBB from whose jurisdiction the biological resources were accessed.

The Authority deliberated that in future, the benefit sharing should be accepted from the applicant only after the patent is granted. However, the amount should be calculated from the time of commercialization.

Decision: 1. NBA to accept the benefit sharing amount given by M/s Ultratech India Ltd.

2. A prior intimation regarding the benefit sharing to be sent to Maharashtra SBB.

3. NBA should accept the benefit sharing from the applicant only after the patent is granted from the time of commercialization of the invention in the future.

Action: Secretary, NBA

50.03: 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 intend 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.

2. NBA has received 88 such intimations since March 2016 – September 2018 and the same have been reported to the Authority from time to time. Since July, 2018, the Secretariat has received seven (7) Form-C applications of which four (4) intimations received through online and three (3) through offline.

Decision: Members noted and ratified the action taken on the Form- C applications by NBA.

50.04: Proceedings of the 52nd Meeting of Expert Committee on Access and Benefit Sharing on ABS held on 04th December 2018 at NBA, Chennai

The 52nd meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 04th December 2018 at the National Biodiversity Authority, Chennai. A total of 63 applications were placed before the EC for examination. While examining the ABS applications, the EC has also made their recommendation on generic issues as under:

- The members felt that the categorization of cases of applications involving contravention has speeded up the processes under the Ministry's OM.
- EC on ABS observed that for the collection of air samples, the present upfront guidelines do not contain any provision. Hence, the EC recommended that upto 25 petri dishes/plates may be taken as one Unit. The same may be incorporated in the guidelines suitably. (Annexure 2)
- With regard to the traditional knowledge holders applications submitted by NIF, Ahmedabad, EC felt that clarifications on the holding of TK by

individuals/ community is required and hence, a representative of NIF may be invited for the next meeting of EC.

Forty two Form-III applications and eight (8) Form-I applications were recommended for approval by the 52nd meeting of EC on ABS for ratification

Decision: 1.The Authority approved the recommendations of the EC on ABS and also agreed that, 25 petri dishes/plates can be taken as one Unit for the collection of air samples.

2. The amended guidelines are given in Annexure 2

50.05: Dealing with O.M. dated 10-09-2018 issued by MOEF&CC

NBA has received an Office Memorandum dated 10.09.2018 issued by Ministry of Environment & Forests and Climate Change under section 48 of the Biological Diversity Act for enhancing implementation of the Act quoting that large numbers of entities are not fully aware of the provisions of the BD Act but is desirous of complying with the same.

Accordingly, the above O.M was placed in the 47th Authority meeting as Agenda item no. 47.10 and the Authority asked NBA to constitute a committee to examine the Scientific Evidence of the ABS Applications and accordingly committee has been duly constituted and met one occasion (2 days on 01.11.18 & 02.11.18) and examined the applications and gave their recommendations.

The applicants **(35 applications)** who were already issued 19(3) notices and not presented their case in the earlier Authority meeting held on 29.10.2018

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& 15.11.2018 and those who sought extended time including those applicants not responded so far were invited for hearing before the Authority meeting for disposal under Para 4 and 5 of the O.M No. C-12025/8/15-CS –III dated 10.09.2018 issued by MoEF&CC.

. After considering, recommendations of the committee of experts constituted by NBA to scrutinize these cases for scientific evidence, Member discussed about the benefit sharing in cases were patents have been granted elsewhere without the prior approval of NBA. Secretary NBA explained that the EC on ABS follow a sectoral approval and whenever traditional knowledge is involved, it usually doubles the benefit sharing percentage. The members agreed that the benefit sharing may be kept at

- 1% on the annual gross ex-factory sale minus government taxes where the applicant himself/herself commercializes the process/ product/ innovation
- 5% on the fee received in any form including the licensee/assignee fee, if the applicant assigns/licenses the process/product/innovation to a third party for commercialization
- 5% of the royalty amount received annually from the assignee/licensee

A total of 39 applications (Form I- 7; Form II- 2; Form III- 28 and Form IV- 2) were placed before the 50th Authority meeting. 16 applicants attended the hearing, 23 applicants gave written submission through mail and two were considered for direct submission. . Members suggested that the applicants who had failed to get approval under Section 3(1) to access the bio

resources from India for doing research, shall seek the approval of NBA under Section 3(1) and inform them to submit application under Section 3(1).

The applicants were advised to take proactive steps to educate their staff, partners and collaborators about the provisions of the Act. It was decided that in all the cases, the applicants shall organize awareness programs with regards to with compliance to BD Act and submit report to NBA within three months after signing the agreement. In case Form I application where approval is sought to do research on bio resource obtained from India by industries, an upfront payment as per the approved guidelines may be included while communicating the approval.

M/s. Evonik Industries AG, submitted an application in Form I (Application No.-636) to access two vials of permanent strain cultures of bio-resources (*Thraustochytrid* and *Schizochytrium limacinum)*. The said vials were proposed to be accessed from M/s. Avesthagen Ltd. Bengaluru. M/s. Avesthagen is an entity under Section 3(2) of the Biodiversity Act, 2002 who has not obtained prior approval under the Act to access bio-resources. M/s. Avesthagen have also obtained patents from ten countries without prior approval under Section 6 of the Biodiversity Act, 2002. The members of the Authority opined that the access by M/s. Avesthagen should first be regularized by applying in Form I before 18th December, 2018 as they had obtained the bio-resource without the required prior approval under the Biodiversity Act, 2002. Till the access of bio-resource by M/s. Avesthagen is regularized, the access of the bio-resource from M/s. Avesthagen by M/s. Evonik Industries AG cannot be agreed to. This application is closed.

M/s. Charak Pharma Pvt Ltd (Form III-102) who had appeared in the hearing of the 49th Authority meeting and had mentioned that they were not ready to agree with the terms of Benefit sharing and sign the Agreement but will revert back. The Applicant reverted back and appeared in the hearing of the 50th Authority meeting and mentioned that they have agreed to the terms of Benefit sharing and will comply with the Biodiversity Act, 2002. The members of the Authority then decided and asked the applicant to give an Undertaking in an Affidavit that they have agreed to comply with the Biodiversity Act, 2002 along with a fresh Form III application.

The lists of recommendations given by the Authority for the Applications are provided in Annexure 3.

It was informed that so far 23 fresh applications have been received to be considered under the O.M. dated 10-09-2018 issued by MOEF&CC. It was also informed that more applications may be submitted by applicants by 18th December, 2018. The members of the Authority discussed the course of action and deliberated that the applications that are received until 18th December 2018 should be scrutinized in a fast track mode. Form I applications that are received during this period where the bio resource and will be accessed in the future will be sent to the respective SBBs giving 15 days for their concurrence. The Form I applications for which the bio resource have already been accessed and will not be further accessed need not be sent to the respective SBBs for concordance but the decision taken by the Authority will be communicated to the SBBs.

Further, an Expert Committee meeting on Access and Benefit Sharing (EC on ABS) can be held sometime on January 2nd week of 2019. The members decided to have the 51st Authority meeting on 24th January 2019 in Chennai.

Decision: 1. The Authority approved the Form III applications with the Benefit sharing kept at kept at 1%, 5% and 5% on the commercial utilization of the process/ product/ innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively given in Annexure 2.

2. The Authority asked the Form III applicants who are 3(2) entities to apply in Form I for access of the bio resource for which research has already been carried out if they have not taken prior approval from NBA

3. The applicants shall furnish an undertaking that provisions of BD Act shall be compiled with in the future.

4. The clauses in the approvals (agreements) may be modified appropriately by the NBA Secretariat.

5. The Authority asked NBA to speed up the process of scrutiny of the Forms that will be applied before 18th December 2018. Form I applications that are received during this period where the bio resource have been accessed and will be accessed in the future will be sent to the respective SBBs for concordance and the respective SBBs to revert back in 15 days. Secondly, the Form I applications for which the bio resource have already been accessed and no further access is required need not be sent to the respective SBBs for concordance but the decision taken by the Authority will be communicated to the SBBs.

6. The 51st Authority meeting to be held on 24th January, 2019 in Chennai.

Action: Secretary, NBA

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50.06: To consider recommendations of the proceedings of 10th meeting of the NBA's Expert Committee on Agro-biodiversity held on 12th October, 2018

The 10th meeting of the Expert Committee on Agro-biodiversity was held on 12th October, 2018 at the NBA, Chennai under the chairmanship of Dr.R.S.Rana, former member, NBA. Five issues were discussed i.e. 1. Export of seeds of crop varieties and embryos of farm animals 2. Protection of traditional knowledge of local communities associated with their registered farm animal breeds 3. Gap analysis of *ex situ* conservation of Agro-biodiversity and strategy for gap filling; 4.Developing strategy for promoting *in-situ* on-farm conservation of Agro-biodiversity; & 5. Identifying Agro-biodiversity Heritage Sites for notification under the BD Act and made their recommendations.

The Authority members discussed regarding the ABS issues related to export of seeds of Crop varieties (Agenda item 2 of the 10th Meeting of the NBA-Expert Committee on Agrobiodiversity). Dr. Sujata Arora mentioned that the MoEF&CC, in response to a communication received from the Department of Agriculture, Cooperation and Farmers Welfare (DAC&FW) requesting to declare seeds and planting materials of 155 crop species covered under the Seeds Act 1966 as normally traded commodities under Section 40 of the Biological Diversity Act, had informed about the recommendations of NBA's Expert Committees on NTACs and Agrobiodiversity on the matter which were endorsed by the Authority. The MoEF&CC had also offered to have a meeting with DAC&FW on the matter if they so desire. However, no further communication has been received from DAC&FW so far in response to this letter from MoEF&CC. Chairperson opined

that a letter can be sent to MoEF&CC requesting the Ministry to convene a meeting with the Ministry of Agriculture regarding the Export of seeds of crop varieties.

The members discussed on the protection of Traditional knowledge of local communities associated with their registered Farm animal breeds (Agenda item 3 of the 10th Meeting of the NBA-Expert Committee on Agrobiodiversity) where members opined that a legal opinion is required to take further action.

The members discussed the gap analysis of ex-situ conservation of Agro-biodiversity and strategy for gap filling proposal and deliberated that project proposal required revision regarding the partitioning of the consolidated funding requirements of the two components and decided to write to ICAR regarding the funding of the proposal.

Decision: 1. NBA to write a letter to MoEF&CC requesting the Ministry to convene a meeting with the Ministry of Agriculture regarding the Export of seeds of crop varieties.
2. To seek legal opinion on protection of Traditional knowledge of local communities associated with their registered Farm animal breeds
3. To write to ICAR regarding the proposal on gap analysis of ex-situ conservation of Agro-biodiversity and strategy for gap filling

50.07: Any other information with the permission of the Chair.

50.07:01: Confirmation of Proceedings of the 49th Authority meeting

The draft proceedings of the 49th Authority meeting of the National Biodiversity Authority held on 15th November, 2018 at Chennai was circulated to the Members for seeking their comments.

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Decision: 1. The members confirmed the proceedings of the 49th Authority Meeting.

50.07:02: Enhancing compliance of BD Act set for non-commercial research

Dr. Darshan Shankar expert member with the permission of chair placed before the Authority, a proposal to facilitate, especially the non-commercial research on biological resources under the Biodiversity Act, 2002. Ever since the enactment of the Biodiversity Act, 2002, around 400 applications have only been received for research. The research on biological resources is undertaken through Institutes of DBT, DST, CSIR, ICAR and others. In order to enhance the compliance of the Act for non-commercial research, these institutes may be encouraged to establish a mechanism for compliance under the Biodiversity Act, 2002. The heads of these Institutes will assume responsibilities for such compliance.

Members agreed that the approval for non-commercial research under the Biodiversity Act, 2002 is low. Efforts are required to create more awareness among the stakeholders who use bio resources to comply with the Biodiversity Act, 2002. Members opined that an internal discussion is to be done before proceeding on this matter.

Decision: NBA Secretariat may examine this and put up a brief report for the consideration of the Authority in the next meeting.

50.07:02: CEBPOL

Chairperson informed the members that Centre for Biodiversity Policy and Law (CEBPOL) was established in NBA under the bilateral co-operation between

Government of India and Government of Norway. The total budgetary allocation of this project is Rs. 17,45,08,708 (Indian Fund= Rs. 4,30,00,001[24.64%]; Norwegian Fund= Rs. 13,15,08,707 [75.36%]). The project which works on certain identified thematic areas like ABS, multi-lateral Environmental agreements, Invasive Alien species and nature index ends on 31st December, 2018. The project team at NBA comprises of three consultants, three fellows and four administrative staff.

The project team over the time had acquired specialized skills and knowledge in their respective fields. This team also provides technical inputs on various issues to NBA and the Ministry from time to time. The budgetary support from the Norwegian Government will end in 2018. While appreciating various activities undertaken by CEBPOL, reports published under the project, members highlighted its relevance and continuance.

Decision: Members agreed in principle for the continuation of CEBPOL. NBA may take up with MoEF&CC and other donor agencies for funding.

50.07:03: An interaction to commemorate the 50th Authority meeting on 11th December, 2018

A gathering of ex- Secretaries of NBA, ex- Authority members and other invited guests to commemorate the 50th Authority meeting was organized by NBA on 11th December, 2018. The list of the participants is given in Annexure 4. The invited guests shared their experiences with NBA from its inception, the hurdles that they faced and the growth of it. They also gave valuable inputs to strengthen the implementation process of the BD Act, 2002

Some of the suggestions given by the invitees are as follows:

a. Dr. S. Subramanian suggested the need for district level coordination for effective implementation of the BD ACT, 2002

b. Dr. Darshan Shankar suggested that NBA may enhance the compliance of BD Act , 2002 by delegating the responsibility to the users of bio-resources such as Government sponsored institutes under DBT, DST, ICAR and CSIR.

c. Prof. M.K.Ramesh highlighted the techno-legal nature of BD Act. He appreciated the role played by NBA as a regulator, law enforcement and educator. These varied roles pose a challenge but is also an opportunity for effective implementation of BD Act, 2002.

d. Dr Sujata Arora and Dr. Sanjay Kumar appreciated the efforts taken by NBA to create awareness about the provisions of the Biodiversity Act and also on developing online application platforms for the ease of the researchers and Institutes in spite of having very small manpower in hand.

e. The members recommended the need for a research wing or centre on biodiversity policy and law.

f. NBA may bring out a publication to showcase NBA achievements so far

g. India is a leader in the implementation of Nagoya protocol and ABS, with this experience, how to achieve the full potential thereby fulfilling the other objectives of the Act may also be worked out.

ANNEXURE-1

List of Participants

Official Members

1. Dr (Mrs) B.Meenakumari
Chairperson,
National Biodiversity Authority, Chennai

2. Dr Sujata Arora
Adviser / Scientist 'G'
Ministry of Environment, Forest and
Climate Change Government of India
Room No. V 235, Vayu Block, Second
Floor Indira Paryavaran Bhawan
Jor Bagh Road New Delhi-110 003

3. Dr. Sanjay Kumar,
Director,
CSIR - Institute of Himalayan Bio
resource Technology P O No:6,
Palampur, Himachal Pradesh: 176061

Non-Official Members

4. Dr. Yogesh Shouche
Senior Microbiologist,
National Centre for Cell Science
Department of Biotechnology Lab,
University of Pune Campus,
University Road, Ganeshkhind,
Pune, Maharashtra – 411 007

5. Dr. Parimal Bhattacharjee
Professor & Head,
Department of Zoology,
A/3 Asiyana Housing Complex Maligon
Guwahati-781011

6. Shri Darshan Shankar,
Chancellor,
Trans Disciplinary University, C/o Foundation
for Revitalization of Local Health Traditions
(FRLHT),
74/2, Jarakabande Kaval, Post Attur via
Yelahanka, Bangalore - 560 064

7. Shri. D. Sathiyan, IFS
Conservator of Forests.
Regional Office. Chennai.
Ministry of Environment. Forest and Climate
Change
Ist and IInd Floor, Handloom Export
Promotion Council,
34, Cathedral Garden Road, Nungambakkam,
Chennai – 34

Secretary to the Authority

Shri. T. Rabikumar, IFS
Secretary, National Biodiversity Authority,
Chennai –600 113

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Annexure 2

Guidelines for upfront payment

Amount of Upfront Payment for Access to Biological Resources for research or bio-survey and bio-utilization leading to commercial utilization				
Purpose	1. Quantity of biological resource for one species upto 5Kg of biomass per site; 2. Upto 500 gm or 500 ml of soil, water (microorganisms) respectively per site **3. 25 petri dishes/plates may be taken as one Unit for air samples ***			**Traditional knowledge associated with bio-resource**
	Biological resources			
	From natural habitat[1]	**From cultivated source/ institution / Industrial effluent and waste[1]**	**Threatened species from natural habitat**	
1	2	3	4	5
Nutraceutical or Agricultural	Rs.10,000 per collection	Rs.3,000 per collection	Rs.15,000 per collection	30% more than the normal rate
Pharmaceutical, Chemical and Diagnostic	Rs.15,000 per collection	Rs.5,000 per collection	Rs.20,000 per collection	30% more than the normal rate
Cosmetics and Luxury products	Rs.20,000 per collection	Rs.7,000 per collection	Rs.30,000 per collection	30% more than the normal rate
Environmental bio-remediation or waste conversion/ recycling	Rs.2,000 per collection	Rs.1,000 per collection	Rs.4,000 per collection	---
Other Research	Rs.5,000 per collection	Rs.2,000 per collection	Rs.10,000 per collection	30% more than the normal rate

1. *For bioresources available in abundance, the upfront payment will be calculated @ 50% of the amount prescribed at col.no.2 & 3 for every 50 kg / site / collection. This formula will not be applicable for microorganism.*

2. *Quantity of biological resources will be decided by NBA on case by case basis.*

Calculation of Payment:

a) aggregate of each species multiplied by quantity, multiplied by number of collection & multiplied by number of sites;

b) wherever the soil/water is being accessed the basis of assessment for this purpose shall be in terms of ml/mg, as the case may be, multiplied by number of collection &multiplied by number of sites.

Note: 1. The accrued amount will be shared as per the provisions given in the ABS Regulations, 2014
2. Above rates may be revised from time to time.

ANNEXURE-3
List of Applicants attended the Hearing

Sl No.	Applicant	Names	Form	Application Nos	Number of Applications	Remarks
1	M/s Sanzyme Private Ltd	Divya M.; B. Karthik-Khurana & Khurana	III	1204	1	Draft Agreement to be sent
2	M/s Livie Biopesticides Ltd	K & S Partners	III	1440	1	Declaration letter for name change of the company
3	Vittal Mallaya Sci. Research Foundation	K & S Partners	III	2131	1	Applicant to apply in Form I
4	M/s. Praj Industry		III	1714	1	Applicant to apply in Form I
5	Dr. Amit Agarwal	S K Associates	III	776	1	Draft Agreement to be sent
6	ICAR	Dr. Balraj S. Param; Dr. Archana	III	1548, 1549	2	Draft Agreement to be sent
7	M/s. Advanta Ltd.	Dr. Elangovan ; Dr. Suhas B.N.	IV	891	1	• Applicant obtained Brinjal seeds from Unicorn and Golden Seeds Ltd in 1994 and 1996 respectively. • Applicant transferred the lines to MAHYCO for which the Applicant applied in Form II in 2014. • NBA after scrutinizing the Form II asked M/s Advanta Ltd to apply in Form IV in 2015 • Applicant mentioned that the research on transforming Brinjal lines to genetically modified Brinjal lines was stopped in 2015 and there is no ongoing research related to it **Decision** a. Applicant to apply in Form I as joint applicant with MAHYCO before 18th December 2018. b. Undertaking to be given that no research has been carried out and is deposited in the Germplasm repository. c. Applicant to give in writing for the closure of Form IV.
8	M/s. Wacker Metroark Chemical Pvt. Ltd.	Mr. Anjan Sen	III	934	1	Applicant to apply in Form I

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9	Mr. Abdul Mueed	Dr. Neeti Wilson	III	137	1	a. Send a draft Agreement. b. Undertaking that no commercialization has taken place.
10	M/s. Anthem Biosciences Pvt Ltd.	Dr. Sangamesh	I	943	1	Draft Agreement to be sent
11	M/s. Rasayani Biologics Pvt. Ltd.	D. Moses Jayakaran	III	1118	1	Undertaking that no commercialization has taken place.
12	Mrs. Wankhedkar Mahalaxmi Kamalkar	A. K. Balaji	III	126-A3	1	a. Undertaking that no commercialization has taken place. b. Agreement to be signed by the agreement
13	Charak Pharma Pvt Ltd.(Special Case)		III	102	1	a. Undertaking in Affidavit that they have agreed to give Benefit Sharing. b. Draft Agreement to be sent to them
	Total				**14**	

Applicants who gave written submission through mail

Sl No.	Applicant	Form	Application Nos	Number of Applications	Remarks
1	Mr. Manoj Kumar	III	1764	1	Draft Agreement to be sent to them
2	M/s. Bose Institute	III	1728	1	a.Undertaking that no commercialization has taken place. b. Draft Agreement to be sent
3	Skanray Healthcare Pvt Ltd.	III	1615	1	Applicant to apply in Form I
4	Shri. Ramakanth Rajaram Gaikwad	III	197, 199, 201	3	a. A letter to be sent asking the applicant to sign the Agreement that has already been sent within a month failing which action will be taken under Judicial authority in their Jurisdiction. b. A clause to be added in the Agreement to send the geographical location of the bioresource. c. BS will be 1% based on ABS guidelines.
5	M/s. Panacea Biotech	III	589, 630	2	Draft Agreement to be sent.
6	Agharkar Research Institute	III	1651	1	Draft Agreement to be sent.

7	Mr. Gary L. Peterson	I	410	1	A letter to the applicant asking for an undertaking that the Applicant has not done any research with the bio resource and the case will be closed after consideration. A copy of this letter will also be sent to USDA.
8	Subramanya	I	366	1	A draft Agreement to be sent to the applicant with a copy to Hongkong University and Maharishi University and covering letter stating that the signing of the Agreement will help in closure of the application
9	Dr. Suneel Pandey	IV	514	1	Undertaking to be given by the Applicant that no research has been carried out and the bioresource has been brought back to TERI
10	M/s. Evonik Industries AG	I	636	1	Can be closed without any action
11	M/s. Avesthagen	II	644	1	It can be considered only after the applicant applies is Form I and after approval, consequently in Form III. The Form II will be considered only after the approval of Form I and III.
12	Dr. Maria Jose Rubio Cabetas	I	606	1	a. A draft Agreement to be sent to the applicant and covering letter stating that the signing of the Agreement will help in closure of the application. b. Undertaking that no research has been carried out and no intention to do further research
13	Miss. Tina Harms & Dr. Miles Dyck	I	838	1	a. A draft Agreement to be sent to the applicant and covering letter stating that the signing of the Agreement will help in closure of the application with a copy to University of Alberta and MSSRF.
14	Dr. Kamalinder Kaur Singh	III	228	1	A draft Agreement to be sent again to the applicant and covering letter stating that the signing of the Agreement will help in closure of the application
15	M/s. Sri Biotech Laboratories India Ltd.	III	1128, 1126	2	Applicant to apply in Form I

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16	M/s. Sunev Pharma Solutions Ltd.	III	1055	1	a. A draft Agreement will be sent based on their submission given in 2015. b. A letter to be sent along with the Agreement stating that extracts are bioresources and are not exempted from the purview of the Biodiversity Act, 2002.
17	M/s. Nandan Biomatrix Ltd.	III	443	1	A draft Agreement to be sent also stating that Benfit sharing will be considered from the date of commercialization.
18	Meena A Joshi	III	207	1	a. A draft Agreement to be sent to the applicant and covering letter stating that the signing of the Agreement will help in closure of the application
19	Dr. Priti Kumar, Dr. Ashok Kumar, Dr. Prakriti Kumar and Dr. Adity Kumar	II	1816	1	Applicant to apply in Form I
	Total			**23**	

List of New Violation Applications for the 50th Authority Meeting

Sl No.	Applicant	Form	Application Nos	Number of Applications	Remarks
1	M/s. Bigtech Pvt Ltd.	III	1481	1	A letter to be sent that the Application will be placed in front of the Expert Committee of ABS and then will be considered.
2	M/s. Seagrass Tech Pvt Ltd.	I	2259	1	A letter to be sent that the Application will be placed in front of the Expert Committee of ABS and then will be considered.

Annexure 4

List of participants who attended the 50th Authority meeting Commemoration

1.Dr.B. Meenakumari
Chairperson, NBA,

2. Mr. Rabikumar, IFS
Secretary, NBA

2. Shri Darshan Shankar,
Vice-Chancellor,
Transdisciplinary University

3.Dr.Sujata Arora,
Adviser, MoEF&CC

4. Dr. Sanjay Kumar,
Director, Institute of Himalayan Bio resource Technology

5. Dr.Atmanand
Director, Chair IOCINDIO (UNESCO)
National Institute of Ocean Technology, Pallikaranai

6. Dr Parimal Chandra Bhattacharjee,
(Retd) Professor and Head, Department of Zoology, Guwahati University, Guwahati- 781014, Assam

7. Dr.Subramanian, Former Member

8. Prof. Dr. L. Kannan
Former Vice-Chancellor, Thiruvalluvar University

9.Prof. M.K.Ramesh,
Professor of Law,National Law School, Bangalore

10. Dr.Balaji, IFS, Rtd. Chairman,CESE-NBA

11. Shri R K Ojha, Member, EC on ABS, NBA

12. Dr.Venkatraman, Former Secretary, NBA

13. Dr. N. Mathivanan,
Director and Head,
Centre for Advanced Studies in Botany
University of Madras

14. Shri Udhayan, IFS, Member Secretary, TNSBB

15. Dr. R. Ramanibai,
Former Head & i/c,
Centre for Ocean and Costal Studies,
University of Madras

16. Shri R K Upathyay, IFS,
PCCF, TNFD, Govt. of TN

17. Ms.Sangeetha Rajesh, MSSRF

18. Shri. D. Sathiyan, IFS
Conservator of Forests.
Regional Office. Chennai.
Ministry of Environment. Forest and Climate Change

19. Dr. Nandita Krishna
Director, CPRF

सत्यमेव जयते

Ministry of Environment Forests and Climate Change

राष्ट्रीय जैव विविधता प्राधिकरण
National Biodiversity Authority, India
2003

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDINGS OF THE 54th AUTHORITY MEETING

31st October 2019

Venue

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

Proceedings of the 54th Authority Meeting of the National Biodiversity Authority, held on 31st October 2019

The 54th Authority meeting of the National Biodiversity Authority (NBA) was held on 31st of October 2019 at the Indus Hall of Ministry of Environment, Forest and Climate Change, Paryavaran Bhawan, New Delhi under the Chairmanship of Dr. V.B. Mathur, Chairman, National Biodiversity Authority. The list of participants is placed at **Annexure-I.**

At the outset, Shri. J. Justin Mohan, Secretary NBA welcomed the Chairman, NBA, Members and Special Invitees for the meeting. Thereafter, the Chairman, NBA welcomed all the members which was followed by a round of introduction. The Authority members also welcomed the Chairperson and Secretary, NBA and appreciated the efforts taken by the previous Chairperson and Secretary. The members also welcomed Dr. Sujit Kumar Bajpayee, the newly appointed Joint Secretary in MoEF&CC who would be responsible for all matters related to Biodiversity conservation and NBA.

Thereafter, the agenda items were considered as under:

54.01: Confirmation of the Proceedings of the 53rd Authority meeting

The draft proceedings of the 53rd Authority meeting of the National Biodiversity Authority held on 22nd May 2019 at Chennai was circulated to the Members seeking their comments. The comments received had been duly incorporated in the proceedings, as appropriate.

Decision: The members confirmed the proceedings of the 53rd Authority Meeting.

Action: NIL

54.02: Action Taken Report of the 53rd Authority Meeting

The Secretary, NBA apprised members about the actions taken and actions that are in progress on the decisions taken in the 53rd Authority Meeting.

Decision: Members noted the action taken report.

Action: NIL

54.03: Proceedings of the 55th meeting of the Expert Committee on Access and Benefit Sharing held on 13th &14th June 2019

An Expert Committee on Access and Benefit Sharing was reconstituted under the Chairmanship of Dr.R.V.Varma, Former Chairman, Kerala SBB and Shri K.S.Sugara, IFS (Retd.) as co-chair on 26th December 2018. The 55th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 13th &14th June 2019 at Chennai.

A total of 206 applications and three generic issues were placed before the EC for examination. One hundred and twenty (120) Form-III applications and eight (8) Form-I applications which were recommended by this EC on ABS were cleared i.e., draft agreement forwarded to the applicants for execution. The same was placed before the Authority for ratification. Further, the EC considered 67 applications under OM issued by the MoEF&CC and made its recommendations and these applications were also placed for approval. Further, EC observed that in certain OM cases, applicants have filed single application form for multiple activities and recommended a way forward.

Decision: (1) The Authority approved the recommendations of the 55th EC on ABS.

(2) The Authority ratified the action taken on the 128 applications.

Action: Secretary

54.04: Proceedings of the 56th meeting of the Expert Committee on Access and Benefit Sharing held on 8th& 9th August 2019

The 56th meeting of the EC on ABS was held on 8th& 9th August 2019 at NBA, Chennai. A total of 183 applications and two generic issues were placed before the EC for examination.

Seventy-five Form-III applications and eight (8) Form-I applications which were recommended by the EC were cleared i.e., draft agreement forwarded to the applicants for execution. The same was placed before the Authority for ratification. Further, the EC considered 78 applications under OM issued by the MOEFCC and made its recommendations and these applications, were also placed for approval.

Decision: (1) The Authority approved the recommendations of the 56th EC on ABS.

(2) The Authority ratified the action taken on the 183 applications.

Action: Secretary

54.05: Seeking funds by Institute of Wood Science and Technology (IWST) for maintaining Red Sanders voucher specimens in the repository

The Ministry of Environment, Forest and Climate Change, Govt. of India had designated certain Institutions/Organizations to act as "Designated Repository" under the Biological Diversity Act, 2002 to keep the voucher specimen in safe custody vide order dated 28thAugust, 2008. Indian Council of Forestry Research and Education (ICFRE) had been declared as one of the designated repositories under the BD Act, 2002 and was requested to issue suitable instructions to the IWST to accept the samples of Red Sanders wood submitted by the applicants as voucher specimens.

Accordingly, the IWST has received 280 Red Sanders voucher specimens of various diameters since June 2015 from different buyers for safe custody. IWST has mentioned vide letter dated 20th February 2019 that they do not have proper mechanism / infrastructure to keep and display these discs and have requested a sum of Rupees Five lakhs for building the required infrastructure for this purpose.

Decision: The Authority decided that the Secretariat may release Rs.5.00 Lakhs to IWST for proper maintenance of the Red Sander samples deposited.

Action: Secretary

54.06: To consider a report of the committee to examine a proposal of Bombay Natural History Society to designate them as a repository u/s 39 of BD Act, 2002

MoEF&CC vide letter dated 18th January 2019 had forwarded to NBA a proposal of the Director, Bombay National History Society (BNHS) addressed to the Secretary (EFCC) with a request to consider BNHS as a designated repository to keep safe custody of species of marine, fresh water and terrestrial fauna.

NBA requested Dr. Dinesh Mishra, Member, NBA and Dr. Sanjappa, Member, EC on ABS & Former Director of BSI to examine the proposal of BNHS. They recommended that BNHS cannot be considered as a national repository based on the guidelines as it was a Society and not a public funded institution. This was discussed in the 53rd Authority meeting and it was decided to form a sub-committee comprising of Dr. Darshan Shankar, Dr. Yogesh Shouche and Dr. Sanjay Kumar to visit BNHS for examining the facilities/ infrastructure/ specimens held by them for safe custody of the specimens in light of the criteria developed to designate as repositories u/s 39 of the BD Act. The sub-committee visited BNHS on 24th July 2019 for examining the facilities/ infrastructure/specimens and recommended that BNHS can be designated as a national repository u/s 39 of the BD Act.

The recommendations were deliberated by the Authority members on the criteria of technical competence and principled policy of not accepting funds from industries but only from public funds. Dr. Sujata Arora informed that ICFRE and ZSI have already been designated as a national repository for fauna u/s 39 of the BD Act, Dr. Darshan Shankar said that BNHS has good expertise scientifically and technically and have requested for this designation for scientific promotion. He also mentioned that as BNHS is owned and managed in public interest, it would be good to designate it as a national repository. Shri. A.K. Goyal mentioned that BNHS may be considered as a national repository but with conditions regarding its accepting international funds.

Decision: The Authority decided to designate BNHS as a national repository considering its reputation and technical expertise. However, this approval is for only applicable to the instant case.

Action: Secretary

54.07: To consider the proposal of the Andhra Pradesh Forest Department the tune of Rs 104 crores to release of Second installment from the accrued funds out of the benefit sharing component realized from the access of Red Sanders wood

The PCCF, AP Forest Department vide letter no.EFS02-17/2019/Vig-32, dated 25th July, 2019 had submitted a proposal under Red Sanders forest protection for the period of 2019-2020 to the tune of Rs104 crores as the second installment from the accrued funds out of the benefit sharing component realized from the access of Red Sanders wood.

In this regard, the members deliberated on who will be the benefit claimers and how the benefit sharing may be utilized based on the provisions of the BD Act, 2002. The members said that amount if released to the AP Forest Department should be through the AP State Biodiversity Board. Dr. Dinesh Misra opined that vehicles as proposed by the AP forest department in the proposal cannot be funded. Shri. T. Rabikumar mentioned that a committee was constituted under the chairmanship of Shri. B. Vijayan and a report was prepared on the comprehensive policy for conservation, sustainable use and fair and equitable sharing of benefits arising from utilization of Red Sanders under the Biological Diversity Act, 2002. He mentioned that the committee recommended that the benefit sharing amount can be directly given to the benefit claimer or can be given to the five forest divisions from where the Red sanders were accessed for research, conservation and sustainable uses. The committee also recommended that 75% of the proposed amount for conservation of Red Sanders should be given by NBA and the remaining 25% should be given by the State government. He also mentioned that NBA faced a similar issue regarding the release of benefit sharing amount accrued for the bovine cattle embryos. A similar committee was formed and the committee recommended that the benefit sharing amount received should be shared between Andhra Pradesh and Gujarat in the ratio of 60:40 respectively for the purpose of research,

conservation and sustainable use of the cattle breeds i.e. Ongole, Gir and Kankrej. Dr. Sujata Arora said that NBA may send the ABS guidelines, 2014 and the report prepared by the committee on Red Sanders to the AP Forest Department to revise the proposal for the utilization of the Benefit Sharing component realized from the access of Red Sanders wood. Shri. Rabikumar mentioned that the previous Chairperson Dr. Meenakumari had sent letters to the State Biodiversity Boards of Telangana, Karnataka, Gujarat, Maharashtra and Andhra Pradesh requesting them to send proposals to utilize the Benefit sharing component realized from the access of Red Sanders wood but no response had been received. Shri. A.K. Goyal said that basic guidelines may be formulated and sent to the respective State Biodiversity Boards where benefit sharing amount is received. Shri Rabikumar suggested that the responsibility for preparation of the basic guidelines may be given to the EC on ABS.

Decision: NBA would send the Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulations, 2014, and the report prepared by the committee on Red Sanders to the AP Forest Department to revise and resubmit the proposal accordingly for the utilization of the Benefit sharing component realized from the access of Red Sanders wood.

Action: Secretary

54.08: Evaluation of research proposals on Red Sanders (RS)

The National Biodiversity Authority in its 32nd meeting decided to constitute an Expert Committee to develop a comprehensive policy to ensure the conservation and sustainable utilization of the species and further work out modalities for the utilization of the benefit sharing amount realized out of the access of RS wood. Accordingly, NBA constituted an Expert Committee comprising 28 members under the Chairpersonship of Shri. B. Vijayan, IAS (Retd.) with Shri B. Somasekhara Reddy, IFS, (Retd.) as co-Chairperson.

The EC recommended that eighteen percent (18%) of the benefit sharing amount should be earmarked for research and development on Red Sanders with respect to specific thrust areas. Till date, NBA has received Rs.86,72,00,000 as benefit sharing amount.

NBA invited proposals on the identified thrust areas from different institutions including CSIR, ICFRE, ICAR and other Government Institutions. A total of 15 proposals were received by the Secretariat for consideration from CSIR, IFGTB, IWST and CSIR-NEERI. A total of six proposals were recommended with specific conditions by the Expert committee and were approved in the 52nd Authority meeting. The conditions were communicated to the proponents and NBA has received five revised proposals out of the six recommended. The members approved the revised budget of the proposals. The members also suggested that NBA may invite more number of proposals on research on Red Sanders from different Universities and other agencies.

Decision: 1.The members approved the 5 proposals with the revised budget.

2. NBA would invite fresh proposals from different Universities and other agencies for research on Red Sanders

Action: Secretary

54.09: To consider engaging National Institute of Rural Development and Panchayati Raj (NIRD&PR) for conducting Capacity building programmes for the PRIs/ BMCs/ SBBs representatives

The National Institute of Rural Development and Panchayati Raj (NIRD&PR), is a premier national centre of excellence in Rural Development and Panchayati Raj which builds capacities of rural development functionaries, elected representatives of PRIs, bankers, NGOs and other stakeholders through inter-related activities of training, research and consultancy. Under the CEBPOL project, NBA had joined hands with NIRD for conducting a series of capacity building programmes for the master trainers /representatives of PRIs on biodiversity governance in general and formation of BMCs and documentation of PBRs in particular. Towards this, a Memorandum of Undertaking was executed between NBA, on behalf of CEBPOL, and NIRD on 24th July, 2018. The MOU stipulates that NIRD would conduct four (4) training programmes for the Master Trainer/Training of Trainers / representatives of PRIs (one national level programme and three zonal programme).

In the above training programmes, around 300 representatives of the various line departments on Panchayati raj institutions, representatives of SBBs, BMCs, Forest Departments, Rural Development, Agriculture, Horticulture, Fisheries, Animal

Husbandry, Agriculture Universities, State and Central Universities and Other NGOs from different states were trained on the provisions of the BD Act as well as BMC/PBR.

The Authority in the 53rd meeting vide agenda item.no,53.08 considered the issue and decided that the State Biodiversity Boards may be engaged to conduct training programs for the Master Trainer/ Training of Trainers / representatives of PRIs, instead of NIRD&PR and the financial requirements on this aspect may be borne by the NBA. Considering the another Order issued by the Hon'ble National Green Tribunal (NGT), New Delhi to constitute Biodiversity Management Committees (BMCs) and document People's Biodiversity Registers (PBRs) in all local bodies in the State by end of January, 2020, there is an urgency to extend capacity building programs to the BMCs/ PRIs and also technical /scientific support by NBA to the SBBs/ BMCs.

In this regard Shri. Rabikumar opined that a MOU may be signed between NBA and NIRD for conducting a series of capacity building programmes for the master trainers /representatives of PRIs on biodiversity governance and formation of BMCs and documentation of PBRs. Dr. Dinesh Misra and Shri. A.K. Goyal opined that both the NIRD and the State Institute of Rural Development (SIRD) may be involved in the capacity building programs. Dr. Darshan Shankar mentioned that the support by SIRD will strengthen the State Biodiversity Boards. Chairperson expressed that the SBBs and SIRDs should partner in conducting the programs and, at present, an MoU may be signed with NIRD. Dr. Darshan Shankar said that there should be an involvement of other agencies who have the expertise and infrastructure to conduct such programs.

Decision: 1. NIRD&PR may be engaged for a period of one year for conducting five capacity building programs.

2. The SBBs and SIRDs may act as partners to conduct the capacity building programs along with the competent agencies.

Action: Secretary.

54.10: Fixing of upfront payment for research of bio-resource obtained from India for Form I Applicants

The National Biodiversity Authority has received an Office Memorandum (O.M.) MoEF&CC dated 10.09.2018, under Section 48 of the Biological Diversity Act for enhancing implementation of the Act stating that large numbers of entities are not fully aware of the provisions of the BD Act but are desirous of complying with the same. Further there is a need to provide an opportunity to all such entities that are required to obtain prior approval of the Authority for undertaking activities as specified under Section 3, 4 and 6 of the Act including cases that may relate to past, in line with the objectives of the Act and regulate them in a manner that enhances implementation of the Act.

Accordingly, the above O.Ms was considered in the 47th Authority meeting vide an Agenda item no. 47.10 and the Authority decided to constitute a committee to examine the Scientific Evidence of the ABS Applications and give its recommendations.

The applications which were recommended by the said scientific committee were placed before the 48th and 49th Authority meeting for disposal under Para 4 and 5 of the O.M No. C-12025/8/15-CS –III dated 10.09.2018 issued by MoEF&CC. The Authority endorsed the recommendation of the said committee and approved Form III applications with the benefit sharing percentage as 1%, 5% and 5% on the commercial utilization of the process/product/innovation; on the fee received in any form including the licensee/assignee; of the royalty received annually from the assignee/licensee respectively. Regarding Form- I applications where approval was sought for, already conducted research on biological resource obtained from India by entities, an upfront payment as per the approved guidelines may be levied. Besides, organize awareness programs with regard to compliance of the Biological Diversity Act and furnish an undertaking that provisions of BD Act shall be compiled in future.

The members deliberated and decided to levy the highest rate of benefit sharing component as per existing guidelines *(i.e* 0.5%) for approved under OM

dated 10/09/2018 and 18/03/2019 pertaining to the Form I applications considered under the OM referred to above.

Decision: The Authority decided to levy the highest rate of benefit sharing component as per existing guidelines (i.e 0.5%) for applications approved under OM dated 10/09/2018 and 18/03/2019 pertaining to violation cases for FORM I applicants and to collect the upfront payment as per the guidelines issued by the Authority for research applications.

Action: Secretary

54.11: Order passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in the matter of O. A. 347 of 2016 in the case of Chandrabhal Singh Vs. Union of India

The Principal Bench of Hon'ble National Green Tribunal (NGT), New Delhi issued notices to all the States and Union Territories to take necessary steps for enforcement of the Biological Diversity Act, 2002 and Biological Diversity Rules, 2004. The Hon'ble NGT observed that there were gaps in the implementation of the said Act and the Rules in view of the total number of local bodies existing in the country. In compliance with this Order, NBA in coordination with MoEFCC has conducted periodic meetings with the officials of the State Governments, Department of Panchayati Raj of the States and the State Biodiversity Boards. Additional Secretary, MoEFCC in his letter (vide no. C-12027/06/2016-CSIII dated 30.05.2019) to the Chief Secretaries of the States also requested for expeditious constitution of BMCs in achieving the objectives of the Biological Diversity Act, 2002. NBA has submitted compliance report on the actions taken so far and progress made towards formation of BMCs and preparation of PBRs in the States.

The NGT in its latest Order passed on 9th August, 2019 directed MoEFCC and NBA to ensure compliance with 100% constitution of BMCs and preparation of PBRs by 31st January 2020. The Secretary, NBA mentioned that a meeting has been convened for the SBBs every month to discuss the issues and problems faced by the SBBs. NBA has requested all the SBBs to provide their inputs/problems by 3rd November, 2019 which will be submitted to the Court.

The members deliberated that the SBBs and BMCs have to be proactive. Secretary mentioned that the states have requested a budget of 600 crores for the constitution of BMCs. The members opined that the formation of BMCs does not need any funding as it would be done by the Panchayat, whereas capacity building requires funding. Shri. A.K. Goyal mentioned that Bihar has initiated the formation of BMCs and Uttar Pradesh has formed 80,000 BMCs without spending any funds. Dr.Jeetendra Kumar Vaishya and Shri. T. Rabikumar mentioned that there is a scheme under NMPB where it can provide upto 15 lakhs to the BMCs, if proposals are submitted accordingly.

Dr. Sujata Arora mentioned that application for condonation of delay has to be submitted by 9th November, 2019 by NBA and MoEF&CC. Shri. T. Rabikumar mentioned that it is not the mandate of NBA to form the BMCs and prepare PBRs but it is the SBB's mandate. NBA's role is to provide guidance to the SBBs for the formation of BMCs. Hence, all the SBBs have to submit their Affidavit for the condonation of delay. Secretary, NBA mentioned that till date, no state has submitted the Affidavit.

Decision:

1. NBA will request the Chief Secretaries of all States to review the follow up actions required in the context of the Order of the NGT dated 9th August 2019.
2. NBA will also consult with the Counsel appointed by MOEF&CC in the context of implementation of the NGT Order dated 9th August 2019.

Action: Secretary

54.12: Revision of the quantum of financial support given per annum to SBBs towards various components *viz.* Outsourcing of contractual staff and strengthening of SBBs

NBA provides financial assistance to all the SBBs towards various components for strengthening the office of the Member Secretaries and undertaking mandatory works in implementing the Biological Diversity Act at the State level. This financial support is subject to the proposals received from the SBBs during each financial year based on their requirements.

Shri. T. Rabikumar mentioned that if there is a revision in the quantum of financial support state wise, then it has to be considered in the BE 2020-21 as it would be difficult with the existing budget of NBA. He also mentioned that all the states do not ask for funding. He opined that the SBBs can also request for funding from other sources such as NMPB, State Government and the Central Government can fund with respect to the state contribution. He also expressed that States can obtain funds from CAMPA for documentation of PBRs. Chairperson opined that the SBBs should send proposals for funding from both NBA and the State government. He suggested that Authority may 'in principle' approve the revision of the quantum of financial support based on the proposals received from the SBBs.

Decision: Authority granted approval to the revision of the quantum of financial support based on the proposals received from the SBBs and subject to the availability of funds.

Action: Secretary

54.13: Engaging a Legal consultant in SBBs

SBBs are the state level representatives playing a similar role like NBA in implementing the Biological Diversity Act, 2002. SBBs are also statutory, autonomous bodies vested with legal power to fulfil the mandate of the said Act. In this direction, the State Biodiversity Boards frequently deal with legal issues concerning the BD Act.

In this context, the SBBs may utilise a part of the financial support provided per annum by the NBA in engaging a contractual legal consultant for better and faster disposal of the legal issues at State level.

Decision: The Authority approved the engagement of a legal consultant in SBBs, when required.

Action: Secretary

54.14: Revised Guidelines for Operationalization of Biodiversity Management Committees

The revised guidelines for Operationalization of Biodiversity Management Committees (BMCs) were finalized by a Committee comprising Dr. R. V. Verma,

Shri Kunal Satyarthi and Shri Pradeep Sarmokadam after incorporating the public views.

In the context of the recent NGT Order in August, 2019, the members deliberated and decided that except the provision on quantum of funding by NBA to SBB for formation of BMC, the remaining provisions of the guidelines were approved.

Decision: 1. The revised guidelines for Operationalization of Biodiversity Management Committees was approved, except on provision on quantum of funding by NBA to SBB for formation of BMC on account of limitation of funds being received by NBA from MoEFCC.

Action: Secretary

54.15: Approval of Budget Estimate for the year 2019-20

Budget Estimate for the year 2019-20 for National Biodiversity Authority has been prepared and submitted for sanction to the Ministry of Environment, Forest and Climate Change. The Ministry has accorded sanction to the tune of Rs.20.00 crores under Grants- in Aid for NBA for the financial year 2019-20. This includes Rs.5.0 crores under Grants-in-Aid - Salaries and Rs.15.00 crores under Grants-in-Aid - General. In addition to that, an amount of Rs.2.0 crores has been sanctioned under Special Component Plan for Scheduled Castes. Chairperson mentioned that NBA has requested funds under the Capital head for a new building of NBA.

The Annual Accounts of NBA for the financial year 2018-19 was approved by the Chairperson and the same was Audited by the O/o The Principal Director of Audit (Scientific Departments). The formal Certificate of Annual Accounts is awaited from C&AG. The same was placed for ratification by the Authority.

Decision: The members ratified the Annual Accounts for the financial year 2018-19; RE (2019-2020) & BE (2020-2021).

Action: Secretary

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54.16: Issuance of No Objection Certificate for invention making use of human genetic material

Section 6 of the BD Act, 2002 requires that any person applying for any Intellectual Property Right for an invention based on any research or information on a biological resource obtained from India, shall obtain prior approval of NBA. However, as per Section 2(c) of BD Act, 'human genetic material' is excluded from the definition of 'biological resource'. Thus inventions which are based on research on human genetic material would not come within the ambit of Section 6. Accordingly, NBA has granted NOC in one case where IPR is sought on invention based on research on human mesenchymal stem cells.

Decision: The members ratified the grant of NOC where IPR is sought on invention based on research on human mesenchymal stem cells.

Action: Secretary

54.17: Consultative Meeting to discuss the plan of action for the India Biodiversity Awards 2020.

The India Biodiversity Awards 2020 (IBA 2020) were officially launched by the Hon'ble Vice President of India on May 22, 2019 during the celebration of the International Day for Biological Diversity, along with the release of the poster and brochure. Chairman, NBA, approved the constitution of an Award Jury which will be chaired by Dr. Erach Bharucha, Director, BVIEER, and Co-chaired by Dr. A. K. Gupta, Former PCCF & HoFF, Tripura, along with 8 members. The last date of the Application is 15th November 2019.

Decision: The members noted the Award jury constituted and the last date of receipt of applications.

Action: NIL

54.18: Ratification of decisions on Form-B applications

Chairperson, NBA has approved **17 Form-B** applications without referring to the SBB and the EC on ABS.

Decision: The members ratified the decisions on Form B applications.

Action: NIL

54.19: To consider the applications for access to Red Sanders wood approved by the Chairperson, NBA

In the 32nd Authority meeting (32.07), the Authority authorized the Chairman, NBA to accord approval to such applications without following the normal procedure and also directed the NBA Secretariat to place such approvals in the subsequent Authority meeting for ratification. Accordingly, nine applications approved by the Chairperson, NBA was placed before the Authority for ratification.

Decision: The members ratified the approval of the nine Red Sanders applications.

Action: NIL

54.20: Items for information

54.20.2: 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 intend 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. Since May, 2019, the Secretariat has received 35 Form-C applications.

Decision: The information submitted in this regard was noted.

Action: NIL

54.20.3: Constitution of Expert Committee to Examine BD Act, 2002, BD Rules, 2004, Development of Sector Specific SOPs on ABS, and Examination of the Comments of Stakeholders for Incorporation in the Draft Regulations on ABS, 2019,etc and developments thereof

NBA vide office order dated 24th May 2019 constituted an Expert Committee under the Chairmanship of Shri A K Goyal, IFS (Retd.) to examine Biological Diversity Rules, User Country Measures under Nagoya Protocol on ABS and development of sector specific SOPs. Three regional level consultations were organized in Chennai, New Delhi and Kolkata for ascertaining the views of the stakeholders particularly State Biodiversity Boards based on the decision of the Authority in its 53rd meeting (Agenda item 53.04) held on 22nd May 2019.

During the third meeting of the expert committee to examine the BD Rules, the representative of MoEF&CC recommended to entrust the task of modification in the BD Act and streamlining procedure to this committee as there are already mandated to review the guidelines on ABS and BD Rules. The EC to ascertain the views/suggestions of the SBBs on the required modifications in the Biological Diversity Rules, 2004 met eight times from 20th June -30th October 2019. The EC examined BD Rules, ABS Regulations, streamlining approval processes by NBA/SBBs, guidance documents and BD Act, 2002.

Shri A.K. Goyal presented the tasks completed on the amendment of ABS Regulations and are as follows:

i. Bringing all users of biological resources and associated knowledge within loop (15-16 years not much headway) by providing incentives, reduction in benefit sharing amount, simplifying processes
ii. Preamble, reference to section 18 (1) and section 21(4) has been deleted, and only **overriding provision** of section 64 empowering NBA has been retained
iii. Powers of NBA and SBBs indicated separately in short title.
iv. '**Associated knowledge'** explained in preamble and uniformly used in whole document
v. 60 days duration proposed for **giving effect to Regulations** after their publication

vi. ***Procedure*** for accessing biological resources and ***mode of*** benefit sharing ***brought under same regulation***

vii. ***Upfront payment*** for high conservation and economic value biological resources

viii. Based on views of majority of SBBs and many others, ***traders*** concept brought back and Form 'A' re-introduced

ix. ***Exemption for small-scale*** industries from paying benefit sharing amount

x. ***Period for disposal*** of applications mentioned under respective regulations

xi. ***Period of disposal*** by NBA/SBBs and for ***signing of agreements shown separately***

xii. ***Incentives*** for ***payment*** of ***levy charges*** to BMCs

xiii. ***Exemption*** to usage of insects, pathogens and weeds and microbes as ***testing tools***

xiv. Conducting of academic research by non-Indians in India-***institutional committees proposed***

xv. Collaborative research projects under section 5 of Act -***inclusion of private institutions***/organizations

xvi. States can also have their ***own list of high*** conservation and economic value species depending on conservation status and tradability of biological resources

xvii. ***Obligations of users*** to file annual reports added

xviii. Provision for ***filing appeals in NGT*** against decisions of NBA/SBBs added

xix. ***Concessions*** for patents having ***environmental remedies*** from ABS benefit sharing obligations under PPVFR Act and BD Act

xx. ***Transfer*** of ***research results*** to outside India ***for analysis*** to own establishments-simplification recommended

xxi. ***Deposition*** of microbial strains in repositories outside India for ***claim of novel species***

xxii. Revision of guidelines for ***collaborative projects*** (sec 5) and issue of guidelines for ***publication of research*** papers for seminars, workshops (sec 4)

xxiii. ***Illustrations provided*** under some regulations for better clarity

xxiv. ***Intimation*** for obtaining IPR in India on an invention based on biological resource obtained from outside India-***Check point***

Other recommendations of the committee are:

i. Framing guidelines for ***registration of traders***

ii. Instituting ***studies to*** gather ***information on trade*** in biological resources and their purchase prices

iii. Formulating ***guidelines for levy*** of collection charges and reporting format for ***BMCs***

Major issues under consideration on the BD Act, 2002

- Preamble
- Section 2(p)-value added products
- Section 3(2)-non-Indian entities ***research simplification proposed***
- Section 5 collaborative research projects approval by state
- Section 7-prior approval
- Section 22-establishment of biodiversity councils in the UTs
- Section 23-functions of SBBs determination of benefit sharing within the ambit of regulations notified by NBA
- Section 27(2)(b)-conservation and promotion of BRs and development of area from where such BRs accessed- OCCUR

Major issues under consideration on the BD Rules

- Rule 12-Advise SBBs on framing of ABS guidelines within the ambit of ABS Regulations
- Rule 12-(xvi) Recommend to whom, under section (1) of 6 or changes in royalty under sub (2) of 19
- Advise SBBs on sustainability of the BRs, preparing guidelines on quantum of BRs that can be harvested in a particular time period
- Rule 14(2)-Fee, cheque or draft or electronic transfer
- Rule 14 (3)- time period to be reduced
- Rule 14 (5 & 6)-Form of agreement or undertaking, online undertaking

- Rule 14 (6) (ii) accompanying information on use or purpose, contemporary sources, if any
- Rule 14 (6) (v) **fresh agreement or undertaking**
- Rule 14 (6) (xiii) **duration of the agreement** notice etc.
- Rule 14 (7) may provide **measures for conservation and protection of BRs** to which access is being provided
- **Rule 15 (2) copies of orders to be uploaded on website** for notice of SBB/BMC and also **emailed electronically**
- **Rule 16 (1)** Include **threatened species** also
- **Rule 16 (1) (vii)** for any other purpose which serves larger public interest e.g. **certain BRs required for government pharma manufacturing units**
- **Rule 17 (1)** Physical transfer of research results
- **Rule 17 (2)** Fee draft/cheque or **electronic transfer**
- **Rule 17 (3)** decision on 3 months or less 2 or one
- **Rule 17 (5) approval after taking an undertaking,** need not be an agreement
- **Rule 18 (1)** Remove 'desirous of'
- Rule 18(2)-fee, draft or electronic transfer
- Rule 18(3)-time period, three or two months
- Rule 18(5)-written agreement **or undertaking**, online submission and disposal
- Rule 19(1)-application in form IV
- Rule 19(2)-fee
- Rule 19(3)-time period, three or two months
- Rule 19(5)-written agreement or undertaking, online submission and disposal
- Rule 20 (3) formula for determination of ABS based on category of BR/sale price/ex-factory price of product or on case-to-case basis
- Rule 20 (8) **Replace 'district authorities' by SBBs/BMCs**
- Rule 20 (9) 5% divide equally between Authority/Board
- Rule 20 (9) 5% for Authority or Board
- Rule 22-Constitution of BMCs- **flexibility in name and number of members**
- Rule **22-Sitting fee** for BMC members
- Rule 22(2)-BMCs-18% reservations or more

- Rule 22 (3) What **if chairperson himself is designated as chair of BMCs,** who should chair meeting for constitution
- Rule 22(4)- **tenure of chairperson of BMC and members**
- Rule 23(1) and (2)- **appeals- clarity in the provisions???**
- Rule 23 (5) Quadruplicate or soft copy
- Rule 23 (6) Notice for appeal, electronically
- Rule 24-notice format, its communication
- **Provision for transfer of benefits from one SBB to another**
- **Integrated portal for receiving and disposing applications and intra-SBBs consultations** and consultations with BMCs
- **Incorporation of some new provisions** discussed under ABS Regulations like deposit of microorganisms outside India, NBA as check-point
- Inclusion of **digital sequence information** in Rules/ABS
- Review of Forms

Decision: 1. The Authority endorsed the reports of the Expert committee and advised NBA to process it through MoEF&CC, as appropriate.

2 Since the tenure of the EC is expiring on 30th November, 2019, the Authority decided to extend the tenure for another six months

Action: Secretary, NBA

54.20.4: National Biodiversity and Human Well-being Mission

The Prime Minister Science, Technology, Innovation Advisory Council (PM-STIAC), Government of India has decided to launch a National Biodiversity and Human Well-being Mission in April, 2020. The Office of the Principal Scientific Adviser(PSA), Government of India and the Ministry of Environment, Forest and Climate Change (MoEFCC) have designated the National Biodiversity Authority to organize stakeholder consultations to prepare the Detailed Project Report (DPR) and Expenditure Finance Committee (EFC) Memorandum for this mission.

Accordingly, the NBA had organized national consultations in October, 2019 with technical inputs from the Biodiversity Science Consortium (BSC), Bangalore, at Dehradun, Kolkata and New Delhi in which over 150 representatives of Scientific

Institutions, Ministries and Departments of Government of India, State Forest Departments, State Biodiversity Boards have participated. The DPR and EFC memorandum preparation is ongoing in a time-bound manner and is led by Dr. Kamal Bawa, ATREE.

Shri. Darshan Shankar mentioned that the central pillar is to create a Biodiversity information portal. He also mentioned that as a mandate of NBA is to develop a database, the National Biodiversity Mission would be a good opportunity for its governance and expansion. He also appreciated the role of NBA in this mission.

Decision: The information submitted in this regard was noted

Action: NIL

54.20.5: Consultation Meet on Digital Sequence Information:

MoEF&CC, NBA and UNDP have jointly convened consultation meet on Digital Sequence Information with Ministries / departments, organizations and experts under the Chairmanship of Shri Anil Kumar Jain, IAS, Special Secretary, Ministry of Environment, Forest and Climate Change, Government of India and Chairman, NBA to understand the landscape of work on DSI being undertaken in the country on 30th July, 2019 at MOEFCC, New Delhi.

The members in the meeting discussed that the benefit sharing on commercial utilization/IPR on DSI needs to ensured; open access data may be encouraged subject to terms and conditions; scientific research needs to be fostered; and continuous interaction with stakeholders including providers, corporate groups, communities /BMCs on this subject is required.

A consultation meet will be organized with the providers of the biological /genetic resources as well as industrial stakeholders in order to ascertain their views on this subject.

Decision: The information submitted in this regard was noted

Action: Secretary

54.20.6: Draft guidelines on Biological data storage, access and sharing policy of India formulated by the DBT & comments thereof:

The MOEFFC informed NBA that DBT has uploaded draft guidelines on Biological data storage, access and sharing policy of India, for inviting public comments. It was also informed that since these guidelines may have implications for access and benefit sharing provisions of CBD and its Nagoya Protocol in the context of the use of digital sequence information, MoEF&CC requested NBA to examine these guidelines and provide comments on the same.

In this regard, NBA offered comments to DBT stating that data envisaged in these guidelines will be considered as digital sequence information on genetic resources on Genetic resources. Further, access to such data enables access to genetic information of an organism without physically accessing it. It was also stated that definitions provided for the genetic resources as well as biological resources in the CBD as well as the Nagoya Protocol recognize access to both tangible and intangible elements in the genetic material. Considering these in view, access to these data and its utilization would fall within the scope of CBD/Nagoya Protocol and ABS regulatory framework will be come into force while access such data's.

It was also apprised that open access and sharing of data related to biological resources including data generated by nucleic acid sequencing and microarrays, biomolecular structures, etc., is runs counter to the commitments of Government of India under Convention on Biological Diversity and Nagoya Protocol. It was informed that the relevant provisions of the BD Act covers the access/ utilization of data for the purposes including research or commercial utilization or bio-survey and bio-utilization or transfer of results of research or obtaining any IP Right and the users of the such data needs to obtain prior approval under the BD Act. Besides, NBA offered paragraph wise comments on the draft guidelines on Biological data storage, access and sharing policy of India to DBT

A Meeting of the Inter-Ministerial Committee was held on 16th September, 2019 for finalization of the said guidelines at New Delhi wherein the comments/suggestions made by the NBA were appropriately considered.

Decision: The information submitted in this regard was noted

Action: NIL

54.20.7: Meetings attended by the officials of the NBA

The members noted the meetings attended by the officials of the NBA.

Action: NIL

54.20.8: ASEAN-India Cooperation Project on "Capacity Building towards implementing the Nagoya Protocol on ABS, the City Biodiversity Index and the Strategic Plan for Biodiversity" implemented by ACB, Manila and NBA, Chennai - Record of Discussion of the Review Meeting held on 25 September, 2019 at Singapore

A Project Review Meeting was organized on the side lines of the ASEAN-India Workshop on Urban Biodiversity and Application of the City Biodiversity Index was held on 24-26 September, 2019 at Singapore.

Decision: The information submitted in this regard was noted.

Action: NIL

54.20.9: Non-Disclosure agreement between NBA and CSIR-TKDL

A discussion meeting was held on 29th June, 2019 at MoEF&CC, New Delhi between NBA and CSIR-TKDL unit to discuss possible cooperation particularly in the context of developing a common platform by linking TKDL with PBR's. The meeting discussed the nature and content of the related information available with CSIR in the form of TKDL and with NBA in the form of PBR. A consensus was reached that development of a common platform integrating the information in TKDL and PBR would be mutually beneficial and will be in the best interest of the nation. But at the same time, the regulatory requirements under the Biological Diversity Act have to be taken into consideration before opening up the platform. The modalities of the same were discussed by NBA and CSIR-TKDL unit and they signed a non-disclosure agreement on 16th September, 2019 to clearly understand the nature and content of information existing in PBR and TKDL and thus can mutually decide the further course of action.

Decision: The information submitted in this regard was noted.

Action: NIL

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

54.21.1: Establishment of a Network of electronic People's Biodiversity Register (ePBR):

Section 41(1) of the Biological Diversity Act, 2002 mandates the development of People's Biodiversity Registers (PBRs) at local level by the Biodiversity Management Committee to document as well as safeguard bio-resources and associated knowledge. Despite this, the total number of PBRs made so far has been 6868.

The National Green Tribunal (NGT) in its recent judgement in August, 2019 has ordered that all PBRs would be made by February, 2020. It is a huge challenge and requires a range of innovative mechanisms including establishing a nation-wide system that will facilitate development of the electronic PBR (ePBR). There is an urgent need to review and change the way in which PBR data is currently being generated, collected, collated, stored, accessed and used. The roadmap for planning and implementing natural electronic PBR network would have 4 distinct components viz., Network Schematics, Work Programmes, Governance Structure and ICT Requirements.

Chairperson mentioned that the Prime Minister's Science Technology and Innovation Advisory Council (PM-STIAC) has recently endorsed the concept of a National Mission on Biodiversity and Human Well-Being (NMB&HW) presented by the Biodiversity Science Consortium (BSC). The Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India and the Chairperson, National Biodiversity Authority (NBA) have been assigned the responsibility of preparing the DPR and EFC Memo with technical assistance from the BSC. The goal of this national mission is to strengthen biodiversity science in India to meet our pressing challenges in the environment and human well-being. There is a need to build strong linkages between NMB&HW and PBR processes.

Chairperson mentioned that e-PBR is an excellent concept which would immensely help in completing the preparation of PBRs as it has the potential to both

document, conserve and manage the biological diversity across the country for which a lot of efforts at various levels have already been made in the last 15 years spending considerable funds with inadequate progress. He also mentioned that we should not lose sight of the fact that preparation of PBR is the sole responsibility of the BMC which shall do so in consultation with the local people. Technical, financial and ICT related assistance can be provided by NBA/SBBs.

The PBR of each BMC can be put on the e-PBR network only with the consent of the BMC (with all checks related to hiding of lat-long, and Traditional knowledge etc.) as this would also contain information on their traditional knowledge which many locals do not want to make it public because of fear of losing their ownership.

The members appreciated the efforts been taken on e-PBR and approved the establishment of 'National electronic PBR Network'

Decision: The members considered and approved the establishment of 'National electronic PBR Network' with adequate safeguards.

Action: Secretary

ANNEXURE-1

List of Participants

Official Members

1. Dr V.B. Mathur
Chairperson,
National Biodiversity Authority, Chennai

2. Dr Sujata Arora
Adviser / Scientist 'G'
Ministry of Environment, Forest and Climate Change Government of India
Room No. V 235, Vayu Block, Second Floor Indira Paryavaran Bhawan
Jor Bagh Road New Delhi-110 003

3. Dr. Jeetendra Kumar Vaishya,
National Medicinal Plant Board,
Department of AYUSH,
Ministry of Health and Family Welfare,
3rd Floor, AYUSH Bhawan,
B Block, G.P.O. Complex, I.N.A.,
New Delhi-110 023.

4. Dr. Sanjay Kumar,
Director,
CSIR - Institute of Himalayan Bio resource Technology P O No:6,
Palampur, Himachal Pradesh: 176061

5. Dr. Mohammad Aslam
Scientist –G
Department of Biotechnology,
CGO Complex, Block No. 2,
Lodhi Road,
New Delhi- 110003

Non-Official Members

6. Dr. Yogesh Shouche
Senior Microbiologist,
National Centre for Cell Science
Department of Biotechnology Lab,
University of Pune Campus,
University Road, Ganeshkhind,
Pune, Maharashtra – 411 007

7. Dr. Dinesh Misra,
No. 65, Sector 8
Gandhi Nagar,
Gujarat-382008'

8. Dr. Darshan Shankar,
Chancellor,
Trans Disciplinary University, C/o
Foundation for Revitalization of Local Health Traditions (FRLHT),
74/2, Jarakabande Kaval, Post Attur via Yelahanka, Bangalore - 560 064

9. Dr. Parimal Bhattacharjee
Professor & Head,
Department of Zoology,
A/3 Asiyana Housing Complex Maligon
Guwahati-781011

Secretary to the Authority

Shri. J. Justin Mohan, IFS
Secretary, National Biodiversity Authority,
Chennai –600 113

Special Invitee

10. Shri. T. Rabikumar, IFS
Chief Conservator of Forest (Working plan, Research and Training),
Office of the PR, Chief Conservator of the Forests, Forest complex,
Sheikh Bhag, Near Lal Chowk,
Srinagar, Jammu and Kashmir

11. Shri. A.K. Goyal, IFS (Retd.)
Former Special Secretary,
Ministry of Panchayati Raj,
New Delhi

12. Dr. Tarun Kathula
Director,
Ministry of Environment, Forest and Climate Change Government of India
Room No. V 235, Vayu Block, Second Floor Indira Paryavaran Bhawan
Jor Bagh Road New Delhi-110 003

13. Dr. Sujit Kumar Bajpayee
Joint Secretary to the Govt. of India
Ministry of Environment, Forest and Climate Change Government of India
Second Floor Indira Paryavaran Bhawan
Jor Bagh Road New Delhi-110 003

सत्यमेव जयते

Ministry of Environment Forests and Climate Change

राष्ट्रीय जैव विविधता प्राधिकरण
National Biodiversity Authority, India
2003

NATIONAL BIODIVERSITY AUTHORITY

PROCEEDINGS OF THE 55th AUTHORITY MEETING

12th March, 2020

Venue

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

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Proceedings of the 55th Authority Meeting of the National Biodiversity Authority, held on 12th March 2020

The 55th Authority meeting of the National Biodiversity Authority (NBA) was held on 12th March 2020 at the Indus Hall of Ministry of Environment, Forest and Climate Change, 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. At the outset, Dr V.B.Mathur, Chairperson, NBA welcomed the Members to the meeting. He also briefed the members about the activities which had taken place during the interregnum period.

3. Thereafter, Shri. J. Justin Mohan, Secretary NBA welcomed the members and presented the agenda items as under:

55.01: Confirmation of the Proceedings of the 54th Authority meeting

The draft proceedings of the 54th Authority meeting of the National Biodiversity Authority held on 31st October 2019 at Delhi was circulated to the Members seeking their comments. The comments received had been duly incorporated in the proceedings, as appropriate.

Decision: The proceedings of the 54th Authority Meeting were confirmed.

Action: NIL

55.02: Action Taken Report of the 54th Authority Meeting

The Secretary, NBA apprised the members about the actions taken and actions that are in progress on the decisions taken in the 54th Authority Meeting.

Decision: Members noted the action taken on the decisions.

Action: NIL

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55.03: Proceedings of the 57th Meeting of the Expert Committee on Access and Benefit Sharing held on 08th - 09th November, 2019

The 57th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 8th & 9th November 2019 at the National Biodiversity Authority, Chennai.

2. A total of 261 applications and four generic issues were placed before the EC for examination. 165 Form-III applications and 12 Form-I applications which were recommended for approval by this EC on ABS were cleared by the NBA Secretariat by sending draft agreements to the applicant for execution.

3. Further, the EC considered 78 applications under OM issued by the MoEFCC and made its recommendation on those applications.

Decision:

(a) The Authority approved the recommendations of the 57th EC on ABS.

(b) The Authority ratified the action taken on the 177 applications.

Action: Secretary

55.04: Proceedings of the 58th Meeting of the Expert Committee on Access and Benefit Sharing held on 16th & 17th December 2019

The 58th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 16th& 17th December 2019 at the National Biodiversity Authority, Chennai.

2. A total of 149 applications and three generic issues were placed before the EC for examination. 71 Form-III applications and 11 Form-I applications which were

recommended for approval by this EC were cleared by NBA Secretariat by sending draft agreements to the applicant for execution.

3. Further, the EC considered 52 applications under OM issued by the MOEFCC and made its recommendation on those applications,

Decision:

(a) The Authority approved the recommendations of the 58th EC on ABS.

(b) The Authority ratified the action taken on the 82 applications.

(c) The Authority considered the timeline for levying higher percentage of the benefit sharing on the OM cases fall under Section 3 and agreed that higher percentage of benefit sharing to be levied from the date of commercial activities and for the same activities in future, higher percentage to be levied for the period of five years which may be renewed, as appropriate.

(d) It was noted that one applicant (Appl.no. 3317) contravened the provision of the BD Act and Authority decided to take appropriate action against the applicant.

Action: Secretary

55.05: Minutes on Meeting held with Andhra Pradesh Forest Department, Andhra Pradesh and Gujarat State Biodiversity Boards to discuss the project proposals held on 8th January 2020 at NBA, Chennai

Pursuant to the decision taken in the 54th Authority meeting, a meeting was organized under the chairmanship of Dr.V.B.Mathur, Chairman, NBA with the officials of the Andhra Pradesh Forest Department, Andhra Pradesh and Gujarat State Biodiversity Boards on 8th January 2020 at NBA, Chennai to discuss the project proposal on conservation of Red Sanders submitted by the Andhra Pradesh Forest Department and modalities for utilizing the benefit sharing amount accrued on access to bovine cattle embryos.

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Decision: The Authority approved the decisions taken in the meeting to discuss the project proposals held with Andhra Pradesh Forest Department, Andhra Pradesh and Gujarat State Biodiversity Boards. However, the detailed proposal of the AP Forest Department has been dealt under a separate agenda and decided thereof.

Action: Secretary

55.06: To consider a revised project proposal to the tune of Rupees 104 crores for Red Sanders forest protection for the period of 2019-2020 submitted by the Andhra Pradesh forest Department.

In order to utilize the benefit sharing (BS) amount realized on access of Red Sanders wood, NBA developed a comprehensive policy for protection, conservation and sustainable use of Red Sanders with the help of an Expert Committee on Red Sanders. It is pertinent to mention that Andhra Pradesh (AP) Forest department (APFD) is one of the major stakeholders that would receive major portion of the benefit sharing component as the Red Sanders are naturally occurring in the State of AP only.

2. The revised proposal submitted by APFD was deliberated by the members and they opined that due diligence should be taken into considering the components of the proposal. Members were of the view that the NBA may support the conservation, regeneration and awareness creation components in the proposal. Also members reviewed the percentage to be allotted for each component suggested in the report and decided to release the funds taking into consideration of matching contribution by AP Government amounting to Rs.50.00 Crores to the APFD.

3. It was also brought to the notice of the Authority that the advance amount of Rs.3.00 crore was released during the year 2017 to the AP Forest Department through AP SBB. However, the UC for the same has not been forwarded through APSBB due to some practical difficulties. The members also observed that report provides 4% of the BS amount can be used for the activities of regeneration of Red Sanders and 40% of the BS amount would be used for protection of Red Sanders. It

was decided that above two components shall be merged together to support the AP Forest department towards conservation and other identified areas as referred to above.

4. During the course of discussion, it was pointed out that a sizeable amount to the tune of Rs.6.00 crore has been accrued as NBA's earmarked amount cum interest component of the benefit sharing component. The utilization of those amount was discussed and decided that NBA may use it for activities such as conservation and sustainable use of bioresources, preparation of PBR, formation of BMCs, awareness creation, training and capacity building programmes, undertaking specific research studies, publications etc.

Decision:

(a) Authority decided that NBA may support the conservation, regeneration and awareness creation components in the proposal.

(b) Authority decided to release the amount to the AP Forest Department directly as given below:

(i) **Rs1.00 (one) Crore** towards Training and capacity building of staff and communities (S.no.11 of the proposal)

(ii) **Rs 1.00 (one) Crore** Community oriented economic activities like Health, Education, Renewable Energy, Water Supply etc. for people living inside and on fringes of Red Sanders (RS) protected/ Reserved Forests & Wildlife Sanctuaries
(S.no.15 of the proposal)

(iii) **Rs 10.00 (ten) Crore** towards For research and development to Academic and Research Institutions, Silviculture wings of Forest Department *(S.no.17(a) of the proposal)* ; and establishing National Level Institute named- "Indian Institute of RS & Biodiversity of Eastern Ghats" with headquarters at Tirupati *(S.no.17(b) of the proposal)* after obtaining statutory approvals.

(iv) **Rs 15.00 Crore** towards (1) Regeneration of Red Sanders ; (2) to promote artificial propagation on farmers' fields as a component of agro-forestry;

raising of quality Red Sander's seedlings for free public distribution; Seed stand / seed orchard; and (3). Raising of RS trees on government-owned institutional lands and on municipal parks, avenue plantations, etc., as a part of urban forestry programme. *(S.no.17(c)(i), (ii) &(iii) of the proposal)*

(v) **Rs 55.00 lakh** towards for conducting activities of Communication, Education and Public Awareness (CEPA); Incentives and awards for conservers of Biodiversity and promotion of sustainable trade of Biological resources; Publicity materials / publications, training and capacity building, consultations (S.no.18(b) of the proposal)

(vi) **Rs 4.00 (Four) Crore** towards procurement of the tree transplant machine *(S.no.19 of the proposal).*

(c) Authority authorized the Chairperson, NBA to release the amount as stated supra (b) to the AP Forest Department, in installments, as appropriate. AP SBB may monitor the activities of the project and submit the reports to NBA as required.

(d) The Andhra Pradesh State Biodiversity Board shall forward the Utilization Certificate for Rs 3.00 Crore submitted by the Andhra Pradesh Forest Department along with a covering letter to NBA.

(e) Authority authorized the Chairperson, NBA to utilize the earmarked amount on accrued benefit sharing component and interest component for activities such as conservation and sustainable use of bioresources, preparation of PBR, formation of BMCs, awareness creation, training and capacity building programme, undertaking specific research studies,publications etc.

Action: Secretary

55.07: To consider a proposal for the tune of Rs. 11.26 Cr for constitution of Biodiversity Management Committees, preparation of People's Biodiversity Registers in the Red Sander forest bearing areas submitted by the Andhra Pradesh State Biodiversity Board

The Andhra Pradesh State Biodiversity Board vide letter dated 07.01.2020 submitted a proposal for the tune of Rs.11.26 Cr for constitution of Biodiversity Management Committees, preparation of People's Biodiversity Registers in the Red Sander forest bearing areas as per the Red Sanders (RS) report. The proposal was discussed in the meeting held with Andhra Pradesh Forest Department, Andhra Pradesh and Gujarat State Biodiversity Boards on 08th January, 2020. In the meeting, it was decided that NBA would support only where the BMCs have not funded earlier by the NBA through grant in aid.

2. Members observed that as BMCs have already been constituted in some of the local bodies and documented PBRs at village level in the five districts with financial support of NBA, NBA may therefore provide support only where the BMCs have not constituted and PBRs have not been documented. Members also expressed that NBA may extend its support for sensitizing the local people about the importance of red sander conservation in the fringe villages of Red Sander areas.

Decision:

(a) NBA may support financially to constitute BMCs and document PBR only in the villages not earlier funded under GIA scheme..

(b) Authority also directed NBA to support the AP SBB for sensitizing the local people about the importance of Red Sanders conservation in the fringe village of the forest.

Action: Secretary

55.08 Evaluation of Research Proposals on Red Sanders

NBA had invited proposals on the identified thrust areas for Red Sanders (RS) research from different Government institutions including CSIR, ICFRE, ICAR and other Government Institutions. A total of 15 proposals were received by the Secretariat for consideration from CSIR, IFGTB, IWST and CSIR-NEERI. The project

proponents were invited to present the proposals before the expert committee (EC) and to make brief presentations followed by discussions.

2. The EC on evaluation of research proposals on Red Sanders in its meeting held on 20th & 21st February 2019 has recommended six proposals for approval with specific conditions and the same was approved in the 52nd Authority Meeting. The conditions recommended by EC were communicated to the project proponents with a request to submit the revised proposal.

3. Out of the six project proponents, five proponents submitted the revised proposals and the same were approved by the Authority in its 54th meeting (Agenda item No.54.08). Now, NBA has received a revised proposal from Institute of Wood Science and Technology for development of SSR markers in collaboration with TDU to the tune of Rs.69,16,000/.

Decision: The members approved the proposal of the Institute of Wood Science and Technology with the revised budget and decided that NBA may release the total project funds to IWST.

Action: Secretary

55.09 To consider draft Annual Report of NBA for the year 2018-19.

The draft annual report on the activities of NBA for the year 2018-19 along with the annual account statement and Certification of the Audit of Annual Accounts were presented by the Secretary. Members suggested that preparation of the Annual Report for the next financial year may be expedited. Members also requested that one week time period may be given to them to review the Annual Report 2018-2019.

Decision: Authority approved 'in-principle' the annual report for the year 2018-19 along with the annual account statement and taking into consideration comments/ suggestion that may be received from members within one week time period.

Action: Secretary

55.10: Comments of the National Medicinal Plant Board on the Proceedings of the 54th Authority meeting

The 54th Authority meeting was held on 31st October, 2019 and the draft Proceedings of the 54th Authority meeting was circulated to the members on 8th November, 2019 for their valuable comments/suggestions by giving time upto 15th November, 2019. The comments were received from the members on or before the due date have been duly incorporated in the draft proceedings and the same has been finalized.

2. Dr. Jeetendra Kumar Vaishya, NMPB offered his comments on the proceedings of the 54th Authority vide email dated 9th December, 2019.

Decision: Authority decided that as the proceedings have already been finalized and action taken on the decision, the comments offered by the NMPB will be used appropriately as the information is useful to move forward on conservation of medicinal plants, particularly by BMCs.

Action: Secretary

55.11 Revision of Funding Strategy for the SBBs towards preparation of PBRs and operationalizing the BMCs

In the context of Order issued by the Hon'ble NGT, all the States have progressed well by constituting nearly 90% BMCs across the country. NBA has been financially supporting the SBBs towards constitution of BMCs and preparation of PBRs to a limited extent, subject to the proposals received from the States.

2. Members noted that the revised guidelines for operationalization of BMCs were placed before the 54th Authority and the same were approved except provision on quantum of funding by NBA to SBB towards formation of BMC considering the funds being received by NBA from the MoEFCC.

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3. In view of completion of BMC at all levels by the States, there is no further requirement to support their establishment. Convergence of Panchayati Raj system with the BMCs at all levels will pave way to strengthen the operationalization of BMCs. In order to make the BMCs functional, further assistance may be drawn from the local bodies at panchayat and urban levels.

4. Members noted that preparation of PBR across the country is yet to be completed which have high cost implications. As on 31.01.2020, a total number of 95,252 PBRs have been prepared. NBA has received proposals to the quantum of nearly Rs. 669 Crores from 13 States. Given the fact that NBA has no mandatory role in funding the process of PBR preparation, however, NBA is performing its facilitator role and has also been supporting the States from time to time subject to allocation of Grants-in-Aid from the Ministry.

5. Members were informed that Gujarat and Chhattisgarh State Biodiversity Boards have received CAMPA funds for preparing PBRs. Members suggested that other states may also explore the feasibility of using CAMPA funds under Section 5(3) of CAMPA Rules. The Chairman, NBA suggested that a communication may be sent to the MoEFCC requesting for an advisory to be issued to CAMPA Authority to allocate funds for preparation of PBR by the States. Dr. P.C. Bhattacharjee suggested that Department of Agriculture & Cooperation in States, other State Departments and Line Departments can be approached for exploring funding on this score.

6. During the discussion, it was informed that MoEFCC formed a Monitoring Committee to evaluate the quality of PBRs prepared by different States. The committee has been formed based on the direction of the Hon'ble NGT and it had met twice and is developing criteria for evaluating the PBRs.

7. Dr. Sujit Kumar Bajpayee, Joint Secretary, MoEFCC apprised that the Ministry of Rural Development and Panchayati Raj has already been approached for extending funding support.

Decision:

(a) Authority decided that a communication may be sent to the MoEFCC requesting for an advisory to be issued to the CAMPA Authority for providing funding for documentation of PBR in the States.

(b) Authority decided that earmarked funds of NBA from ABS amount, interest component, benefit sharing component where beneficiaries are not identifiable shall be used for preparation of PBR, training and capacity building of BMCs and matters related thereto.

Action: Secretary

55.12: Quantum of Financial Assistance to be fixed towards Preparation of PBR at Urban Body Level

Secretary informed that Karnataka Biodiversity Board has sought the rate of documenting PBRs at Urban local bodies (vide letter no. BMC/DO9/PPS/14/587 dated 03.01.2020). Under the provisions of existing BMC Operational Guidelines, NBA extends financial support towards preparation of PBRs at Village, Block and District level and the quantum of support has been fixed for all these levels. The members deliberated that a bench mark should be arrived at for the quantum of financial assistance required towards preparation of PBR. After deliberation, it was decided that for urban level PBR, a cost of Rs.2.30 lakhs may be fixed.

2. The Chairman, NBA apprised that MoEFCC has constituted a national committee to evaluate PBR in all the states. This committee is divided into two, each consisting of 7 members each and covering all states. He also apprised the members that based on the NGT order; the national level committee will evaluate the PBR based on sampling strategy. He mentioned that the Additional Secretary, MoEFCC has suggested to also have state level committees to undertake PBR quality evaluation with the same the framework being used by the National level committee.

Decision:

(a) Authority decided that financial assistance of Rs.2.30 lakhs may be fixed for preparing PBR at Urban body level.

(b) Authority also decided that SBBs to have a committee to undertake PBR quality evaluation using the framework developed by the national level committee.

Action: Secretary

55.13: Revision of the quantum of financial support given per annum to SBBs towards various components viz. Outsourcing of contractual staff, strengthening of SBB

Members noted that issue of revision of the quantum of financial support to be given per annum to SBBs was discussed in the 54th Authority Meeting. The Authority granted approval to the revision of the quantum of financial support based on the proposals from SBBs and subject to availability of funds. The matter was resubmitted before this Authority in view of the proposal received from Assam SBB. The members deliberated and authorized NBA to take appropriate decision on the proposal submitted by Assam SBB.

Decision: The members authorized the Chairperson, NBA to take appropriate decision on the proposal submitted by the Assam SBB.

Action: Secretary

55.14: Financial Support to the Biodiversity Heritage Sites (BHS)

Under section 37 of the Biological Diversity Act, 2002, State Governments in consultation with the local bodies may notify the areas of biodiversity importance as BHS. Out of the three tenets of the Act, section 37 deals with conservation of habitat and species together with support of the local communities. At present, there are 17 BHS's notified by the 11 States which is quite negligible, given the mega diverse

character of the bio-resources and existing protected area network established under the Wildlife (Protection) Act, 1972. The NBA has sent a communication to the Chief Secretaries of all States vide letter no.9/89/2006/SBB/Genl/3807 dated 12-02-2020 requesting them to expedite the process of identifying and declaring BHS in the respective states.

2. NBA issued a guidelines for selection and management of the BHS which provides that NBA may support the initial establishment of BHS financially by allocating adequate funding support as seed money through SBBs. Simultaneously, the financial requirement of BHS may be included in the annual budget of the local body. It also states that State Government may also allocate adequate seed money to each BHS on its notification through SBB. The BMC or other institution which is managing BHS would be recognized as an authorized body to avail the financial assistance under all government schemes and other funding sources as legally permissible.

3. Members noted that, in the past, based on the proposals received from the Karnataka and Tripura SBBs, NBA extended a financial support to Karnataka and documentation of sacred groves in the state of Tripura. In view of the other effective area-based conservation measure (OECM) and effective implementation of the BD Act, there is a greater opportunity to co-manage BHS by engaging the BMCs.

4. The members suggested that a study on identifying potential sites to be declared as BHS may be undertaken by NBA for the purpose of inventorization and also for understanding the quantum of funds required for managing BHS during initial stage. Dr. Dinesh Misra and Dr. P.C. Bhattacharjee suggested that temple forests/ sacred grooves may be considered for designating as BHS.

Decision:

Authority decided that NBA may commission the study through a reputed government institution to undertake an inventory study about the potential sites for declaring as BHS.

Action: Secretary

55.15: To consider exemption for patent applications using Human Genetic Material

Section 6 of Biological Diversity (BD) Act, 2002 requires that any person applying for any Intellectual Property Right for an invention based on any research or information on a biological resource obtained from India, shall obtain prior approval of NBA. However, as per Section 2 (c) of the BD Act, "human genetic material" is excluded from the definition of 'biological resource'. Thus, the inventions based on research on human genetic material will not come under the ambit of Section 6. Accordingly, NBA has granted NOC for the patent application in which the invention is based on 'Human placental waste tissue'.

Decision: The members noted NOC granted for the patent application by M/s Cuor Stem Cellutions Pvt. Ltd and ratified the same.

Action: NIL

55.16: Revision of Guidelines for Contractual Engagement of Staff, Young professionals, Interns

In exercise of the powers conferred under Section 13 (2) of the Biological Diversity Act, 2002 read with Rule 11 of the Biological Diversity Rules, a committee has been constituted under the chairpersonship of Shri P.C. Tyagi, Former PCCF and HOFF, Govt. of Tamil Nadu for reviewing and revising the guidelines for engagement of Consultants / Young Professionals / Interns at NBA. The committee met on 11th March, 2020 at Chennai in which the guidelines for engagement of Consultants / Young Professionals / Interns have been reviewed and revised. The Chairman, NBA informed the members about the modifications proposed which were in line with the norms set by the Government and followed by other similar agencies. He reiterated the need for engaging the Young Professionals and Consultants for carrying out the activities of NBA.

Decision: The members, *in principle*, approved the revised guidelines for engagement of Consultants / Young Professionals / Interns and initiate the process of engagement. Authority also directed the NBA to place the revised guidelines in the next meeting of the authority for ratification.

Action: Secretary

55.17: Ratification of decisions on Form-B applications

Under agenda item 32.06 of 32nd 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.*

2. Accordingly, 22 Form-B applications were ratified by the members.

Decision: The Authority ratified the decisions taken on 22 Form-B applications by the Chairperson, NBA.

Action: NIL

55.18: To Ratify the Determination of Upfront Payment for the OM applications

The 56th meeting of the EC on ABS was held on 8th & 9th August 2019 at NBA, Chennai. EC observed that some of the applications which were considered under the OM during the 55th EC on ABS, upfront payment has not been fixed and it was decided to keep the upfront payment to the OM cases where it has not been fixed in the previous meeting. It was also noted that Form- I applications where approval was sought for, already conducted research on biological resource obtained from India by entities, EC has made recommendations as follows on such cases:

a) determine an upfront payment as per the approved guidelines

b) Fix non-monetary BS component *viz* organize awareness programs with regard to compliance of the Biological Diversity Act.

c) applicant shall also furnish an undertaking stating that provisions of the BD Act shall be complied in future.

2. The proceedings of the 56th EC on ABS has been considered by the Authority in its 54th meeting vide agenda item no. 54.04 and approved the recommendations. Pursuant to the decision, NBA fixed the upfront payment as per the guidelines issued by the Authority and also non-monetary benefit sharing mechanism to the OM **64** applications where benefit sharing component has not fixed in the previous meeting.

Decision: Authority considered and ratified upfront payment fixation and also non-monetary benefit sharing mechanism in respect of the 64 OM applications

Action: NIL

55.19: To consider the applications for access to Red Sanders wood approved by the Chairperson, NBA

In the 32nd Authority meeting (32.07), the Authority authorized the Chairman, NBA to accord approval to Red Sanders applications without following the normal procedure and also directed the NBA Secretariat to place such approvals in the subsequent Authority meeting for ratification. Accordingly, nine applications submitted for access to Red Sander wood have been approved by the Chairperson, NBA and the same were placed before the Authority for ratification.

Decision: The Authority ratified the decisions taken on the Nine (9) Red Sanders applications.

Action: NIL

54.20: Items for information

55.20.01: 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 intend 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.

2. NBA has received 183 such intimations since March 2016 - October 2019 and the same have been reported to the Authority from time to time. Since November 2019, the Secretariat has received 18 Form-C applications.

Decision: Members noted receipt of 18 Form-C intimations received by the NBA.

Action: NIL

55.20.02: Progress made by the Expert Committee constituted to Examine BD Act, 2002, BD Rules, 2004, Development of Sector Specific SOPs on ABS, and Examination of the Comments of Stakeholders for Incorporation in the Draft Regulations on ABS, 2019, etc. and developments thereof

Pursuant to the decision taken in the Authority in its 52nd meeting held on 19th March 2019, NBA vide office order dated 24th May 2019 constituted an Expert Committee (EC) under the Chairmanship of Shri. A. K. Goyal, IFS (Retd.) to examine Biological Diversity Rules, User Country Measures under Nagoya Protocol on ABS and development of sector specific SOPs. So far, the committee met 12 times in which members had discussion on the terms of references. As per the ToRs, the committee submitted following reports to NBA:

a) First interim report on 1st September, 2019 on "suggesting measures for streamlining various approvals by NBA/SBBs".

b) Second interim report on 30th October, 2019 on recommendation on the ABS Regulations, 2019 along with draft of "Access to Biological Resources and Associated Knowledge and the Fair and Equitable Sharing of Benefits Regulations, 2019".

2. The 54th Authority meeting held on 31st October 2019 vide agenda item no. 54.20.3 considered the report of the EC and it was decided that Authority endorsed the reports of the Expert committee and advised NBA to process it through MoEF&CC, as appropriate. Subsequent to the decision of the Authority, NBA vide letter dated 01.01.2020 communicated a draft (revised) ABS Regulations, 2019 to the Ministry for their approval and issue notification of the same.

3. The committee has developed draft amendments to the BD Act and BD Rules and the same have been circulated to the SBBs for their comments.

Decision: The members noted the progress made in this matter.

Action: NIL

55.20.03: Minutes of the Brainstorming session on Access and Benefit Sharing Mechanism for the Seed Sectors held on 20th December 2019 at NBA, Chennai

A one-day Brainstorming session on Access and Benefit Sharing Mechanism for the Seed Sector was held on 20th December 2019 at the conference Hall, NBA, Chennai, as per the request made by the Seed sector. The brainstorming session was attended by the representatives of the Ministry of Environment, Forest and Climate Change, Department of Agriculture Cooperation & Farmers Welfare, NBPGR, Independent experts on Biodiversity / Legal like Dr. R.S.Rana,Shri C.Achalender Reddy, IFS, and representatives from Federation of seed Industry of India (FSII) and National Seed Association of India (NSAI).

2. The issues relating to seeds industry have been presented by Associations inducing Definition of Conventional Breeding; Mismatch of ABS, PPVFRA guidelines; Declaration of the source of germplasm for small and medium companies to SBB and District level committees; and exemption of Indian exporters from BD Act. The following Outcomes have been emerged in the brainstorming session:

1. Representatives of the seed companies supported conservation of agro biodiversity and expressed their willingness to contribute to these efforts through monetary and non-monetary modes.

2. They also agreed to exercise due diligence to ensure that their activities will be BD Act compliance till it is amended.

3. NBA will examine the definition of Conventional Breeding and give further clarity to the industry.

4. NBA will examine the feasibility of the request of seed companies for consideration under NTC exemption list within the existing legal framework.

Decision: The information submitted in this regard was noted.

Action: NIL

55.20.04: Minutes of the Brainstorming session on electronic People's Biodiversity Register (e-PBR) held on 16thNovember 2019 at NBA, Chennai

As per section 41 of the BD Act, the mandate of BMCs is to prepare People's Biodiversity Registers (PBRs) to document comprehensive information on local biological resources and associated knowledge. Towards this, NBA and SBBs have made various initiatives / steps including through projects for preparation of PBRs, as a result 13732 PBRs have been documented in 24 States.

2. The Prime Minister's Science Technology and Innovation Advisory Council (PM-STIAC) has recently endorsed the concept of a National Mission on Biodiversity

and Human Well-Being (NMB&HW) presented by the Biodiversity Science Consortium (BSC). The Office of the Principal Scientific Adviser (PSA), Government of India has provided financial assistance to a pilot precursor project with objectives including the preparation of the mission documents including the Detailed Project Report (DPR) and the Expenditure Finance Committee (EFC) Memo. The MoEFCC and the Chairperson, NBA has been assigned the responsibility of preparing the DPR and EFC Memo with technical assistance from the BSC. The goal of this national mission is to strengthen biodiversity science in India to meet our pressing challenges in the environment and human well-being.

3. Recognizing the importance of the PBR in various sectors, MOEFCC has desired to develop a National Information Network for PBR's for use by all stakeholders with the help of experts in order to protect the biological resources and traditional knowledge associated with it. Having realized the emerging & urgent need of setting up of national electronic PBR network, it is necessary to develop in-depth roadmap, and then begin with its implementation of this e-PBR concept.

4. In this context, NBA organized a one-day Brainstorming session on electronic People's Biodiversity Register (e-PBR) on 16th November 2019 at the conference Hall, NBA, Chennai. The outcomes of this session along with near to final roadmap were discussed in the national meet of SBBs held on 27th November 2019. Subsequently, a meeting of the representatives of the NBA and the National Informatics Centre (NIC) was held on 9th January 2020 at NBA, Chennai to review the progress of the e-PBR pilot project awarded to NIC. Further, two days meeting was held on 6th & 7th February, 2020 at the NIC Kerala State Centre, Kerala to review and re-scoping of e-PBR pilot phase project.

Decision: The information submitted in this regard was noted.

Action: NIL

55.20.05: To consider proceedings of the 1st Meeting of the Award Selection Committee for the India Biodiversity Awards 2020 held on 18th December 2019

The India Biodiversity Awards 2020 has been hosted and organized by the National Biodiversity Authority under the directions of the MoEFCC. The call for applications for India Biodiversity Awards (IBA 2020) was officially launched by the Vice President of India on 22nd May 2019 during the celebration of International Day for Biological Diversity at Chennai. The last date for receipt of application is 30th November 2019. A total of 153 applications were received under different categories. Subsequently, NBA has constituted a Jury committee to review the applications under the chairmanship of Dr. Erach Bharucha and Dr. A. K Gupta as co-chair. The first meeting of the jury was held on 18th December 2019 and shortlisted 31 applications for the field visit. The field visit of jury members will be assisted by the Interns engaged through UNDP-NBA Biodiversity Samrakshan Internship Programme.

Decision: The information submitted in this regard was noted.

Action: NIL

55.20.06: NBA-UNDP Biodiversity Samrakshan Internship Programme

The National Biodiversity Authority and United Nations Development Programme have jointly launched 'Biodiversity Samrakshan Internship Program' during the celebration of NBA's foundation day on 1st October 2019. The objective of this program is to attract dynamic and creative youngsters, who are willing to learn about natural resource management and biodiversity conservation and to engage them in the activities of NBA and UNDP. Eleven interns have now been selected through a competitive process and they were given orientation by NBA from 08.01.2020 to 17.01.2020. The tasks allotted to interns are to provide assistance for constitution of BMC, preparation of PBRs and to jury member for selection of India Biodiversity Awards 2020. The expenditure on this account including stipend for interns will be borne by UNDP.

Decision: The information submitted in this regard was noted.

Action: NIL

55.20.07: Second Project Steering Committee (PSC) Meeting ASEAN-India Cooperation Project on "Capacity Building towards implementing the Nagoya Protocol on ABS, the City Biodiversity Index and the Strategic Plan for Biodiversity" implemented by ACB, Manila and NBA, Chennai held on 6 December, 2019 at MOEFCC, New Delhi

The 2nd PSC meeting of the ASEAN-India Cooperation Project was held under the Chairmanship of Shri. Ravi Agrawal, Additional Secretary, MoEFCC on 6th December, 2019 MoEFCC, New Delhi. The meeting took note that, under the Cooperation so far Eight Regional Capacity Building Workshops have been organized in India (2), Philippines (4), Singapore (1) and Vietnam (1); wherein, experience and expertise on the implementation of specific thematic concerns such as Nagoya Protocol on ABS, the City Biodiversity Index, and the Strategic Plan on Biodiversity were shared between India and the ASEAN Member States.

2. The PSC directed the NBA and ACB to prepare a detailed work plan for the Phase-II of ASEAN-India Cooperation for consideration under the ASEAN-India Green Fund (AIGF) so as to build on the activities carried out under Phase-I of the ASEAN-India Cooperation. The Project management unit established at NBA is engaged with this task.

Decision: The information submitted in this regard was noted.

Action: NIL

55.20.08: Meetings attended by the officials of the NBA

1. Inter-ministerial round table discussion held to discuss AYUSH Industry recommendations: The Ministry of AYUSH and Ministry of Commerce & Industry organized the Second edition of International Arogya from 19-22 December 2019 at Varanasi. As a precursor to the CEO forum planned in Varanasi, Ministry of AYUSH and Invest India have organized an Inter-Ministerial round table discussion under the chairmanship of the Secretary, Ministry of AYUSH and Secretary, Ministry of

Commerce & Industry, GoI, recommendations of AYUSH industry to address key issues in compliance of the BD Act.

2. Study-Visit of the Department-related Parliamentary Standing Committee: The Department-related Parliamentary Standing Committee on Science and Technology, Environment, Forests & Climate Change undertook a Study visit to Thiruvananthapuram, Chennai, Sriharikota, Bengaluru and Ahmedabad from 26th to 30th December, 2019. As per the schedule, the Chairman and the Secretary, NBA along with officials of the MoEFCC have appeared before the Parliamentary standing committee on 28th December, 2019 at the office of National Institute of Ocean Technology, Chennai. The Chairman, NBA made a detailed presentation about "Implementation of the Biological Diversity Act, 2002".

3. Second Session of the India-France JWG meeting: The 2nd Session of the India-France Joint Working Group on Environment meeting was held on 18th & 19th November, 2019 in MoEFCC, in which the Secretary, NBA had participated and made a presentation on " BD Act and the on-going work/projects related to Biodiversity".

4. **Exposure visit of Nepalese delegates:** Mr. Yajna NathDahal, Division Chief (Joint Secretary), Environment and Biodiversity division and National Focal Point to CBD, Ministry of Forest and Environment, Govt. Nepal, Kathmandu have made exposure visit to NBA for understanding implementation of the BD Act and other matters related thereto from 4th-5th November 2019. During their visit Secretary, NBA made a presentation on "Implementation of BD Act particularly ABS" and also had discussion on the various issues relating to ABS mechanism. Tamil Nadu Biodiversity Board in association with GIZ-ABS project have also organized an interaction session with subject experts on implementation of the Biological Diversity Act 2002 with special reference to abs mechanism and formation of BMC on 04th November at the office of Tamil Nadu Biodiversity Board, Chennai. Besides, the Nepal delegates undertook a field visit to Tiruporur Biodiversity Management Committee (village level governance) and Irular community.

5. **Orientation-cum-Awareness and implementation of ABS regulations in agricultural research**: The National Academy of Agricultural Research Management (NAARM), Hyderabad organized two day "*Management Development Program (MDP) on Orientation-cum-Awareness and implementation of ABS regulations in agricultural research*" on 22nd & 23rd January 2020 at ICAR-NAARM, Hyderabad. The Technical Officer (Benefit Sharing), NBA participated in the workshop and made presentation on *"ABS implementation process, status and challenges with reference to agricultural research in* India".

6. Consultation meet on Digital Sequence Information: Pursuant to the decision adopted in the Meeting of the Conference of Parties (COP-14), CBD secretariat invited parties to report on how domestic measures address benefit-sharing (ABS) arising from commercial and non-commercial use of digital sequence information ("DSI") on genetic resources and address the use of "DSI" for research and development. Towards this, MoEFCC, NBA and UNDP have jointly convened consultation meet on Digital Sequence Information with Ministries / departments, organizations and experts on 30th July, 2019 at MOEFCC, New Delhi to understand the landscape of work on DSI undertaken in the country. In continuation, a second consultation meeting with stakeholders concerned like industries, departments and individual experts was organized by the NBA in partnership with UNDP India and Biotech Consortium India Limited (BCIL) on 14th February, 2020 at the UNDP, New Delhi.

7. 13th Conference of the Parties to the Convention on the conservation of Migratory Species of wild animals (CMS COP 13):

The Convention on Migratory Species (CMS), also known as the Bonn Convention, aims at conserving terrestrial, aquatic and avian migratory species throughout their range. India hosted the 13th Conference of the Parties to the Convention on the conservation of Migratory Species of wild animals (CMS COP 13) in Gandhinagar, Gujarat from 15th to 22nd February, 2020.

The side event on *"Innovative approaches to achieve Aichi Biodiversity Target 11"* has been organized jointly by CBD, MoEFCC, NBA and UNDP on 17th February

2020. Hon'ble Minister for Environment, Forests and Climate Change Shri Prakash Javadekar; Ms Elizabeth Maruma Mrema, Acting Executive Secretary of CBD, Dr Uma Devi, IFS, Additional Secretary, MoEFCC, Dr. Sujit Kumar Bajpayee, Joint secretary, MOEFCC, officials from NBA / State Biodiversity Boards and delegates from other countries have graced the occasion.

Decision: The information submitted in this regard was noted.

Action: NIL

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

55.21.1: To consider Proceedings of the 59th meeting of the Expert Committee on Access and Benefit Sharing held on 05th - 06th March, 2020

The 59th meeting of the Expert Committee on Access and Benefit Sharing (EC on ABS) was held on 5th & 6th March 2020 at the National Biodiversity Authority, Chennai. A total of 286 applications were placed before the EC for examination.

2. Pursuant to the decision taken in the 44th Authority meeting, 166 Form-III applications, 19 Form-I applications and 7 Form-II applications were recommended for approval by the EC on ABS are being cleared by NBA Secretariat by sending draft agreements to the applicant for execution.

3. Further, the EC considered 75 applications under OM issued by the MOEFCC and to convey the decision of EC for 11 applications to the applicants.

Decision:

(a) The Authority approved the recommendations of the 59th EC on ABS.

(b) The Authority ratified the action taken on the 192 applications.

(c) The Authority considered the timeline for levying higher percentage of the benefit sharing on the OM cases and agreed that higher percentage of benefit sharing to be levied from the date of commercial activities and for the same

activities in future, higher percentage to be levied for the period five years and may be renewed, as appropriate.

(d) It was noted that eight applicants (Appl.no.3495, 3595, 3542, 3560, 3562, 3476, 3554, 3688) contravened the provision of the BD Act and Authority decided to take appropriate action against the applicant.

Action: Secretary

55.21.2: To expand the scope of the NBA-UNDP Biodiversity Samrakshan Internship Programme

The National Biodiversity Authority and United Nations Development Programme have jointly launched 'Biodiversity Samrakshan Internship Programme during the foundation day celebration of NBA on 1st October 2019. The objective of this program is to attract dynamic and creative youngsters, who are willing to learn about natural resource management and biodiversity conservation and to engage them in the activities of NBA and UNDP. Eleven interns have now been selected through a competitive process.

2. Considering the utility of this program, it is proposed to expand its scope and provide of such interns, at least 50%, to the SBBs/UT-Biodiversity Council, NBA and MoEFCC. A total of 20 interns are proposed to be engaged in 2020-2021 at a total cost of Rs. 84 Lakhs. Efforts to be made to raise additional resources from agencies such as UNDP to engage more interns to work with all SBBs.

Decision: Members agreed to the proposal of expanding the scope of the NBA-UNDP Biodiversity Samrakshan Internship Programme by engaging interns and placing them in the SBBs/UTs, NBA & MoEFCC.

Action: Secretary

The meeting ended with vote of thanks by the Secretary, NBA.

(J.Justin Mohan),
Secretary, NBA

ANNEXURE-1

List of Participants

Official Members

1. Dr V.B. Mathur
Chairperson,
National Biodiversity Authority, Chennai

2. Dr. Sujit Kumar Bajpayee
Joint Secretary,
Ministry of Environment, Forest and Climate Change, Government of India,
Second Floor, Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi-110 003

3. Dr.J.L.N. Shastri
Chief Executive Officer
National Medicinal Plant Board,
Department of AYUSH,
Ministry of Health and Family Welfare,
3rd Floor, AYUSH Bhawan,
B Block, G.P.O. Complex, I.N.A.,
New Delhi-110 023.

4.Dr. Bharati
IGF,
Ministry of Environment, Forest and Climate Change, Government of India,
Second Floor, Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi-110 003

5. Dr. Manoj Kumar Modi
Scientist
Department of Biotechnology,
CGO Complex, Block No. 2,
Lodhi Road,
New Delhi- 110003

6 .Dr. Atmanand
Director
National Institute of Ocean Technology
Ministry of Earth Sciences
Velachery-Tambaram Main Road,
Narayanapuram, Pallikaranai,
Chennai-600100

Non-Official Members

7. Dr. Yogesh Shouche
Senior Microbiologist,
National Centre for Cell Science
Department of Biotechnology Lab,
University of Pune Campus,
University Road, Ganeshkhind,
Pune, Maharashtra – 411 007

8. Dr. Dinesh Misra,
No. 65, Sector 8
Gandhi Nagar,
Gujarat-382008'

9. Dr. Darshan Shankar,
Chancellor,
Trans Disciplinary University, C/o Foundation for Revitalization of Local Health Traditions (FRLHT),
74/2, Jarakabande Kaval, Post Attur via Yelahanka, Bangalore - 560 064

10. Dr. Parimal Bhattacharjee
Professor & Head,
Department of Zoology,
A/3 Asiyana Housing Complex Maligon
Guwahati-781011

11. Dr. N. Saravanan
CMLRE
Ministry of Earth Sciences,
Kochi

Secretary to the Authority

Shri. J. Justin Mohan, IFS
Secretary, National Biodiversity Authority,
Chennai –600 113

NGT, CHENNAI

Appeal No. 62 of 2021

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National Biodiversity Authority

राष्ट्रीय जैव विविधता प्राधिकरण

(Statutory body of Ministry of Environment, Forest and Climate Change, Government of India)

J. Justin Mohan, IFS
Secretary
+91 44 2254 1071
+91 44 2254 1074
secretary@nba.nic.in www.nbaindia.org

5th Floor, CSIR Road, TICEL Bio Park,
Taramani, Chennai - 600 113, Tamil Nadu, India.
5 वां तल, सीएसआईआर रोड, टाइसल बायो पार्क,
तरमणि, चेन्नई - 600113 तमिल नाडु, भारत.

NBA/TechAppl/9/3074/19/20-21/1071 By email only 20.07.2020

To
Dr.Rajani Jaiswal Ph.D,
Manager-Intellectual Property,
Plant Variety Protection,
Contractual and Relationship Management,
Bioseed Research India,
Plot No.234, B Block, Phase-II, Kavuri Hills,
Hyderabad-500 033.

Madam,

Sub: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application under Section 3 read with Section 19 (1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 – reg.

Ref: Your application in Form-I received on 12.12.2018.

With reference to your application cited in reference, preferred under Section 3 read with Section 19(1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 for access of "Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A.", mentioned therein, an agreement is enclosed herewith to enable you to execute, and send two copies of stamp paper agreements (in Indian Rs. 20/- Non Judicial Stamp Paper) duly signed at the bottom of every page of the agreement including schedules along with witness signature, within one month from the date of receipt of this letter.

Further you are informed that, in pursuant to the coming into force of Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol), it is obligatory on each of the Party to the Protocol to provide at the time of access, a permit or equivalent document as evidence of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) and make it available to the CBD Access and Benefit sharing Clearing House (ABS-CH). This permit or equivalent document will serve as an Internationally Recognized Certificate of Compliance (IRCC) which can be used as an evidence of access approval granted by the competent Authority as per the provisions of the Biological Diversity Act, 2002.

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In view of the same, the format of permit or equivalent document is enclosed herewith. This format has columns that have an option to mark certain information as confidential in nature. It is requested that, the information which in your opinion are to be kept confidential need to be specified in this enclosed format enabling NBA to furnish only such non-confidential information with ABS-CH. This will help in strengthening the monitory mechanism of the movement of biological resources and/or associated knowledge between the user and the provider countries and also enhance transparency about the utilization of the biological resources. In case of non-receipt of filled IRCC format along with the signed stamp paper agreements it will be deemed that you do not require any specific information to be kept confidential by the NBA.

On receipt of the above said documents, the National Biodiversity Authority will grant approval in the form of a written agreement duly signed by the authorized officer of the Authority.

Yours faithfully,

J. Justin Mohan

(J. Justin Mohan)
Secretary, NBA

Encl.:

1. Copy of the Model Agreement.
2. IRCC Form
3. Copy of Notification of Designated National Repositories

Copy to:

Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033.

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T/C

AGREEMENT FOR ACCESS AND BENEFIT SHARING

(Form-I – Access for Commercial Utilization)

(Under the Biological Diversity Act, 2002 and Rules, 2004 and Guidelines on ABS Regulations, 2014)

(This Agreement is made under the context of Office Memorandum No. C-12025/8/15-CS-III dated 10.09.2018 issued by MoEF&CC under para 4 and 5)

This Agreement is made and entered on this ..... day of .....20..... at Chennai, India

Between

National Biodiversity Authority, a statutory body established under the Biological Diversity Act, 2002, having its head office at 5th Floor, TICEL Bio Park, Taramani, Chennai-600 113, Tamil Nadu, India (hereafter "**NBA**"), acting through and represented by the Secretary, NBA/authorized signatory of NBA, being the person authorized to execute this Agreement.

And

M/s. DCM Shriram Limited, India, incorporated in India having its registered office at 1st Floor, Kanchenjunga Building, 18, Barakhamba Road, New Delhi-110 001, India, (hereafter the "**Applicant**"), acting through and represented by Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033, India, being the person authorized to execute this Agreement on behalf of the Applicant as specified in Annex C.

Hereafter, referred to as the "Parties" and individually as a "Party".

WHEREAS the NBA is the authority established under the Biological Diversity Act, 2002 (hereafter "**the Act**") authorized to grant approval for the purpose set forth herein and to determine terms and conditions to secure fair and equitable sharing of benefits arising out of the use of biological resources, knowledge and practices associated with their use;

WHEREAS the Applicant has submitted an application in Form I (Appl. No. 3074) received on 12.12.2018 under the Biological Diversity Rules, 2004 (hereafter the "**Rules, 2004**") to seek approval from NBA;

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WHEREAS under the Rules and the guidelines on access to biological resources and/or associated knowledge and benefit sharing regulations, 2014 made under the Act, the approval shall be in the form of a written agreement duly executed between the Parties (hereafter the "**Agreement**");

AND the Parties have entered into this Agreement for access and benefit sharing according to the terms and conditions set out below.

NOW the Parties agree as follows:

1. Definition

For the purpose of this Agreement, the expression *"Effective Date"* shall mean the date on which both the parties sign this Agreement. In case the parties sign on different dates, the effective date shall be the date signed by NBA;

2. Terms and Conditions of the Agreement

2.1 Grant of approval

The NBA hereby grants approval for the accessed biological resources and/or associated knowledge as described in **Annex A** for the purpose of commercial utilization subject to such other terms and conditions set forth in this Agreement.

2.2 Scope and extent

The approval is limited to the extent and for the purpose for which it is accorded under the appropriate Annexes.

2.3 Period

2.3.1 *Period of Access* – The period of access under this agreement is NIL.

2.3.2 *Period of Agreement* – This Agreement shall remain in force for a period of Three years from the effective date of this Agreement. The period of this Agreement may be extended by way of an amendment to this Agreement under clause 13 of this Agreement.

2.3.3 Notwithstanding the above, this Agreement shall remain in force until the Applicant fulfils all the obligations as required under this Agreement.

However, with respect to the benefit sharing obligations, the Applicant shall share benefits as specified under Schedule A of this Agreement as long as the Applicant derives monetary benefits out of the utilisation of the approved quantity of biological resources.

2.4 Transfer to third party or by operation of law

The rights conferred under this Agreement and the approval granted is non-transferable and non-assignable to any third party except as provided by law.

3. Obligations of the Applicant

3.1 The Applicant shall share benefits as stipulated under Schedule A.

3.2 The Applicant shall also pay such sum, if any, as levied by the Biodiversity Management Committee(s) for the accessed/collected approved quantity of biological resources from its/their concerned jurisdiction(s).

3.3 The permission granted to the Applicant is limited to that granted by the NBA in Annex-B of Schedule B of this Agreement. All other activities of the Applicant which require NBA's prior approval will need to be applied separately in the concerned Form under Rules, 2004.

3.4 The Applicant shall minimize environmental impacts of collecting activities.

3.5 The Applicant shall abide by all the terms and conditions of the Agreement and other related legislations in force including any clearances required from the concerned authorities, such as the Chief Wildlife Warden in protected areas and forest authorities in other forest areas.

3.6 The Applicant shall, in the event of any material changes in the management or the shareholding of the Applicant that alters the control structure of the Applicant including changes brought by a transfer of business units, acquisition, merger, demerger or any other kind of corporate restructuring, intimate and submit all related documents to NBA within **90 days** from the completion of that event. Subsequent to the said intimation, NBA shall decide whether this Agreement shall be amended as per clause 13 or a fresh approval is required. NBA's decision in this regard shall be final.

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3.7 The Applicant shall have India as its first source of supply and/or cultivation of biological resources for the commercial utilization of biological resources/commercialization of IPR as the case may be.

3.8 The Applicant shall in the event of any breach of this Agreement pay such compensation commensurate with the damage incurred to the Republic of India or to the benefit claimers as decided by the appropriate forum.

3.9 The Applicant shall keep all the relevant records that serve as a proof of the monetary benefits shared by the Applicant with NBA or the concerned benefit claimers as the case may be, together with supporting documents. This may be submitted to NBA as specified from time to time and such records shall be retained for at least three (3) years after the termination of this Agreement.

3.10 NBA shall have the right to regulate /monitor the activities approved under this Agreement, by itself or through any appropriate agency as it may deem fit.

3.11 The approved quantity of biological resources are Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A. The applicant commercializing the biological resources. The applicant shall pay higher benefit sharing under regulation 4 of the ABS guidelines 2014 (0.5%), from 2004 onwards of commercial utilization.

3.12 The applicant shall take proactive steps to educate their staff, partners and collaborators about the provision of the BD Act, 2002.

3.13 Being aware of the requirements under the Biological Diversity Act, the applicant hereby undertakes to comply with its provisions in all future activities.

3.14 The applicant shall organize awareness programmes in consultation with respective SBBs, within 3 months from the date of execution of this agreement with regard to the compliance of the BD Act and submit a detailed report within one month from the conclusion of the Awareness program conducted by the applicant.

3.15 *Status Reports*

3.15.1 The Applicant shall submit a status report for each reporting year not later than two months of the end of each reporting year in the prescribed format of NBA.

3.19 *Deposit of voucher specimen* –

The Applicant shall deposit the voucher specimen of biological material/type specimens in the institutions notified as designated repositories by the Central Government and the receipt received from such designated repository shall be submitted to NBA within 30 days from the date of first access of the approved biological resources.

4. Fair and Equitable Benefit Sharing

4.1 The Applicant shall share benefits as per Schedule A in monetary mode.

4.2 The Applicant shall make the payment preferably by way of demand draft or any other approved mode of payment and the same shall be drawn in the name of "**National Biodiversity Fund**".

5. Written Notice

5.1 Any communication including serving notices under this Agreement, shall be in writing and communicated by Registered post with acknowledgement due or e-mail or fax in the address mentioned hereunder.

If to NBA:

The Secretary, NBA, 5th Floor, TICEL Bio-Park, CSIR Road, Taramani, Chennai-600 113, Tamil Nadu, India.
E-mail:- secretary@nba.nic.in

If to the Applicant:

M/s. DCM Shriram Limited, India, 1st Floor, Kanchenjunga Building, 18, Barakhamba Road, New Delhi-110 001, India.

With a copy to the applicant's Authorized Representative:

Dr.Paresh Verma, President, M/s. Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033, India.
E-mail:- paresh.verma@bioseed.com, Cell:+09347076327.

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5.2 Notice is deemed to have been given if duly communicated in accordance with the Indian Contract Act, 1872 and the Information Technology Act, 2000 and related Indian legislations.

5.3 Any change in the address/email address/fax of the Parties shall be notified to the other Party within **15 days** of such change by way of a notice.

6. Procedure for imposing penalty in case of breach.

6.1 If NBA has prima facie evidence to the effect that the Applicant has committed a breach of any of the terms of this Agreement, NBA shall send a written notice to the Applicant communicating the default or details of the breach within **30 days** of the discovery of that event, giving an opportunity to be heard to the Applicant.

6.2 The Applicant shall within **30 days** from the date of serving of such notice respond in writing to NBA.

6.3 Upon receiving such explanation from the Applicant, NBA shall take into account the explanation and decide if there is a breach committed by Applicant or not. In the event that the NBA does not receive such explanation from the Applicant, NBA shall send final notice to the Applicant. If the Applicant responds within 30 days, NBA shall be taken into account the explanation and decide on the breach. If the Applicant does not respond within 30 days, the Applicant will be deemed to be in breach of this Agreement.

6.4 In the event that the Applicant does not respond to the final opportunity given by NBA or in the event that NBA decides that there is a breach of this Agreement, NBA has the power to issue any order executable under section 53 of the Act including imposition of penalty of a sum which may extend to one lakh rupees as determined by NBA from time to time and in addition direct the Applicant to pay such compensation commensurate with the damage incurred by the Republic of India or the benefit claimers.

6.5 Penalties imposed by NBA under this clause shall be in addition to any recovery of any monetary benefits due, compliance with directions or orders issued by NBA and without prejudice to any other rights under this Agreement.

6.6 Notwithstanding any of the clauses above, in addition to imposition of penalty, if the breach or default committed by the Applicant amounts to violation of any of the provisions of the Act, appropriate legal proceedings shall be initiated under Section 61 of the Act.

7. **Termination and Revocation**

7.1 Subject to clause 2.3, the Agreement shall stand automatically terminated on the completion of the period agreed to between the Parties including the period of extension agreed to, if any. On termination, the Applicant shall comply with obligation under clause 7.3.

7.2 During the subsistence of this Agreement, the Applicant shall have an option to initiate termination of this Agreement by sending a request to NBA in the form of a notice stating valid reasons for the same. On receipt of the same, it shall be the discretion of NBA to accept the reasons specified by the Applicant or not. In the event of its decision to terminate, NBA shall intimate to the applicant by way of a notice within **90 days** of making the decision. On receipt of such a notice from NBA, the applicant shall comply with clause 8.3.

7.3 Upon termination of the Agreement, the Applicant shall :

7.3.1 Immediately cease all use of biological resources and/or knowledge associated thereto.

7.3.2 Pay all outstanding dues including the benefit sharing amount and submit status report dues, if any, due until then by the Applicant within 45 days of the date of termination of this Agreement.

7.4 NBA may withdraw the approval granted and revoke this Agreement in case of occurrence of any of the conditions mentioned in Rule 15 of the Rules, 2004 or if the applicant performs activities contrary to any restriction or prohibition imposed by NBA or under the Act and Rules, 2004.

7.5 In case of death of the Applicant, before the term of this Agreement or before the termination of this Agreement due to factors mentioned in clauses above, the Agreement shall stand terminated and all the obligations of the Applicant ceases to exist.

8. Liabilities and Indemnification

8.1 NBA shall not be liable for any loss or damage whatsoever caused to the Applicant due to revocation of approval for access and/or termination of this Agreement on any grounds whatsoever.

8.2 The Applicant shall be solely responsible for any claims by third parties arising from the Applicant's acts or omissions in the course of performing this Agreement and under no circumstances shall the NBA be held responsible or liable for any claims by such third parties.

8.3 The Applicant shall pay such sum for breach committed by the Applicant as determined by NBA under clause 6 of this Agreement which is in addition to the compensation commensurate with the damage incurred by the Republic of India or the benefit claimers that the Applicant is liable to pay as decided by the appropriate forum.

8.4 The Applicant shall indemnify and save NBA and its employees, members and officers, from and against all claims, demands, losses, damages, costs (including attorney fees), actions, suits or other proceedings, all in any manner based upon, arising out of, related to, occasioned by or attributable to, any acts or conduct of the Applicant, its employees or agents, (whether by reason of negligence or otherwise) in the performance by or on behalf of the Applicant of the provisions of this Agreement or any activity undertaken or purported to be undertaken under the authority or pursuant to the terms of this Agreement.

9. Confidentiality

9.1 Upon request from the Applicant, NBA shall keep as confidential that information which is desired to be kept as confidential by the Applicant.

9.2 Notwithstanding the above, confidential information may be disclosed by NBA to the extent required by any law or regulation or order of any authority established by law having jurisdiction over any of the Parties or in the opinion of NBA such disclosure becomes necessary to deal with any emergency situations, or national or public interest .

10. Arbitration

10.1 In case any dispute or difference arises out of the interpretation of any clauses of the Agreement, either of the Parties may give the other Party a notice clearly identifying and providing details of the dispute. On receipt of such notice by the other Party, the Parties shall try to settle such dispute/difference amicably between them by negotiating in good faith within **30 days** of the receipt of such notice.

10.2 If the dispute or difference is not resolved by such negotiations within the period mentioned, the dispute or difference shall be referred to the sole arbitrator appointed by NBA.

10.3 The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The place of arbitration shall be Chennai, India.

10.4 The award of the Arbitrator shall be final, conclusive and binding on the Parties. The Arbitrator shall be competent to decide whether any matter or dispute or difference referred to him falls within the purview of arbitration.

11. Governing Law and Jurisdiction

11.1 This Agreement is governed by and is to be construed in accordance with the laws of India without regard to the principles of conflicts of laws subject to the provisions of arbitration clauses to this Agreement.

11.2 In the event of a dispute or difference not settled through arbitration as specified in clause 10, the Parties shall irrevocably and unconditionally submit to the appropriate court of jurisdiction in Chennai.

11.3 As regards all other aspects and the terms and conditions not provided for this in this Agreement, they shall be governed by the provisions of the Act read with Rules and Regulations made thereunder.

11.4 This Agreement shall not in any way constitute or be presumed to constitute a partnership or a joint venture or a joint enterprise in any way or for any purpose between the Parties hereto or make the parties in any way liable as partners of or as agents for one another.

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12. Severability

12.1 If any part of this Agreement is declared or held improper or unjustifiable or invalid by a Court of Law for any reason, the deficiency or invalidity of that part shall not affect the validity of the remainder which will continue in full force and effect and be construed as if the Agreement had been executed without the invalid portion.

12.2 However the remainder of the Agreement shall not come into force unless the remainder is consistent with the declaration or order or judgment of the Court.

13. Amendment

No amendment to this Agreement shall be valid or binding upon the Parties, unless agreed upon by the Parties, in writing, and signed on behalf of each Party by their duly and legally authorized persons and such amendment shall be made as a supplementary agreement along with Annexes, as applicable.

14. Entirety of Agreement

This Agreement constitutes the culmination of all prior negotiations, understanding, representations and commitments and sets down the complete terms and conditions of Agreement between the parties as to the subject matter.

15. Annex and Schedules

15.1. The Schedules and their Annexes attached to this Agreement or Schedule that may be added subsequently by way of an amendment under the provisions of this Agreement, shall form an integral part of this Agreement and shall be binding on the Parties.

15.2. This Agreement has been executed in duplicate, each of which shall be deemed to be original; one shall be retained by the NBA and other by the Applicant and both shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have signed in this Agreement on the day month and the year aforesaid in this Agreement.

.....	.....
Signed by the Authorized person of the Authority	Signed by the Applicant
For National Biodiversity Authority	**For the Applicant**
Witnesses	**Witnesses**
1. Signature	1. Signature
Name	Name
Address	Address
2. Signature	2. Signature
Name	Name
Address	Address

SCHEDULE A – BENEFIT SHARING COMPONENT

The applicant shall pay with higher benefit sharing at 0.5% on the annual gross ex-factory sale minus government taxes of the product from the date of commercial utilization.

SCHEDULE B – ANNEXES TO BE ATTACHED

ANNEX A - Details of biological resources and/or knowledge associated thereto and geographical locations

ANNEX B - Details of commercial utilization.

ANNEX C- Authorization made by the Applicant *(if any)* for signing the Agreement and/or access the biological resources and/or knowledge associated thereto.

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60/c

PERMIT OR ITS EQUIVALENT CONSTITUTING AN INTERNATIONALLY RECOGNIZED CERTIFICATE OF COMPLIANCE (IRCC)

Internationally Recognised Certificate of Compliance (**IRCC**) is a globally recognised compliance certificate that serves as an evidence of the decision by the Parties to grant permit to the Applicant. The permit issued by the National Biodiversity Authority (*the competent national authority under the Nagoya Protocol*) will facilitate generation of IRCC and will be published online in the Access and Benefit Sharing Clearing House (ABSCH) (https://absch.cbd.int/)

By procuring an IRCC, the Applicant can globally demonstrate their legal compliance with the domestic Access and Benefit Sharing (ABS) legislation (in the present case with the Biological Diversity Act, 2002 and Rules, 2004). Applicant can also keep certain information confidential, as the IRCC document is publicly available. For this purpose, the Applicant shall fill in the following details as given in the table below:

S. No	Particulars	Details about the nature of information *(Please tick (✓) if yes or No)*
1	Name of the Applicant	*Do you require your name to be kept confidential?* **Yes / No**
2	Subject matter of approval	*Do you require the biological resources/ knowledge for which the approval was given to be kept confidential?* **Yes / No**
3	Keywords that describe the subject matter of approval	*Do you require the keywords that describes or indicates the biological resources/ knowledge for which the approval was given to be kept confidential?* **Yes / No**
4	Type of activity to be undertaken using the subject matter of approval	*Do you require the activity (research/commercial utilisation/bio-survey and bio-utilisation/IPR/transfer of biological resources/knowledge) to be carried out using the approved biological resources/knowledge to be kept confidential?* **Yes / No**

Please sign the form and attach it along with the signed stamp paper ABS Agreement and submit to NBA.

Applicant(s) Signature

Disclaimer: Please note that the above format does not constitute an access permit in itself and only validates the permit.

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No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 28th August, 2008

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, the Ministry of Environment and Forests, Govt. of India, hereby designates the following institutions to act as repositories under the Act for different categories of biological resources:

S.No.	Name of the Institution	Category of biological resource
1.	Botanical Survey of India, Kolkata	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae)
2.	National Bureau of Plant Genetic Resources, New Delhi	Plant genetic resources
3.	National Botanical Research Institute, Lucknow	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae)
4.	Indian Council of Forestry Research and Education, Dehradun (Forest Research Institute, Dehra Dun; Institute of Forest Genetics and Tree Breeding, Coimbatore; and Tropical Forest Research Institute, Jabalpur)	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae). For TFRI only - Fauna (termites, butterflies, moths)
5.	Zoological Survey of India, Kolkata	Fauna
6.	National Bureau of Animal Genetic Resources, Karnal, Haryana	Genetic resources of domestic animals
7.	National Bureau of Fish Genetic Resources, Lucknow, U.P.	Fish genetic resources
8.	National Institute of Oceanography, Goa	Marine flora and fauna
9.	Wildlife Institute of India, Dehradun	Faunal resources in Protected Areas
10.	National Bureau of Agriculturally Important Micro-organisms, Mau Nath Bhanjan, U.P.	Agriculturally important micro-organisms
11.	Institute of Microbial Technology, Chandigarh	Microorganisms
12.	National Institute of Virology, Pune	Viruses
13.	Indian Agricultural Research Institute, New Delhi	Microbes/Fungi

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2. In accordance with sub-section (2) of Section 39 of the Act, the designated repositories shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repositories at serial No.1,3,4,5,10,11,12 and 13 shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

4. This order issues with the approval of the competent authority.

28.08.03

(A.K. Goyal)
Joint Secretary to the Government of India

To

1. Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
2. Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.
3. Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
4. Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.
5. Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
6. Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
7. Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
8. Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
9. Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
10. Director, National Bureau of Agriculturally Important Micro-organisms, Kusmaur (Post Bag Kaithauli), Post Box. No. 6. Mau Nath Bhanjan, Uttar Pradesh- 275 101.
11. Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
12. Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
13. Director, Indian Agricultural Research Institute, Pusa Road, New Delhi.

Copy to the Chairman, National Biodiversity Authority, 475, 9th South Cross Street, Kapaleeswarar Nagar, Nelankarai, Chennai-600 04.

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F. No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 12th September, 2012

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, and in continuation of this Ministry's Order dated 28th August, 2008, the Ministry of Environment & Forests, Government of India, hereby designates the National Bureau of Agriculturally Important Insects as the repository under the Act for agriculturally important insects, mites and spiders.

2. In accordance with sub-section (2) of Section 39 of the Act, the designated repository shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repository shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

4. This order issues with the approval of the competent authority.

(Hem Pande)
Joint Secretary to the Government of India

To

1. The Director, National Bureau of Agriculturally Important Insects (NBAII), P.O. No. 2491, H.A. Farm Post, Bellary Road, Bangalore-560 024
2. Directors of institutions designated as repositories vide order dated 28.8.12:

   i. The Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
   ii. The Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.
   iii. The Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
   iv. The Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.

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v. The Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
vi. The Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
vii. The Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
viii. The Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
ix. The Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
x. The Director, National Bureau of Agriculturally Important Micro-ogranisms, Kusmaur (Post Bag Kaithauli), Post Box. No. 6, Mau Nath Bhanjan, Uttar Pradesh- 275 101.
xi. The Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
xii. The Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
xiii. The Director, Indian Agricultural Research Institute, Pusa Road, New Delhi-110012.

Copy to:

i. The Chairman, National Biodiversity Authority, Chennai
ii. The Secretary, National Biodiversity Authority, Chennai

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55/c

F. No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests
(CS-III Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 8th July, 2013

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002.

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, and in continuation of this Ministry's Orders dated 28th August, 2008 and 12th September, 2012, the Ministry of Environment & Forests, Government of India, hereby designates the Microbial Culture Collection (MCC), National Centre for Cell Science (NCCS), Pune as the repository under the Act for microorganisms.

2. In accordance with sub-section (2) of Section 39 of the Act, the designated repository shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repository shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

8/7/13

(Hem Pande)
Additional Secretary to the Government of India

To

1. The Scientist 'F' and Principal Investigator, Microbial Culture Collection (MCC), National Centre for Cell Science (NCCS), NCCS Complex, University of Pune Campus, Ganeshkhind, Pune- 411 007
2. The Secretary, Department of Biotechnology, Ministry of Science & Technology, CGO Complex, Lodhi Road, New Delhi-110 003
3. Directors of institutions designated as repositories vide order dated 28.8.12 and 12.9.12:

   i. The Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
   ii. The Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.

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iii. The Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
iv. The Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.
v. The Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
vi. The Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
vii. The Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
viii. The Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
ix. The Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
x. The Director, National Bureau of Agriculturally Important Micro-ogranisms, Kusmaur (Post Bag Kaithauli), Post Box. No. 6, Mau Nath Bhanjan, Uttar Pradesh- 275 101.
xi. The Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
xii. The Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
xiii. The Director, Indian Agricultural Research Institute, Pusa Road, New Delhi-110012.
xiv. The Director, National Bureau of Agriculturally Important Insects (NBAII), P.O. No. 2491, H.A. Farm Post, Bellary Road, Bangalore-560 024

Copy to:

i. The Chairman, National Biodiversity Authority, Chennai
ii. The Secretary, National Biodiversity Authority, Chennai

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/13

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ANNEXURE - R 13

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National Biodiversity Authority

राष्ट्रीय जैव विविधता प्राधिकरण

(Statutory body of Ministry of Environment, Forest and Climate Change, Government of India)

J. Justin Mohan, IFS
Secretary
+91 44 2254 1071
+91 44 2254 1074
secretary@nba.nic.in www.nbaindia.org

5th Floor, CSIR Road, TICEL Bio Park,
Taramani, Chennai - 600 113, Tamil Nadu, India.
5 वां तल, सीएसआईआर रोड, टाइसल बायो पार्क,
तरमणि, चेन्नई - 600113 तमिल नाडु, भारत.

NBA/TechAppl/9/3074/19/20-21/1070 20.07.2020

By email only

To
Dr.Rajani Jaiswal Ph.D,
Manager-Intellectual Property,
Plant Variety Protection,
Contractual and Relationship Management,
Bioseed Research India,
Plot No.234, B Block, Phase-II, Kavuri Hills,
Hyderabad-500 033.

Madam,

Sub: Execution of agreement for Access of Bioresource for Research, (Form-I) application under Section 3 read with Section 19 (1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 – reg.

Ref: Your application in Form-I received on 12.12.2018.

With reference to your application cited in reference, preferred under Section 3 read with Section 19(1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 for "Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A., for Research Purpose" mentioned therein, an agreement is enclosed herewith to enable you to execute, and send two copies of stamp paper agreements (in Indian Rs. 20/- Non Judicial Stamp Paper) duly signed at the bottom of every page of the agreement including schedules along with witness signature, within one month from the date of receipt of this letter.

Further you are informed that, in pursuant to the coming into force of Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol), it is obligatory on each of the Party to the Protocol to provide at the time of access, a permit or equivalent document as evidence of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) and make it available to the CBD Access and Benefit sharing Clearing House (ABS-CH). This permit or equivalent document will serve as an Internationally Recognized Certificate of Compliance (IRCC) which can be used as an evidence of access approval granted by the competent Authority as per the provisions of the Biological Diversity Act, 2002.

In view of the same, the format of permit or equivalent document is enclosed herewith. This format has columns that have an option to mark certain information as confidential in nature. It is requested that, the information which in your opinion are to be kept confidential need to be specified in this enclosed format enabling NBA to furnish only such non-confidential information with ABS-CH. This will help in strengthening the monitory mechanism of the movement of biological resources and/or associated knowledge between the user and the provider countries and also enhance transparency about the utilization of the biological resources. In case of non-receipt of filled IRCC format along with the signed stamp paper agreements it will be deemed that you do not require any specific information to be kept confidential by the NBA.

On receipt of the above said documents, the National Biodiversity Authority will grant approval in the form of a written agreement duly signed by the authorized officer of the Authority.

Yours faithfully,

J. Justin Mohan

(J. Justin Mohan)
Secretary, NBA

Encl.:

1. Copy of the Model Agreement.
2. IRCC Form
3. Copy of Notification of Designated National Repositories

Copy to:

Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033.

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a4/c

AGREEMENT FOR ACCESS AND BENEFIT SHARING

(Form-I – Access for Research)

(Under the Biological Diversity Act, 2002 and Rules, 2004 and Guidelines on ABS Regulations, 2014)

(This Agreement is made under the context of Office Memorandum No. C-12025/8/15-CS-III dated 10.09.2018 issued by MoEF&CC under para 4 and 5)

This Agreement is made and entered on this ..... day of .....20..... at Chennai, India

Between

National Biodiversity Authority, a statutory body established under the Biological Diversity Act, 2002, having its head office at5th Floor, TICEL Bio Park, Taramani, Chennai-600 113, Tamil Nadu, India (hereafter "**NBA**"), acting through and represented by the Secretary, NBA/authorized signatory of NBA, being the person authorized to execute this Agreement.

And

M/s. DCM Shriram Limited, India, incorporated in India having its registered office at 1st Floor, Kanchenjunga Building, 18, Barakhamba Road, New Delhi-110 001, India, (hereafter the "**Applicant**"), acting through and represented by Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033, India, being the person authorized to execute this Agreement on behalf of the Applicant as specified in Annex C. *Hereafter, referred to as the "Parties" and individually as a "Party".*

WHEREAS the NBA is the authority established under the Biological Diversity Act, 2002 (hereafter "**the Act**") authorized to grant approval for the purpose set forth herein and to determine terms and conditions to secure fair and equitable sharing of benefits arising out of the use of biological resources, knowledge and practices associated with their use;

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WHEREAS the Applicant has submitted an application in Form-**I** (Appl.No.3074) received on 12.12.2018 under the Biological Diversity Rules, 2004 (hereafter the "**Rules, 2004**") to seek approval from NBA;

WHEREAS under the Rules and the guidelines on access to biological resources and/or associated knowledge and benefit sharing regulations, 2014 made under the Act, the approval shall be in the form of a written agreement duly executed between the Parties (hereafter the "**Agreement**");

AND the Parties have entered into this Agreement for access and benefit sharing according to the terms and conditions set out below.

NOW the Parties agree as follows:

1. <u>Definition</u>

For the purpose of this Agreement, the expression ***"Effective Date"*** shall mean the date on which both the parties sign this Agreement. In case the parties sign on different dates, the effective date shall be the date signed by NBA;

2. <u>Terms and Conditions of the Agreement</u>

2.1 Grant of approval

The NBA hereby grants approval for the accessed/accessing biological resources and/or associated knowledge as described in **Annex A** for the purpose of research subject to such other terms and conditions set forth in this Agreement.

2.2 Scope and extent

The approval is limited to the extent and for the purpose for which it is accorded under the appropriate Annexes.

2.3 Period

2.3.1 *Period of Access* - The period of access under this agreement is NIL

2.3.2 *Period of Agreement* - This Agreement shall remain in force for a period of three years from the effective date of this Agreement. The period of this Agreement may be extended by way of an amendment to this Agreement under clause 13 of this Agreement.

2.3.3 Notwithstanding the above, this Agreement shall remain in force until the Applicant fulfils all the obligations as required under this Agreement.

However, with respect to the benefit sharing obligations, the Applicant shall share benefits as specified under Schedule A of this Agreement as long as the Applicant derives monetary benefits out of the utilisation of the approved quantity of biological resources.

2.4 Transfer to third party or by operation of law

The rights conferred under this Agreement and the approval granted is non-transferable and non-assignable to any third party except as provided by law.

3. Obligations of the Applicant

3.1 The Applicant shall share benefits as stipulated under Schedule A.

3.2 The Applicant shall also pay such sum, if any, as levied by the Biodiversity Management Committee(s) for the accessed/collected approved quantity of biological resources from its/their concerned jurisdiction(s).

3.3 The permission granted to the Applicant is limited to that granted by the NBA in Annex-B of Schedule B of this Agreement. All other activities of the Applicant which require NBA's prior approval will need to be applied separately in the concerned Form under Rules, 2004.

3.4 The Applicant shall minimize environmental impacts of collecting activities.

3.5 The Applicant shall abide by all the terms and conditions of the Agreement and other related legislations in force including any clearances required from the concerned authorities, such as the Chief Wildlife Warden in protected areas and forest authorities in other forest areas.

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3.6 The Applicant shall, in the event of any material changes in the management or the shareholding of the Applicant that alters the control structure of the Applicant including changes brought by a transfer of business units, acquisition, merger, demerger or any other kind of corporate restructuring, intimate and submit all related documents to NBA within **90 days** from the completion of that event. Subsequent to the said intimation, NBA shall decide whether this Agreement shall be amended as per clause 13 or a fresh approval is required. NBA's decision in this regard shall be final.

3.7 The Applicant shall have India as its first source of supply and/or cultivation of biological resources for the commercial utilization of biological resources/commercialization of IPR as the case may be.

3.8 The Applicant shall in the event of any breach of this Agreement pay such compensation commensurate with the damage incurred to the Republic of India or to the benefit claimers as decided by the appropriate forum.

3.9 The Applicant shall keep all the relevant records that serve as a proof of the monetary benefits shared by the Applicant with NBA or the concerned benefit claimers as the case may be, together with supporting documents. This may be submitted to NBA as specified from time to time and such records shall be retained for at least three (3) years after the termination of this Agreement.

3.10 NBA shall have the right to regulate /monitor the activities approved under this Agreement, by itself or through any appropriate agency as it may deem fit.

3.11 In case the Applicant intends to commercially utilize the biological resources for which access was approved under this Agreement, the Applicant shall take prior approval of NBA.

3.12 In case the activities lead to an invention and an application for an IPR is made, prior approval of the NBA shall be obtained as required under Section 6 of the Act.

3.13 The Applicant shall not transfer the results of Research to any person without NBA's prior Approval.

3.14 The applicant shall take proactive steps to educate their staff, partners and collaborators about the provision of the BD Act, 2002.

3.15 Being aware of the requirements under the Biological Diversity Act, the applicant hereby undertakes to comply with its provisions in all future activities.

3.16 The applicant shall organize awareness programs within 3 months from the date of execution of this agreement with regard to the compliance of the BD Act and submit a detailed report within one month from the conclusion of the Awareness program conducted by the applicant.

3.17 The approved quantity of biological resources are Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A.

3.18 ***Status Reports***

The Applicant shall submit a status report for each reporting year not later than two months of the end of each reporting year in the prescribed format of NBA.

3.19 ***Deposit of voucher specimen –***

The Applicant shall deposit the voucher specimen of biological material/type specimens in the institutions notified as designated repositories by the Central Government and the receipt received from such designated repository shall be submitted to NBA within 30 days from the date of first access of the approved biological resources.

4. Fair and Equitable Benefit Sharing

4.1 The Applicant shall share benefits as per Schedule A in monetary mode.

4.2 The Applicant shall make the payment preferably by way of demand draft or any other approved mode of payment and the same shall be drawn in the name of "**National Biodiversity Fund**".

5. Written Notice

5.1 Any communication including serving notices under this Agreement, shall be in writing and communicated by Registered post with acknowledgement due or e-mail or fax in the address mentioned hereunder.

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If to NBA:

The Secretary, NBA, 5th Floor, TICEL Bio-Park, CSIR Road, Taramani, Chennai-600 113, Tamil Nadu, India.
E-mail:- secretary@nba.nic.in

If to the Applicant:

M/s. DCM Shriram Limited, India, 1st Floor, Kanchenjunga Building, 18, Barakhamba Road, New Delhi-110 001, India.

With a copy to the applicant's/Representative/Attorney/agent:

Dr.Paresh Verma, President, M/s. Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033, India.
E-mail:- paresh.verma@bioseed.com, Cell:+09347076327.

5.2 Notice is deemed to have been given if duly communicated in accordance with the Indian Contract Act, 1872 and the Information Technology Act, 2000 and related Indian legislations.

5.3 Any change in the address/email address/fax of the Parties shall be notified to the other Party within **15 days** of such change by way of a notice.

6. Procedure for imposing penalty in case of breach.

6.1 If NBA has prima facie evidence to the effect that the Applicant has committed a breach of any of the terms of this Agreement, NBA shall send a written notice to the Applicant communicating the default or details of the breach within **30 days** of the discovery of that event, giving an opportunity to be heard to the Applicant.

6.2 The Applicant shall within **30 days** from the date of serving of such notice respond in writing to NBA.

6.3 Upon receiving such explanation from the Applicant, NBA shall take into account the explanation and decide if there is a breach committed by Applicant or not. In the event that the NBA does not receive such explanation from the Applicant, NBA shall send final notice to the Applicant. If the Applicant responds within 30 days, NBA shall be taken into account the explanation and decide on the breach. If the Applicant does not respond within 30 days, the Applicant will be deemed to be in breach of this Agreement.

6.4 In the event that the Applicant does not respond to the final opportunity given by NBA or in the event that NBA decides that there is a breach of this Agreement, NBA has the power to issue any order executable under section 53 of the Act including imposition of penalty of a sum which may extend to one lakh rupees as determined by NBA from time to time and in addition direct the Applicant to pay such compensation commensurate with the damage incurred by the Republic of India or the benefit claimers.

6.5 Penalties imposed by NBA under this clause shall be in addition to any recovery of any monetary benefits due, compliance with directions or orders issued by NBA and without prejudice to any other rights under this Agreement.

6.6 Notwithstanding any of the clauses above, in addition to imposition of penalty, if the breach or default committed by the Applicant amounts to violation of any of the provisions of the Act, appropriate legal proceedings shall be initiated under Section 61 of the Act.

7. **Termination and Revocation**

7.1 Subject to clause 2.3, the Agreement shall stand automatically terminated on the completion of the period agreed to between the Parties including the period of extension agreed to, if any. On termination, the Applicant shall comply with obligation under clause 7.3.

7.2 During the subsistence of this Agreement, the Applicant shall have an option to initiate termination of this Agreement by sending a request to NBA in the form of a notice stating valid reasons for the same. On receipt of the same, it shall be the discretion of NBA to accept the reasons specified by the Applicant or not. In the event of its decision to terminate, NBA shall intimate to the applicant by way of a notice within

90 days of making the decision. On receipt of such a notice from NBA, the applicant shall comply with clause 8.3.

7.3 Upon termination of the Agreement, the Applicant shall :

7.3.1 Immediately cease all use of biological resources and/or knowledge associated thereto.

7.3.2 Pay all outstanding dues including the benefit sharing amount and submit status report dues, if any, due until then by the Applicant within 45 days of the date of termination of this Agreement.

7.4 NBA may withdraw the approval granted and revoke this Agreement in case of occurrence of any of the conditions mentioned in Rule 15 of the Rules, 2004 or if the applicant performs activities contrary to any restriction or prohibition imposed by NBA or under the Act and Rules, 2004.

7.5 In case of death of the Applicant, before the term of this Agreement or before the termination of this Agreement due to factors mentioned in clauses above, the Agreement shall stand terminated and all the obligations of the Applicant ceases to exist.

8. Liabilities and Indemnification

8.1 NBA shall not be liable for any loss or damage whatsoever caused to the Applicant due to revocation of approval for access and/or termination of this Agreement on any grounds whatsoever.

8.2 The Applicant shall be solely responsible for any claims by third parties arising from the Applicant's acts or omissions in the course of performing this Agreement and under no circumstances shall the NBA be held responsible or liable for any claims by such third parties.

8.3 The Applicant shall pay such sum for breach committed by the Applicant as determined by NBA under clause 6 of this Agreement which is in addition to the compensation commensurate with the damage incurred by the Republic of India or the benefit claimers that the Applicant is liable to pay as decided by the appropriate forum.

8.4 The Applicant shall indemnify and save NBA and its employees, members and officers, from and against all claims, demands, losses, damages, costs (including attorney fees), actions, suits or other proceedings, all in any manner based upon, arising out of, related to, occasioned by or attributable to, any acts or conduct of the Applicant, its employees or agents, (whether by reason of negligence or otherwise) in the performance by or on behalf of the Applicant of the provisions of this Agreement or any activity undertaken or purported to be undertaken under the authority or pursuant to the terms of this Agreement.

9. Confidentiality

9.1 Upon request from the Applicant, NBA shall keep as confidential that information which is desired to be kept as confidential by the Applicant.

9.2 Notwithstanding the above, confidential information may be disclosed by NBA to the extent required by any law or regulation or order of any authority established by law having jurisdiction over any of the Parties or in the opinion of NBA such disclosure becomes necessary to deal with any emergency situations, or national or public interest.

10. Arbitration

10.1 In case any dispute or difference arises out of the interpretation of any clauses of the Agreement, either of the Parties may give the other Party a notice clearly identifying and providing details of the dispute. On receipt of such notice by the other Party, the Parties shall try to settle such dispute/difference amicably between them by negotiating in good faith within **30 days** of the receipt of such notice.

10.2 If the dispute or difference is not resolved by such negotiations within the period mentioned, the dispute or difference shall be referred to the sole arbitrator appointed by NBA.

10.3 The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The place of arbitration shall be Chennai, India.

10.4 The award of the Arbitrator shall be final, conclusive and binding on the Parties. The Arbitrator shall be competent to decide whether any matter or dispute or difference referred to him falls within the purview of arbitration.

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11. Governing Law and Jurisdiction

11.1 This Agreement is governed by and is to be construed in accordance with the laws of India without regard to the principles of conflicts of laws subject to the provisions of arbitration clauses to this Agreement.

11.2 In the event of a dispute or difference not settled through arbitration as specified in clause 10, the Parties shall irrevocably and unconditionally submit to the appropriate court of jurisdiction in Chennai.

11.3 As regards all other aspects and the terms and conditions not provided for this in this Agreement, they shall be governed by the provisions of the Act read with Rules and Regulations made thereunder.

11.4 This Agreement shall not in any way constitute or be presumed to constitute a partnership or a joint venture or a joint enterprise in any way or for any purpose between the Parties hereto or make the parties in any way liable as partners of or as agents for one another.

12. Severability

12.1 If any part of this Agreement is declared or held improper or unjustifiable or invalid by a Court of Law for any reason, the deficiency or invalidity of that part shall not affect the validity of the remainder which will continue in full force and effect and be construed as if the Agreement had been executed without the invalid portion.

12.2 However the remainder of the Agreement shall not come into force unless the remainder is consistent with the declaration or order or judgment of the Court.

13. Amendment

No amendment to this Agreement shall be valid or binding upon the Parties, unless agreed upon by the Parties, in writing, and signed on behalf of each Party by their duly and legally authorized persons and such amendment shall be made as a supplementary agreement along with Annexes, as applicable.

14. Entirety of Agreement

This Agreement constitutes the culmination of all prior negotiations, understanding, representations and commitments and sets down the complete terms and conditions of Agreement between the parties as to the subject matter.

15. Annex and Schedules

15.1. The Schedules and their Annexes attached to this Agreement or Schedule that may be added subsequently by way of an amendment under the provisions of this Agreement, shall form an integral part of this Agreement and shall be binding on the Parties.

15.2. This Agreement has been executed in duplicate, each of which shall be deemed to be original; one shall be retained by the NBA and other by the Applicant and both shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have signed in this Agreement on the day month and the year aforesaid in this Agreement.

.....	.....
Signed by the Authorized person of the Authority	Signed by the Applicant
For National Biodiversity Authority	**For the Applicant**
Witnesses	**Witnesses**
1. Signature	1. Signature
Name	Name
Address	Address
2. Signature	2. Signature
Name	Name
Address	Address

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SCHEDULE A – BENEFIT SHARING COMPONENT

Upfront Payment of Rs. 2, 19,000/-

73 BR (germplasm) x1unit x1time x3000(Agri./market/institute/cultivated)=2, 19,000/-

Total=2, 19,000/-

SCHEDULE B – ANNEXES TO BE ATTACHED

ANNEX A - Details of biological resources and/or knowledge associated thereto and geographical locations

ANNEX B - Details of research

ANNEX C- Authorization made by the Applicant *(if any)* for signing the Agreement and /or accesses the biological resources and/or knowledge associated thereto

17/7/20

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PERMIT OR ITS EQUIVALENT CONSTITUTING AN INTERNATIONALLY RECOGNIZED CERTIFICATE OF COMPLIANCE (IRCC)

Internationally Recognised Certificate of Compliance (**IRCC**) is a globally recognised compliance certificate that serves as an evidence of the decision by the Parties to grant permit to the Applicant. The permit issued by the National Biodiversity Authority (*the competent national authority under the Nagoya Protocol*) will facilitate generation of IRCC and will be published online in the Access and Benefit Sharing Clearing House (ABSCH) (https://absch.cbd.int/)

By procuring an IRCC, the Applicant can globally demonstrate their legal compliance with the domestic Access and Benefit Sharing (ABS) legislation (in the present case with the Biological Diversity Act, 2002 and Rules, 2004). Applicant can also keep certain information confidential, as the IRCC document is publicly available. For this purpose, the Applicant shall fill in the following details as given in the table below:

S. No	Particulars	Details about the nature of information *(Please tick (✓) if yes or No)*
1	Name of the Applicant	*Do you require your name to be kept confidential?* **Yes / No**
2	Subject matter of approval	*Do you require the biological resources/ knowledge for which the approval was given to be kept confidential?* **Yes / No**
3	Keywords that describe the subject matter of approval	*Do you require the keywords that describes or indicates the biological resources/ knowledge for which the approval was given to be kept confidential?* **Yes / No**
4	Type of activity to be undertaken using the subject matter of approval	*Do you require the activity (research/commercial utilisation/bio-survey and bio-utilisation/IPR/transfer of biological resources/knowledge) to be carried out using the approved biological resources/knowledge to be kept confidential?* **Yes / No**

Please sign the form and attach it along with the signed stamp paper ABS Agreement and submit to NBA.

Applicant(s) Signature

Disclaimer: Please note that the above format does not constitute an access permit in itself and only validates the permit.

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No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 28th August, 2008

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, the Ministry of Environment and Forests, Govt. of India, hereby designates the following institutions to act as repositories under the Act for different categories of biological resources:

S.No.	Name of the Institution	Category of biological resource
1.	Botanical Survey of India, Kolkata	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae)
2.	National Bureau of Plant Genetic Resources, New Delhi	Plant genetic resources
3.	National Botanical Research Institute, Lucknow	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae)
4.	Indian Council of Forestry Research and Education, Dehradun (Forest Research Institute, Dehra Dun; Institute of Forest Genetics and Tree Breeding, Coimbatore; and Tropical Forest Research Institute, Jabalpur)	Flora (Angiosperms, Gymnosperms, Pteriodophytes, Bryophytes, Lichens, Macrofungi, Macroalgae). For TFRI only - Fauna (termites, butterflies, moths)
5.	Zoological Survey of India, Kolkata	Fauna
6.	National Bureau of Animal Genetic Resources, Karnal, Haryana	Genetic resources of domestic animals
7.	National Bureau of Fish Genetic Resources, Lucknow, U.P.	Fish genetic resources
8.	National Institute of Oceanography, Goa	Marine flora and fauna
9.	Wildlife Institute of India, Dehradun	Faunal resources in Protected Areas
10.	National Bureau of Agriculturally Important Micro-organisms, Mau Nath Bhanjan, U.P.	Agriculturally important micro-organisms
11.	Institute of Microbial Technology, Chandigarh	Microorganisms
12.	National Institute of Virology, Pune	Viruses
13.	Indian Agricultural Research Institute, New Delhi	Microbes/Fungi

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2. In accordance with sub-section (2) of Section 39 of the Act, the designated repositories shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repositories at serial No.1,3,4,5,10,11,12 and 13 shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

4. This order issues with the approval of the competent authority.

28.08.03

(A.K. Goyal)
Joint Secretary to the Government of India

To

1. Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
2. Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.
3. Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
4. Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.
5. Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
6. Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
7. Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
8. Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
9. Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
10. Director, National Bureau of Agriculturally Important Micro-organisms, Kusmaur (Pos. Bag Kaithauli), Post Box. No. 6. Mau Nath Bhanjan, Uttar Pradesh- 275 101.
11. Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
12. Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
13. Director, Indian Agricultural Research Institute, Pusa Road, New Delhi.

Copy to the Chairman, National Biodiversity Authority, 475, 9th South Cross Street, Kapaleeswarar Nagar, Nelankarai, Chennai-600 04.

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F. No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 12th September, 2012

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, and in continuation of this Ministry's Order dated 28th August, 2008, the Ministry of Environment & Forests, Government of India, hereby designates the National Bureau of Agriculturally Important Insects as the repository under the Act for agriculturally important insects, mites and spiders.

2. In accordance with sub-section (2) of Section 39 of the Act, the designated repository shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repository shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

4. This order issues with the approval of the competent authority.

(Hem Pande)
Joint Secretary to the Government of India

To

1. The Director, National Bureau of Agriculturally Important Insects (NBAII), P.O. No. 2491, H.A. Farm Post, Bellary Road, Bangalore-560 024
2. Directors of institutions designated as repositories vide order dated 28.8.12:

   i. The Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
   ii. The Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.
   iii. The Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
   iv. The Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.

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v. The Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
vi. The Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
vii. The Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
viii. The Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
ix. The Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
x. The Director, National Bureau of Agriculturally Important Micro-ogranisms, Kusmaur (Post Bag Kaithauli), Post Box. No. 6, Mau Nath Bhanjan, Uttar Pradesh- 275 101.
xi. The Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
xii. The Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
xiii. The Director, Indian Agricultural Research Institute, Pusa Road, New Delhi-110012.

Copy to:

i. The Chairman, National Biodiversity Authority, Chennai
ii. The Secretary, National Biodiversity Authority, Chennai

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F. No.26-15/2007-CSC
Government of India
Ministry of Environment and Forests
(CS-III Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

Dated the 8th July, 2013

ORDER

Subject :- Designation of repositories under the Biological Diversity Act, 2002.

In exercise of the powers conferred by sub-section(1) of Section 39 of the Biological Diversity Act, 2002, read with sections 6 and 12 of Notification S.O. 1911(E), dated 8th November, 2006, and in continuation of this Ministry's Orders dated 28th August, 2008 and 12th September, 2012, the Ministry of Environment & Forests, Government of India, hereby designates the Microbial Culture Collection (MCC), National Centre for Cell Science (NCCS), Pune as the repository under the Act for microorganisms.

2. In accordance with sub-section (2) of Section 39 of the Act, the designated repository shall also keep in safe custody the representative samples, as voucher specimens of the biological material accessed in accordance with the provisions of Section 19 of the Act, alongwith relevant information related to the material, such as DNA fingerprints, if so required by the National Biodiversity Authority (NBA).

3. The designated repository shall also keep in safe custody the type specimen deposited by any person who discovers a new taxon, in accordance with sub-section (3) of Section 39 of the Act.

8/7/13

(Hem Pande)
Additional Secretary to the Government of India

To

1. The Scientist 'F' and Principal Investigator, Microbial Culture Collection (MCC), National Centre for Cell Science (NCCS), NCCS Complex, University of Pune Campus, Ganeshkhind, Pune- 411 007
2. The Secretary, Department of Biotechnology, Ministry of Science & Technology, CGO Complex, Lodhi Road, New Delhi-110 003
3. Directors of institutions designated as repositories vide order dated 28.8.12 and 12.9.12:

   i. The Director, Botanical Survey of India, CGO Complex, 3rd MSO Building, Block F, DL Block, Sector 1, Salt Lake City, Kolkata – 700 064.
   ii. The Director, Zoological Survey of India (ZSI), Prani Vigyan Bhawan, M- Block, New Alipore, Kolkata - 700 053.

iii. The Director, National Bureau of Plant Genetic Resources, Pusa Campus, New Delhi-110 012.
iv. The Director, National Botanical Research Institute, Rana Pratap Marg, P. B. No. 436, Lucknow – 226 001, U.P.
v. The Director General, Indian Council of Forestry Research & Education, P. O. New Forests, Dehradun – 248 006, Uttarakhand.
vi. The Director, National Bureau of Animal Genetic Resources, Makrampur Campus, G.T. Road Bye Pass, Near Basant Vihar, P.O. Box 129, Karnal (Haryana)-132001.
vii. The Director, National Bureau of Fish Genetic Resources, Canal Ring Road, P.O. Dilkusha, Telibagh, Lucknow- 226 002, Uttar Pradesh.
viii. The Director, National Institute of Oceanography, Dona Paula – 403 004, Goa.
ix. The Director, Wildlife Institute of India, P.B. No. 18, Chandrabani, Dehradun –248 001, Uttarakhand.
x. The Director, National Bureau of Agriculturally Important Micro-ogranisms, Kusmaur (Post Bag Kaithauli), Post Box. No. 6, Mau Nath Bhanjan, Uttar Pradesh- 275 101.
xi. The Director, Institute of Microbial Technology, Sector 39-A, Chandigarh – 160 036.
xii. The Director, National Institute of Virology, 20-A, Dr. Ambedkar Road, P.B.No.11, Pune- 411 001.
xiii. The Director, Indian Agricultural Research Institute, Pusa Road, New Delhi-110012.
xiv. The Director, National Bureau of Agriculturally Important Insects (NBAII), P.O. No. 2491, H.A. Farm Post, Bellary Road, Bangalore-560 024

Copy to:

i. The Chairman, National Biodiversity Authority, Chennai
ii. The Secretary, National Biodiversity Authority, Chennai

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Annexure I

Watermelon

Sl. No.	DETAIL NAME	SOURCES OF ACCESSION	DATE	PURPOSE
1	SUGAR BABY	Market, West Bengal	Jan-05	CHECK
2	AMRIT	Market, Own	Jan-05	CHECK
3	BIO SUDHA	Market, Bangalore	Jan-05	CHECK & BREEDING
4	BIO SHEETAL	Market, Bangalore	Jan-05	CHECK
5	SUGAR BALL	Market, West Bengal	Jan-05	CHECK
6	MADHUBALA	Market, Bangalore	Jan-05	CHECK
7	NS-295	Market, Bangalore	Jan-05	CHECK
8	GS-18	Market, Bangalore	Jan-05	CHECK
9	MHW-6	Market, Bangalore	Jan-05	CHECK
10	MHWM-285 (SUCHITRA)	Market, Bangalore	Jan-05	CHECK
11	APORVA	Market, Bangalore	Jan-05	CHECK & BREEDING
12	SANTRUPTI	Market, Bangalore	Jan-05	CHECK
13	5001	Field collection, Karnataka	Jan-05	CHECK
14	5002 (KLONDIKE STRIPED)	Field collection, Karnataka	Jan-05	CHECK
15	5003	Field collection, Karnataka	Jan-05	CHECK
16	5004	Field collection, Karnataka	Jan-05	CHECK
17	5005	Field collection, Karnataka	Jan-05	CHECK
18	5006	Field collection, Karnataka	Jan-05	CHECK & BREEDING
19	5007	Field collection, Karnataka	Jan-05	CHECK
20	UNKNOWN	Market, Unknown	Jan-05	CHECK
21	NIRMAL-148	Market, Hyderabad	21.07.05	CHECK
22	NAMDHARI (NS-750 (450))	Market, Hyderabad	21.07.05	CHECK
23	INDAM 9307	Market, Hyderabad	31.01.06	CHECK
24	MADHUBALA	Market, Hyderabad	31.01.06	CHECK
25	KASHISH	Market, Hyderabad	24.02.06	CHECK
26	RIA	Market, Hyderabad	24.02.06	CHECK
27	GS-9	Market, Hyderabad	24.02.06	CHECK
28	V. CUH-999	Market, Hyderabad	24.02.06	CHECK
29	US 2144	Market, Bangalore	not known	CHECK
30	Water melon	Field collection, Karnataka	not known	CHECK
31	KIRAN	Market, Hyderabad	not known	CHECK

32	ROJA	Market, Hyderabad	not known	CHECK
33	PAKHEEZA	Market, Bangalore	not known	CHECK
34	OZEKI-777	Market, Bangalore	not known	CHECK
35	US 2144	Market, Hyderabad	not known	CHECK
36	SUPER DRAGON	Market, Gujarat	not known	CHECK
37	AUGUSTA	Market, Odisha	not known	CHECK
38	SUGAR BABY	Market, Hyderabad	not known	CHECK
39	ARUN	Market, Hyderabad	not known	CHECK
40	GOSUN NO. 295	Market, Hyderabad	not known	CHECK
41	CHAMPION (786)	Market, Bangalore	not known	CHECK
42	ROYAL 295	Market, Bangalore	not known	CHECK
43	NO. 999	Market, Delhi	not known	CHECK
44	PS-298	Market, Delhi	not known	CHECK
45	SUDHA	Market, Bangalore	not known	CHECK
46	MOHINI	Market, Bangalore	not known	CHECK
47	BSW-02	Seed Export, Dharwar	not known	CHECK
48	BSW-03	Seed Export, Dharwar	not known	CHECK
49	BSW-04	Seed Export, Dharwar	not known	CHECK
50	BSW-05	Seed Export, Dharwar	not known	CHECK
51	BSW-06	Seed Export, Dharwar	not known	CHECK
52	BSW-07	Seed Export, Dharwar	not known	CHECK
53	BSW-08	Seed Export, Dharwar	not known	CHECK
54	BSW-09	Seed Export, Dharwar	not known	CHECK
55	OZEKI-777	Market, Bangalore	not known	CHECK
56	BEJO-2000	Market, Jalna	not known	CHECK
57	MEETHA	Market, Delhi	not known	CHECK
58	COOL KING 12	Market, Pune, MH	not known	CHECK & BREEDING
59	SUGAR PACK	Market, Pune, MH	not known	CHECK
60	BLACK BOY	Market, Pune, MH	not known	CHECK
61	INDAM PATANGRA	Market, Hyderabad	not known	CHECK
62	TAJUMA	Market, Bangalore	04.10.17	CHECK
63	KANHA-35	Market, Bangalore	04.10.17	CHECK
64	SUMAN-235	Market, Bangalore	04.10.17	CHECK
65	IBH-23	Market, Bangalore	04.10.17	CHECK
66	YAMUNA	Market, Bangalore	04.10.17	CHECK
67	KIRAN-2	Market, Bangalore	27.10.17	CHECK

68	AUGUSTA	Market, Odisha	17.05.18	CHECK & BREEDING
69	POONAM	Market, Odisha	17.05.18	CHECK
70	TSW-01	Market, Bangalore	15.06.18	CHECK
71	KANHA-35	Market, Bangalore	15.06.18	CHECK
72	ANMOL	Market, Bangalore	18.09.18	CHECK
73	SUPRIT	Market, Bangalore	18.09.18	CHECK & BREEDING

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/14

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ANNEXURE- R 14

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Email **advisorlaw@nba.nic.in**

Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

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From : K. Chitrarasu <advisorlaw@nba.nic.in> Mon, Jul 20, 2020 05:18 PM

Subject : Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg 6 attachments

To : rajani jaiswal <rajani.jaiswal@bioseed.com>

Cc : paresh verma <paresh.verma@bioseed.com>, Tamilarasan (Legal Section) M <tamil@nbaindia.in>, stephen <stephen@nbaindia.org>

NBA/TechAppl/9/**3074**/19/20-21/1071 (*through email only*) Date:20.07.2020

To
Dr.Rajani Jaiswal Ph.D,
Manager-Intellectual Property,
Plant Variety Protection,
Contractual and Relationship Management,
Bioseed Research India,
Plot No.234, B Block, Phase-II, Kavuri Hills,
Hyderabad-500 033.

Madam,

Sub: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application under Section 3 read with Section 19 (1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 – reg.

Ref: Your application in Form-I received on 12.12.2018.

With reference to your application cited in reference, preferred under Section 3 read with Section 19(1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 for access of "Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A.", mentioned therein, an agreement is enclosed herewith to enable you to execute, and send two copies of stamp paper agreements (in Indian Rs. 20/- Non Judicial Stamp Paper) duly signed at the bottom of every page of the agreement

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including schedules along with witness signature, within one month from the date of receipt of this letter.

Further you are informed that, in pursuant to the coming into force of Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol), it is obligatory on each of the Party to the Protocol to provide at the time of access, a permit or equivalent document as evidence of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) and make it available to the CBD Access and Benefit sharing Clearing House (ABS-CH). This permit or equivalent document will serve as an Internationally Recognized Certificate of Compliance (IRCC) which can be used as an evidence of access approval granted by the competent Authority as per the provisions of the Biological Diversity Act, 2002.

In view of the same, the format of permit or equivalent document is enclosed herewith. This format has columns that have an option to mark certain information as confidential in nature. It is requested that, the information which in your opinion are to be kept confidential need to be specified in this enclosed format enabling NBA to furnish only such non-confidential information with ABS-CH. This will help in strengthening the monitory mechanism of the movement of biological resources and/or associated knowledge between the user and the provider countries and also enhance transparency about the utilization of the biological resources. In case of non-receipt of filled IRCC format along with the signed stamp paper agreements it will be deemed that you do not require any specific information to be kept confidential by the NBA.

On receipt of the above said documents, the National Biodiversity Authority will grant approval in the form of a written agreement duly signed by the authorized officer of the Authority.

Yours faithfully,
Sd/-

(J. Justin Mohan)
Secretary, NBA

Encl.:

1. Copy of the Model Agreement.
2. IRCC Form
3. Copy of Notification of Designated National Repositories

Copy to: Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033.

262 roll C

Email **advisorlaw@nba.nic.in**

Execution of agreement for Access of Bioresource for Research (Form-I) application No. 3074 - reg

From : K. Chitrarasu <advisorlaw@nba.nic.in> Mon, Jul 20, 2020 05:23 PM

Subject : Execution of agreement for Access of Bioresource for Research (Form-I) application No. 3074 - reg 5 attachments

To : rajani jaiswal <rajani.jaiswal@bioseed.com>

Cc : paresh verma <paresh.verma@bioseed.com>, Tamilarasan (Legal Section) M <tamil@nbaindia.in>, stephen <stephen@nbaindia.org>

NBA/TechAppl/9/**3074**/19/20-21/1070 (*through email only*)

Date:20.07.2020

To
Dr.Rajani Jaiswal Ph.D,
Manager-Intellectual Property,
Plant Variety Protection,
Contractual and Relationship Management,
Bioseed Research India,
Plot No.234, B Block, Phase-II, Kavuri Hills,
Hyderabad-500 033.

Madam,

Sub: Execution of agreement for Access of Bioresource for Research, (Form-I) application under Section 3 read with Section 19 (1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 – reg.

Ref: Your application in Form-I received on 12.12.2018.

With reference to your application cited in reference, preferred under Section 3 read with Section 19(1) of the Biological Diversity Act, 2002 and Rule 14 of the Biological Diversity Rules, 2004 for "Watermelon-*Citrulluslanatus*-Plant 73 germplasm accessed and Commercilaised details enclosed in Annex – I as specified in Schedule – B, Annex – A., for Research Purpose" mentioned therein, an agreement is enclosed herewith to enable you to execute, and send two copies of stamp paper agreements (in Indian Rs. 20/- Non Judicial Stamp Paper) duly signed at the bottom of every page of the agreement including schedules along with witness signature, within one month from the date of receipt

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of this letter.

Further you are informed that, in pursuant to the coming into force of Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol), it is obligatory on each of the Party to the Protocol to provide at the time of access, a permit or equivalent document as evidence of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) and make it available to the CBD Access and Benefit sharing Clearing House (ABS-CH). This permit or equivalent document will serve as an Internationally Recognized Certificate of Compliance (IRCC) which can be used as an evidence of access approval granted by the competent Authority as per the provisions of the Biological Diversity Act, 2002.

In view of the same, the format of permit or equivalent document is enclosed herewith. This format has columns that have an option to mark certain information as confidential in nature. It is requested that, the information which in your opinion are to be kept confidential need to be specified in this enclosed format enabling NBA to furnish only such non-confidential information with ABS-CH. This will help in strengthening the monitory mechanism of the movement of biological resources and/or associated knowledge between the user and the provider countries and also enhance transparency about the utilization of the biological resources. In case of non-receipt of filled IRCC format along with the signed stamp paper agreements it will be deemed that you do not require any specific information to be kept confidential by the NBA.

On receipt of the above said documents, the National Biodiversity Authority will grant approval in the form of a written agreement duly signed by the authorized officer of the Authority.

Yours faithfully,
Sd/-

(J. Justin Mohan)
Secretary, NBA

Encl.:

1. Copy of the Model Agreement.
2. IRCC Form
3. Copy of Notification of Designated National Repositories

Copy to: Dr.Paresh Verma, President, M/s.Bioseed South East Asia & Research Director – Bioseed Research India, Plot No.234, B Block, Phase-II, Kavuri Hills, Hyderabad-500 033.

Designated repositories_2008.pdf

264
99/C

285 KB

Designated_repositories_2012.pdf
431 KB

Designated_repositories_2013.pdf
806 KB

IRCC Form.pdf
528 KB

FORM-I - AGREEMENT O.M.(Research).docx
32 KB

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/15

Pages - 265

ANNEXURE - R15

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Email **advisorlaw@nba.nic.in**

Re: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

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From : rajani jaiswal <rajani.jaiswal@bioseed.com> Tue, Jul 28, 2020 12:01 PM

Subject : Re: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

To : K. Chitrarasu <advisorlaw@nba.nic.in>

Cc : paresh verma <paresh.verma@bioseed.com>, tamil@nbaindia.in, stephen@nbaindia.org

Dear Sir,

Thanks for your email.

We would like to inform you that the Form I application NBA/TechAppl/9/**3074** /19/20-21/1071 was filed for obtaining the Biological Resource (BR)- *Watermelon-Citrulluslanatus* for Research purpose and not for commercial utilization. Therefore, according to our understanding the ABS agreement for commercial utilization of the said BR is not applicable to the said Form I application.

Thanks and Regards

BIOSEED

DCM SHRIRAM
Growing with trust

Rajani Jaiswal, Ph. D.
Manager-Intellectual Property, Plant Variety Protection, Contractual and Relationship Management

Bioseed Research India, a Division of DCM Shriram Limited

p: 04067066672 m: + 91 9949014790
a: Plot No. 234, B Block Phase II, Kavuri Hills
Hyderabad - 500 033, Telangana, India
w: bioseed.com/india/ ; https://www.dcmshriram.com/
e: rajani.jaiswal@bioseed.com

On Mon, Jul 20, 2020 at 5:19 PM K. Chitrarasu <advisorlaw@nba.nic.in> wrote:

NBA/TechAppl/9/**3074**/19/20-21/1071 *(through email only)* Date:20.07.2020

To
Dr.Rajani Jaiswal Ph.D,
Manager-Intellectual Property,

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/16

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ANNEXURE-R16
266 103/C

Email **advisorlaw@nba.nic.in**

Fwd: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

From : K. Chitrarasu <advisorlaw@nba.nic.in> Fri, Aug 14, 2020 12:42 PM

Subject : Fwd: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

To : rajani jaiswal <rajani.jaiswal@bioseed.com>

Cc : Saranya. Legal Section <saranya@nbaindia.in>

Dear Madam,

Sub: Execution of agreement for accessed Bio resource(watermelon- *citrulluslanatus)* for research and commercial utilization -reg

With respect to the trailing email,this is to to inform that as per decision of the Competent Authority, NBA has sent the benefit sharing agreement for both research and commercial utilization. It is expected of the applicant to execute both the agreements as directed by NBA to proceed further. To clarify on the benefit sharing component of commercial utilization agreement it is clearly mentioned that, when the applicant is going for commercialization of the product shall pay the benefit sharing of 0.5% on annual gross ex-factory sale minus Government taxes of the product from the date of commercialization.

Hence, both the research agreement and commercialization agreement has been sent to you for signing. In case, if you are not going for commercialization, it is not applicable to you. But in case, if you are going for commercialization, signing of agreement is mandatory.

Regards,
K.Chitrarasu,
Advisor(law),NBA

From: "rajani jaiswal" <rajani.jaiswal@bioseed.com>
To: "K. Chitrarasu" <advisorlaw@nba.nic.in>
Cc: "paresh verma" <paresh.verma@bioseed.com>, tamil@nbaindia.in, stephen@nbaindia.org
Sent: Tuesday, July 28, 2020 11:55:43 AM
Subject: Re: Execution of agreement for Access of Bioresource for Commercial utilization, (Form-I) application No. 3074 - reg

Dear Sir,

Thanks for your email.

We would like to inform you that the Form I application NBA/TechAppl/9/**3074**/19/20-21/1071 was filed for obtaining the Biological Resource (BR)- *Watermelon-Citrulluslanatus* for Research purpose and not for commercial utilization. Therefore, according to our understanding the ABS agreement for commercial utilization of the said BR is not applicable to the said Form I application.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/17

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ANNEXURE - R17 17

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Rajani Jaiswal, Ph. D.
Manager- Intellectual Property,
Variety Protection,
Contractual and Relationship Management
e-mail: Rajani.Jaiswal@bioseed.com
Tel: +91 40 67066666; 040 67066672
Fax: +91 40 67066606

BIOSEED

Bioseed Research India
Division of **DCM Shriram Limited** Plant
Plot No. 234, B Block,
Phase II,, Kavuri Hills, ,
Hyderabad-500033
Telangana, India

September 2, 2020

Via Courier

To,
The Secretary,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Subject: Execution of Agreement for Access of Biological Resource Form I application under Section 3, Section 19 and Rule 14 of the Biological Diversity Act, 2002 and Rules 2004.

Your Ref: NBA/TechAppl/9/**3074**/19/20-21/1070; email dt. 20.07.2020

Dear Sir,

Thank you for sending the draft of the Agreement for execution by us to complete the process of obtaining NBA approval to access Watermelon-*Citrullus lanatus* for research purpose, as mentioned in our application cited above.

Sir, you are kindly aware that as per the 'Procedure for access to biological resources and/ or associated traditional knowledge for research or bio-survey and bio-utilization for research' notified under Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014, in The Gazette of India dated 21 November 2014, the Agreement may include the upfront payment by applicant only in case the accessed biological resource has 'high economic value'. As clearly mentioned in our application, we are seeking approval to access above biological resources solely for 'Research' and not for 'Commercial utilization'. The sole purpose of conducting research on the said biological resources is to find out whether any useful product or technology of high economic value could be developed from these biological resources. Therefore, the biological resources, collected, do not have high economic value. Therefore, we are unable to understand why an upfront fee of Rs. 2,19,000/- has been included in Schedule A of the Agreement. May we also request you to please share as to how this upfront fee was arrived at.

However, if we are able to develop a useful product or technology through research conducted on these biological resources, which may be commercialized, we will be obligated to take NBA's prior approval, as per clause 3.12 of the agreement, and also comply with the ABS guidelines of the NBA which would in force at that time.

In view of the above, we request you to kindly send us the revised Agreement draft after removing the upfront payment in Schedule A of the Agreement.

Thanking you.

Sincerely

Rajani Jaiswal

IO(BS) 9/9

9/9/2020

TABM (60)

IC. 28/9/2020

ABS F DESK
Reg. No: 41 - 26
IN 9/9 OUT 10/9

DCM SHRIRAM

(OM)

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/18

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ANNEXURE-R18

268 108

Rameshkumar R <exelegal2@nbaindia.org>

Application in Form – I– Clarification on fixing upfront payment for research (3074) — reg.

NBA Technical <techbs@nba.nic.in> Fri, Oct 23, 2020 at 4:52 PM
To: rajani.jaiswal@bioseed.com
Cc: Ramesh kumar legal <exelegal2@nbaindia.org>, Anandhakumar <techasstb@nba.nic.in>

NBA/Tech Appl/9/3074/19/20-21/ 2533/ (Through email only) Date 23.10.2020

To

Dr. Rajani Jaiswal,

Manager - Intellectual Property, Variety Protection,

Contractual and Relationship Management,

Bioseed Research India, (Division of DCM Shriram Limited)

Plot no.234, B-Block, Kavuri Hills Phase-II,

Hyderabad – 500033.

Email: rajani.jaiswal@bioseed.com

Madam,

Sub: Application in Form – I– Clarification on fixing upfront payment for research – reg.
Ref: Your letter dated 2nd September 2020.

This has reference to your communication cited above, wherein you have raised certain concerns on executing the agreement with NBA. The following are the concerns raised and response of NBA:-

Sl.no.	Concerns raised	Response of NBA
1.	It was stated that upfront payment is applicable only for high economic value species, as per the gazette notification and informed that the accessed biological resources which are not having high economic value.	It is to inform that the application has been filed under the amnesty scheme introduced by the MoEFCC for obtaining post facto approval for the research conducted on the biological resources, without obtaining prior approval of NBA. While considering the application, the Authority fixed the upfront payment as well as stipulated other conditions to the applicant for compliance. Further, the applicant has commercialized the new hybrids/parental line developed from the accessed biological resources.
2.	It was also requested to share as to how this upfront fee was arrived.	The upfront payment was calculated based on the guidelines which are available in the NBA's website (www.nbaindia.org). http://nbaindia.org/uploaded/pdf/Guidelines_for_Upfront_Payment.pdf

2. In view of the above, you are requested to submit two copies of the duly signed agreement by the applicant's authorized representative at end of each page and send it to NBA within 15 days from the date of receipt of this communication for taking further action. The upfront payment should be paid before execution of the agreement.

Please acknowledge the receipt.

Yours faithfully,
Sd/-

(J. Justin Mohan)

Secretary, NBA

Letter - 3074.pdf
352K

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/19

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ANNEXURE-19

BIOSEED

To,
The Chairman,
The National Biodiversity Authority (NBA),
5th Floor, TICEL Bio Park,
CSIR, Road, Taramani,
Chennai - 600 113

Dt.13.01.2021

Subject: Removal of upfront payment in Schedule A to the benefit-sharing agreement in respect of application numbers 3120, 3090 and 3074

NBA Ref: 1) NBA/Tech Appl/9/3120/19/19-20/3246 dated 16.12.2020;
2) NBA/Tech Appl/9/3090/19/20-21/2534 dated 23.10.2020;
3) NBA/Tech Appl/9/3074/19/20-21/2533 dated 23.10.2020

Dear Sir,

We write with reference to the captioned subject and the above-referenced communications. We had sought for the waiver of the upfront payment clause vide letter dated September 2, 2020 in the proposed benefit-sharing agreements, because the Guidelines On Access To Biological Resources And Associated Knowledge And Benefit-Sharing Regulations, 2014 ("2014 Regulations") does not authorize the imposition of such upfront payment in our case.

We reiterate that these applications were filed specifically pursuant to the Office Memorandum No F.N.C-12025/8/15-CS-III dated September 10, 2018, Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India under which the NBA allowed any and all entities to seek ex post facto approvals under the Biological Diversity Act, 2002 for any activities/accessions in the past. The aforesaid Office Memorandum was purportedly issued as a direction by the Central Government under Section 48 of the Act, which states that such directions are binding on the NBA. The Office Memorandum states that such applications for ex post factor approvals would be considered in accordance with law, as if in the ordinary course. Having expressly invited such applications, including caption applications filed by us in those terms and conditions, we humbly submit that for the NBA to now threaten reprisals and legal proceedings is unfair and a violation of legitimate expectations, apart from it being a violation of Section 48 of the Act.

We humbly submit and reiterate that under the 2014 Regulations, monetary benefit-sharing is referred to in Regulations 3-4, both of which pertain to access for commercial utilization or for bio-survey and bio-utilization for commercial utilization. None of our eight applications falls in this category. Regulation 7 and Regulation 9 are also inapplicable to our case because our applications do not concern the transfer of any results of research or seek of IPR. Regulation 12, which is limited to transfer of access material to third parties, is also inapplicable to our case. In the circumstances, since our application pertains only to research, under regulations, no question of monetary benefits even arise at this stage. Undoubtedly, if and when this research results in any commercial benefits, we would gladly comply with the appropriate and applicable regulations and law relating to the sharing of such benefits.

Moreover, under Annexure 1 to the aforesaid 2014 Regulations, up-front payment is only one option or mode for sharing monetary benefits. It is not mandatory in all cases. Rather, when this is read in the light of the proviso to Regulation 1(2), it is clear that such option or mode of upfront payment applies only in the cases of biological resources having "high economic value" and even then, the said proviso only says that the benefit-sharing agreement "may" contain a clause for such upfront payment and that too, "as agreed between the NBA and applicant". Therefore, it is humbly submitted that even assuming without conceding that monetary benefits sharing even applies to our case, the 2014 Regulations do not apply for up-front payment.

Further, the calculation mentioned in Schedule A to the proposed agreements assumes, without any legitimate basis in law or in fact, that the benefit-sharing quantum for each accession is ▯ 3000. We humbly summit that there is no rationale or basis for this number.

We had only sought to put forth our submissions on the matter for your appropriate consideration. Therefore, we are shocked that your good self has threatened to initiate further action. We humbly request for this response to be taken on record and no action be taken against us. We reiterate and submit that the upfront payment clause may be removed.

We further pray that before any decision is reached by the NBA, we may be granted a personal hearing in the matter.

Yours Sincerely,

Paresh Verma
Research Director,
Bioseed Research India, a Division of DCM Shriram Ltd.

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/20

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ANNEXURE-20

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NBA

Kanthimeenakshi P <yplegal2@nbaindia.org>

virtual hearing- 22.02.2021-reg.

2 messages

Kanthimeenakshi P <yplegal2@nbaindia.org> Sat, Feb 20, 2021 at 12:35 PM
To: adarsh@akrlaw.in, "cc: Paresh Verma" <paresh.verma@bioseed.com>, Rajani Jaiswal <rajani.jaiswal@bioseed.com>
Cc: "K. Chitrarasu" <advisorlaw@nba.nic.in>, srexeadmn1 <srexeadmn1@nbaindia.org>

Sir/Madam,

As directed by Advisor (Law), NBA, I am writing this email to confirm the Virtual hearing as requested by the applicant before the competent Authority, NBA. The virtual hearing date is fixed on 22.02.2021 @ 5.00pm in the evening. The link for the meeting will be shared on 22.02.2021 (morning)
Kindly acknowledge the receipt of this email communication

Regards
Kanthi Meenakshi P,
Young Professional II,
Legal Section,
National Biodiversity Authority,
Taramani, Chennai.

Adarsh Ramanujan <adarsh@akrlaw.in> Sat, Feb 20, 2021 at 2:13 PM
To: Kanthimeenakshi P <yplegal2@nbaindia.org>, "cc: Paresh Verma" <paresh.verma@bioseed.com>, Rajani Jaiswal <rajani.jaiswal@bioseed.com>
Cc: "K. Chitrarasu" <advisorlaw@nba.nic.in>, srexeadmn1 <srexeadmn1@nbaindia.org>

Dear Sir/Madam,

That is fine for me. Thank you.

Best
AKR
Sent from mobile device. Excuse typos

From: Kanthimeenakshi P <yplegal2@nbaindia.org>
Sent: Saturday, 20 February, 2021, 12:35 pm
To: Adarsh Ramanujan; cc: Paresh Verma; Rajani Jaiswal
Cc: K. Chitrarasu; srexeadmn1
Subject: virtual hearing- 22.02.2021-reg.
[Quoted text hidden]

NGT, CHENNAI

Appeal No. 62 of 2021

ANNEXURE R/21

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124/c

Email **K. Chitrarasu**

ANNEXURE - R21

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Proceedings of the virtual hearing with National Biodiversity Authority on 22.02.2021 with respect to application no. 3120, 3090, 3074(Form I applications)

From : K. Chitrarasu <advisorlaw@nba.nic.in> Tue, Aug 10, 2021 04:18 PM

Subject : Proceedings of the virtual hearing with National Biodiversity Authority on 22.02.2021 with respect to application no. 3120, 3090, 3074(Form I applications)

1 attachment

To : rajani jaiswal <rajani.jaiswal@bioseed.com>, paresh verma <paresh.verma@bioseed.com>

Cc : Kanthimeenakshi P <yplegal2@nbaindia.org>

Madam,

Please find attached the proceedings of the virtual hearing with National Biodiversity Authority on 22.02.2021 with respect to application no. 3120, 3090, 3074(Form I applications) and forwarded for your compliance and necessary action. Kindly acknowledge the receipt of this email communication.

Thanking you,

Yours Sincerely,

K.CHITRARASU,
Advisor (Law),
National Biodiversity Authority,
TICEL Bio Park, **5th Floor,**
CSIR Road, Taramani,
Chennai- 600 113.

Tel: 044-2254 2777
Fax: 044-2254 1075

proceedings.pdf
1 MB

National Biodiversity Authority

(A statutory body under the Ministry of Environment, Forest and Climate Change, Government of India)

सत्यमेव जयते

Tel: +91 44 2254 1071
Fax: +91 44 2254 1074
Email: law@nbaindia.in
Web: www.nbaindia.org

TICEL Bio Park,
5thFloor, CSIR Road,
Taramani,Chennai – 600 113.
Tamil Nadu, India.

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NBA/Tech Appl/9/3074/19 /1206 10.08.2021

To

Mr.Paresh Verma,

Research Director,

M/s.Bioseed Research India, a Division of DCM Shriram Ltd.

Plot no:234, B-Block, Kavuri Hills Phase- II,

Hyderabad- 500033.

Sir,

Sub: Proceedings of the Virtual hearing- 22.02.2021-reg.

Ref: Your application NBA Appl: 3074,3090, 3120 -Form - I received on 12.12.2018.

With reference to the above-cited subject, National Biodiversity Authority has conducted a Virtual hearing for 3 applications (NBA Appl: 3074,3090, 3120) on 22.02.2021. Kindly find the enclosed copy of the Proceedings for your compliance.

O/C

Yours faithfully,

K. C 10/8/2021

(K. CHITRARASU)
Advisor (Law), NBA

प्रेषक / Despatcher
राष्ट्रीय जैव विविधता प्राधिकरण
National Biodiversity Authority
5वां तल, टाइसल बायोपार्क
5th Floor, TICEL Biopark
सीएसआईआर रोड / CSIR Road,
तरमणि, चेन्नई / Taramani, Chennai - 600 113.

Encl: Proceedings of the Virtual hearing (original)

Copy to:
Dr.Rajani Jaiswal, Manager –IP, Plant variety Protection, Contractual and Relationship Management, M/s.Bioseed Research India, Plot no:234, B-Block, Kavuri Hills Phase- II, Hyderabad- 500033.

Government of India
National Biodiversity Authority
(A statutory body under the Ministry of Environment, Forests and Climate Change, Government of India)
5th Floor, TICEL Biopark, CSIR Road, Taramani, Chennai – 600 113, Tel: +91 44 2254 2777 / 1200 email: secretary@nba.nic.in

PROCEEDINGS OF THE SECRETARY, NATIONAL BIODIVERSITY AUTHORITY (NBA) DATED 22/02/2021

PRESENT: J. JUSTIN MOHAN, IFS

Subject: Decision on Access and Benefit Sharing to be paid by M/s. DCM Shriram Bioseed in Application No. NBA/Appl/9/3120,3090,3074/19-20

As per the request of M/s DCM Shriram, a hearing was conducted on 22/02/2021 at 5.30 PM through virtual mode to decide on the Access and Benefit Sharing obligations of the company as per the provisions of the Biological Diversity Act, 2002 and the Guidelines on Access to Biological Resources and Associated Knowledge and Benefit Sharing Regulations, 2014. The hearing was held as per the provisions of Rule 14 (9) and 18 (6) of the Biological Diversity Rules, 2004 to give an opportunity to the company of being heard in accordance with the Principles of Natural Justice.

The company was represented by Adv. Mr Adarsh Ramanujam, Counsel, Mr.Paresh verma, Research and Product Development, Ms.Rajani Jaiswal, Manager, Intellectual Property Management, M/s.DCM Shriram Bioseed. The arguments on behalf of National Biodiversity Authority were put forth by Mr.K.Chitrarasu, Advisor Law.

During the hearing, the Advocate representing the company informed that the hearing is for three separate Form I applications (NBA Appl no: 3120,3090, 3074) which were filed for the access of watermelon, cotton and bittergourd pertaining to research. The applications were filed to avail the amnesty scheme of the MoEF&CC. He also informed that the issues were common to all the 3 applications. In this regard the company had received 2 Access and Benefit Sharing (ABS) agreements for each of the Form I application, one agreement is for research and the other is for commercial utilization and there after he submitted his detailed submissions.

Submission by the Applicant's Advocate Mr Adharsh Ramanujam:

1. The proposed ABS agreement (Application No. 3074) is for research. The Advocate contended that section 21 of the BD Act and the Guidelines on ABS Regulations, 20214 provide for levying of ABS. But in the case of research on watermelon, cotton and bitter gourd, levying ABS for research

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would not be applicable as they are not high economic species. He further informed that since applicant does not know the results of the research and whether it will benefit the company, levying of ABS upfront is not justified.

2. He further submitted that Access for agriculture is to be seen from different aspect. Section 2(f) of the Act defines Commercial utilization as:
"commercial utilization" means end user of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;
The Advocate argued that since agricultural activities and conventional breeding are exempted from the definition, exemption from payment of ABS should be invoked on the applicant and approvals should be accorded by NBA without levying ABS.

3. The Advocate further submitted that ABS for agriculture related activities are governed under the Protection of Plant Varieties and Farmers Right Act, 2001 (PPVFRA Act) and the benefits in the form of benefit sharing are shared with communities. He argued that BD Act should be restricted to commercial utilization pertaining to other industries and benefit sharing in the form of ABS should not be levied by NBA for commercial production of seeds as seed companies would be compelled to pay ABS twice to NBA and to the PPVFR Authority.

During the course of the arguments, Mr. Paresh Verma, Head of the R&D of the Company submitted that the ABS for all the three applications is fixed as Rs. 2 crores. The turnover of the company is less than Rs 300 crore. The applicant being a listed company regularly contributes to CSR activities. He also added that while availing the amnesty scheme they were much transparent and concerned about bringing all their germplasm accessions since 1992 to the knowledge of NBA. As part of research the applicant has paid ABS of Rs.15 lakhs for other applications. The applicant is law abiding and he added that so far, they have not commercialized any product as the research is still ongoing. He argued that ABS of Rs. 12 lakhs levied by NBA in application no. 3120, Rs. 6.60 lakhs in application no. 3090 and Rs. 2.19 lakhs in application no. 3074 is very high to be paid upfront as the research has not been concluded.

Submissions by Advisor Law, NBA

Shri. K.Chitrarasu, Advisor Law argued that Access and Benefit sharing is an internationally recognised Principle derived from the Convention on Biological Diversity and endorsed in the Nagoya Protocol. The National Biodiversity Authority being a statutory body has fixed the upfront payment for the applications filed under the amnesty scheme based on the existing norms. He stated that the ABS amount would be transferred to the communities living in areas from where the company has accessed these biological resources. He further stated that the exemption provided under the Act was restricted to local communities and cultivators who use biological resources for their own livelihood. In the case of companies who have accessed biological resources with commercial intent, they are legally liable to pay the ABS

amount. He further informed that the company need not take the approval of NBA if they have already taken the approval of PPVFRA. He argued the company has violated the provisions of the Act by accessing resources without approval and since they have been brought under the amnesty scheme, they are liable to pay the benefit sharing upfront.

Decision of the Competent Authority:

After hearing the arguments put forth by the Company and the Law Advisor of NBA, the following decisions were taken: -

a. As the company is accessing biological resources with commercial motive, the concessions provided to farmers who depend on such resources for their livelihood cannot be extended to the company. Therefore, the company is liable to pay the ABS fixed by NBA under the existing provisions of the Act.

b. Irrespective of the outcome of the research work, the company is liable to pay ABS for accessing biological resources for research activities upfront as per the existing rates fixed by the Authority.

c. The company can inform the areas from where these biological resources were accessed and the activities for which they would like to use the ABS amount as per section 27(2) of the Act so that NBA can ensure that the amount is used for the same.

d. Approval will be accorded by NBA within a period of 30 days from the receipt of the ABS amount along with signed agreement from the Company.

Sd/-

Secretary, NBA.

जे. जस्टिन मोहन, आईएफ़एस
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.

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ANNEXURE- R2

Details of Form – I filed by the Appellant (DCM) for Research			
1	Total Form – I filed (Applications)	**39**	
2	Total agreements signed out of 39 applications	11	
3	ABS amount paid out of 11 applications	9	
4	ABS amount pending	Nil *("Nil" ABS for 2 applications)*	11
5	Applications on hold		2
6	Total Form – I cleared (sent to the Appellant for signature)		22
7	Total applications under process		1
8	Total closed (Signed by NBA and the Appellant; Approval granted)		3
	TOTAL		**39**

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	Ap. No.	ONLINE APPLICATION NUMBER	Applicant Name	Rec-Date mm/dd/yyyy	Form	Status
1	1475		M/s. DCM Shiram Ltd	4/19/2017	III	Cleared (V)
2	1498		M/s DCM Shriram Ltd, India	4/24/2017	I	Cleared
3	1815		M/s DCM Shriram Ltd, India	1/24/2018	I	Cleared
4	1842		M/s DCM Shriram Ltd, India	2/7/2018	I	Cleared
5	2344		M/s. DCM Shiram Ltd	11/14/2018	I	Cleared
6	2386	656	M/s. DCM Shiram Ltd	12/3/2018	I	Cleared
7	2398		M/s. DCM Shiram Ltd	12/10/2018	I	Cleared
8	2934		M/s. DCM Shiram Ltd	5/10/2019	II	Closed
9	2936		M/s. DCM Shiram Ltd	5/10/2019	II	Closed
10	2938		M/s. DCM Shiram Ltd	5/10/2019	II	Closed
11	2940		M/s. DCM Shiram Ltd	5/10/2019	II	Closed
12	3064		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
13	3066		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
14	3070		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
15	3072		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
16	3074		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
17	3076		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
18	3078		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
19	3080		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
20	3082		M/s. DCM Shiram Ltd	6/12/2019	I	Cleared
21	3084		M/s. DCM Shiram Ltd	6/18/2019	I	Cleared

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22	3086		M/s. DCM Shiram Ltd	6/18/2019	i	Cleared
23	3088		M/s. DCM Shiram Ltd	6/18/2019	I	Cleared
24	3090		M/s. DCM Shiram Ltd	6/18/2019	I	Cleared
25	3098		M/s. DCM Shiram Ltd	6/19/2019	I	Cleared
26	3100		M/s. DCM Shiram Ltd	6/19/2019	I	Cleared
27	3102		M/s. DCM Shiram Ltd	6/19/2019	I	Cleared
28	3104		M/s. DCM Shiram Ltd	6/19/2019	I	Cleared
29	3106		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
30	3108		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
31	3110		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
32	3112		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
33	3114		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
34	3116		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
35	3118		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
36	3120		M/s. DCM Shiram Ltd	6/20/2019	I	Cleared
37	3277		M/s. DCM Shiram Ltd	8/16/2019	I	Cleared
38	3279		M/s. DCM Shiram Ltd	8/16/2019	I	Cleared
39	3450		M/s. DCM Shiram Ltd	11/5/2019	I	Cleared
40	3452		M/s. DCM Shiram Ltd	11/5/2019	II	Cleared
41	3535		M/s. DCM Shiram Ltd	12/12/2019	I	Closed
42	3571		M/s. DCM Shiram Ltd	1/1/2020	III	Cleared
43	3648	1692	M/s. DCM Shiram Ltd	1/31/2020	I	Closed
44	3673	1713	M/s. DCM Shiram Ltd	2/5/2020	I	Closed
45	4203	317	M/s. DCM Shriram Limited	9/17/2020	IV	Cleared
46	4204	316	M/s. DCM Shriram Limited	9/17/2020	IV	Cleared

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47	4205	315	M/s. DCM Shriram Limited	9/17/2020	IV	Cleared
48	4206	314	M/s. DCM Shriram Limited	9/17/2020	IV	Cleared
49	4329		M/s. DCM Shriram Limited	11/6/2020	III	Cleared
50	4330		M/s. DCM Shriram Limited	11/6/2020	III	Cleared
51	?	INBA1202103027	DCM Shriram Limited	9/23/2021	I	U.P

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S. No	App. No.	OM	ONLINE APPLICATION NUMBER	Applicant Name	A.Signed	Ag- Date	Ag. Signed FY-Year	A. Type	Up-front payment received
1	1498			M/s DCM Shriram Ltd, India	A.Signed	28-03-2018	FY 2017-18	Research	**360000**
2	2344	OM-I		M/s. DCM Shiram Ltd	A.Signed	15-02-2021	FY 2020-21	Research	**60000**
3	2386	OM-I	656	M/s. DCM Shiram Ltd	A.Signed	07-10-2021	FY 2021-22	Research	**Nil**
4	2398	OM-I		M/s. DCM Shiram Ltd	A.Signed	16-12-2020	FY 2020-21	Research	**60000**
5	3066	OM-II		M/s. DCM Shiram Ltd	A.Signed	16-11-2020	FY 2020-21	Research	**9000**
6	3112	OM-I		M/s. DCM Shiram Ltd	A.Signed	16-11-2020	FY 2020-21	Research	**3000**
7	3114	OM-I		M/s. DCM Shiram Ltd	A.Signed	02-09-2021	FY 2021-22	Research	**800000**
8	3277			M/s. DCM Shiram Ltd	A.Signed	16-11-2020	FY 2020-21	Research	**6000**
9	3279			M/s. DCM Shiram Ltd	A.Signed	16-11-2020	FY 2020-21	Research	**6000**
10	3450			M/s. DCM Shiram Ltd	A.Signed	15-07-2021	FY 2021-22	Research	**18000**
11	634			Dr. Paresh Varma, Bioseed Research India Ltd	A.Signed	16-08-2015	FY 2015-16	Research	**Nil**
				Total					**1322000**

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